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COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2011

VOLUME I—AFRICA,
EAST ASIA AND THE PACIFIC

R E P O R T

SUBMITTED TO THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

AND THE

COMMITTEE ON FOREIGN AFFAIRS
U.S. 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



NOVEMBER 2014

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 8, 2012.

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 2011*, 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,

MICHAEL H. POSNER,
*Assistant Secretary, Bureau of Democracy,
Human Rights, and Labor.*

Enclosure.

SECRETARY'S PREFACE

The world changed immeasurably over the course of 2011. Across the Middle East, North Africa, and far beyond, citizens stood up to demand respect for human dignity, more promising economic opportunities, greater political liberties, and a say in their own future. Often they faced tremendous odds and endured violent responses from their governments. The resulting upheavals are still unfolding today in places like Syria, where the regime has brutalized its own people. In Burma, after years of repression, the government has taken preliminary steps to allow reforms to begin. This year's Country Reports on Human Rights Practices chronicle these dramatic changes and the stories of the people defending human rights in almost 200 countries around the world.

Congress mandated these country reports more than three decades ago to help guide lawmakers' decisions on foreign military and economic aid, but they have evolved into something more. Today, governments, intergovernmental organizations, scholars, journalists, activists, and others around the world rely on these reports as an essential update on human rights conditions around the world—where we have seen progress, where progress has come too slowly or at great cost, and all too often, where it has been rolled back.

Our reports are founded on the simple truth at the heart of the Universal Declaration of Human Rights—that all people are born free and equal in dignity and rights. Respect for human rights is not a western construct or a uniquely American ideal; it is the foundation for peace and stability everywhere. Universal human rights include the right of citizens to assemble peacefully and to seek to reform or change their governments, a central theme around the world in 2011. As President Obama has said, "History offers a clear verdict: Governments that respect the will of their own people, that govern by consent and not coercion, are more prosperous, they are more stable, and more successful than governments that do not."

In my travels around the world as Secretary of State, I have met many individuals who put their lives on the line to advance the cause of human rights and justice. In ways small and large, they hold their governments accountable for upholding universal human rights. Their courage and commitment to peaceful reform are an inspiration. This report recognizes their bravery and should serve as a reminder: The United States stands with all those who seek to advance human dignity, and we will continue to shine the light of international attention on their efforts.

These reports are part of our broad commitment to promote human rights. Every day, officials from the State Department, the U.S. Agency for International Development, and many other gov-

ernment agencies devote themselves to advancing human rights as a priority of U.S. foreign policy. They champion our values in every country of the world and stand up for the inherent rights and freedoms of all people. I am honored to work alongside them, and I thank them for their contributions to this report.

On behalf of all of them, and everyone around the world working to protect human rights, I hereby transmit the Department of State's Country Reports on Human Rights Practices for 2011 to the United States Congress.

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. U.S. diplomatic missions abroad prepared the initial drafts of the individual country reports, using 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.

Once the initial drafts of the individual country reports were completed, the Bureau of Democracy, Human Rights and Labor (DRL), in cooperation with other Department of State offices, worked to corroborate, 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, among many others. The guiding principle was that all information be reported objectively, thoroughly, and fairly.

As has proven the case in the past, we anticipate that the reports will be used as a resource for shaping policy; conducting diplomacy; and making assistance, training, and other resource allocations. They will serve also 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 individuals have the right to nationality; the inalienable right to change their government by peaceful means; and the right 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 gender. 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.

As was begun with the 2010 reports, DRL has continued to use hyperlinks to other key human rights documents produced by the Department of State. Specifically, readers are asked to follow hyperlinks for complete information on religious freedom issues by consulting the International Religious Freedom Report and the Trafficking in Persons Report. Additionally, the Department of Labor's Findings on the Worst Forms of Child Labor report is linked, as well as the several current publications produced by the Department's Consular Affairs Bureau on international child abductions, if applicable to the country in question.

Within DRL, the editorial staff of the Country Reports Team consists of the following: Editor in Chief Stephen Eisenbraun; Office Directors Eric Falls, Randy Fleitman, Francisco Gonzalez, Jeffrey Hawkins, John Kincannon, Mark Mittelhauser, Susan O'Sullivan, and Brian Walch; Senior Editors Jonathan Bemis, Sarah Buckley-Moore, Douglas B. Dearborn, Daniel Dolan, Jerome L. Hoganson, Victor Huser, Patricia Meeks Schnell, Marc J. Susser, and Julie Turner; Editors Naim Ahmed, Mitch Alva, Pauline W. Anderson, Cory Andrews, Mary Angelini, Bob Bailey, Chase Ballinger, Harold Bonacquist, Sarah Brooks, Laura Carey, Elise Carlson-Rainer, Cornelius Cremin, Frank Crump, Sarah D'Ambrisi, Randall Doyle, Mort Dworken, Rob Ehrmann, Ryan Fiorsi, Karen Gilbride, Joan

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INTRODUCTION

On January 14, Tunisian president Zine el-Abidine Ben Ali boarded a plane in Tunis with his family and departed for Saudi Arabia. Twenty-seven days later, Egyptian President Hosni Mubarak resigned. After eight months of brutal attacks on Libyans seeking peaceful change, Moammar Qadhafi was overthrown. For the first time in history, the Yemeni President transferred power through the ballot box. Forces loyal to Syrian President Bashar al-Asad have committed heinous and widespread human rights abuses against their own people since March 2011, and yet the protesters have not been cowed.

These still unfolding citizen uprisings in the Middle East and North Africa have sent aftershocks rumbling around the world. Millions of citizens in many other countries have also expressed their dissatisfaction with governments that fail to deliver results to their people. Whether in grand movements or small acts, people in countries around the world are standing up and demanding their universal rights, dignity, greater economic opportunity, and participation in their countries' political future.

The yearning for change we have witnessed in Tunisia, Egypt, Libya, Yemen, and Syria is inspirational, and yet change often creates instability before it leads to greater respect for democracy and human rights. After decades of repression, during which open political participation was not allowed, it will take time to create diverse political parties, a robust civil society, a climate conducive to freedom of expression, and a transparent political culture. Transitions are times of uncertainty. They can be chaotic, unstable, and at times violent. And even when they succeed, they are rarely linear, quick, or easy. The challenge during these transitions is to keep societies open to political debate. Protecting human rights and fundamental freedoms ensures that negotiations over a country's future can take place without fear or intimidation, and that anti-democratic forces do not snuff out genuine political participation. As Secretary Clinton said, "All political parties, religious and secular alike, have to abide by basic ground rules: reject violence; uphold the rule of law; respect the freedoms of speech, religion, association, and assembly; protect the rights of women and minorities; give up power if you are defeated at the polls; and especially in a region with deep divisions within and between religions, avoid inciting sectarian conflicts that pull societies apart." If these fundamental rules are violated, she warned, "The victors of revolutions can become their victims."

In the turmoil of 2011, thousands of citizens were killed across Tunisia, Egypt, Libya, Bahrain, Yemen, and Syria. Many others were abused by security forces that used excessive force. But the

images of demonstrators who had seemingly lost all fear, risking their lives to oppose governments they deemed illegitimate, inspired people around the world. Even in the most isolated places, the desire for greater freedom and political and economic opportunity began to flicker.

The year 2011 brought remarkable changes in Burma, long isolated because of the government's poor treatment of its own people. In dramatic fashion, the Burmese government took a number of bold steps to begin the long and difficult process of political reform and reconciliation with those who have struggled peacefully for freedom for decades. In last year's report, we wrote about the dire situation of hundreds of political prisoners who remained in jail in Burma, some of whom had been imprisoned for decades for taking part in protests or simply for reading "subversive" poetry. In October 2011, the government released more than 200 of these prisoners. As next year's country report will cover, in January 2012 the Burmese government released 300 more, including some who had been detained for many years, and allowed the National League for Democracy to register and field candidates for parliamentary elections, including party leader Aung Sun Syu Kyi.

Burma offers an example of a government moving towards a model of greater openness, democracy, and liberty, attributes that can lead to greater innovation, prosperity, and inclusion. Much remains to be done to implement reforms and especially to address the legacy of decades of violence against ethnic minorities. But the size of the task ahead does not diminish the excitement of these first steps, or the sense of possibility they may inspire in other closed societies, such as Iran, North Korea, Uzbekistan, Eritrea, or Sudan.

Several other countries also took important steps in 2011 toward improving their human rights records, although more work remains to be done. In Colombia, the government worked to address the climate of impunity with respect to harassment, intimidation, and killings of human rights workers, journalists, teachers, and trade unionists. Extrajudicial killings declined in large measure due to efforts by the government to stop such crimes. In Zambia, presidential, parliamentary, and local elections held in September were free, credible, and orderly. The incumbent president relinquished power and accepted the will of the Zambian people. In Tunisia, citizens held transparent and credible elections for a Constituent Assembly, which in turn elected a former political prisoner as the country's interim president. The country is now rewriting its constitution.

Along with such hopeful developments, this report documents a range of negative developments in 2011. A number of countries became less free as a result of flawed elections; the imposition by powerful leaders of less democratic constitutional provisions; restrictions on the universal rights to freedom of expression, assembly, or association, including on the Internet; moves to censor or intimidate the media; or attempts to control or curtail the activities of nongovernmental groups. In Nicaragua, extensive irregularities in the electoral process marked a setback to democracy and undermined the ability of Nicaraguans to hold their government accountable.

Other disturbing trends in 2011 include continued persecution of religious minorities, including, but not limited to, Ahmadis, Bahais, Tibetan Buddhists, Christians, Jews, and others. In many countries there was an uptick in discrimination against members of racial and ethnic minorities; people with disabilities; and lesbian, gay, bisexual, or transgender (LGBT) people, all of whom were frequent targets of abuse, discrimination, and violence. In some countries medical personnel were harassed, intimidated, and arrested. Both governments and opposition forces tried to prevent humanitarian assistance from reaching civilians in dire circumstances.

Egypt and Kyrgyzstan held historic elections that were deemed to be generally free and fair. Yet the elections in these countries, as well as the standoff following the 2010 presidential election in Cote d'Ivoire, provided a poignant reminder that elections are a critical but insufficient element in genuine transitions to democracy and the rule of law. Committed citizens in each of these countries continued to work toward building the habits and institutions of democratic governance, including a political culture in which electoral losers understand they must cede power, and elected representatives wield power fairly.

Overall human rights conditions remained extremely poor in many of the countries that were spotlighted in our 2010 country reports, including, but not limited to, Iran, North Korea, Turkmenistan, Uzbekistan, Syria, Belarus, and China.

Several broader trends were prominent in 2011. New connective technologies spread news of citizen activism, and political change, around the world. People continued to find innovative ways to use technology to break down the walls of fear and isolation that undemocratic governments erected to try to keep their populations quiescent. They used these technologies to speak out against societal discrimination, corruption, and restrictions on civil and political liberties that are keeping them from enjoying equal rights, dignity, or respect. Yet repressive regimes also used those same technologies to spy on their own citizens for the purposes of silencing dissent.

As we consider the implications of connective technologies on human rights and democracy, we realize that technology itself does not usher in progress on human rights. People do. Technology can help people exercise their universal human rights, connect with others across borders, and transcend time zones and even language barriers. But technology is a platform, not a substitute for political organizing, advocacy, or persuasion. The Internet does not bring people into the street. Grievances do. The Internet did not spark the Arab Spring. Injustice did.

Because the story of how people express themselves, associate with one another, and share ideas and opinions is increasingly unfolding online, protecting and promoting Internet freedom is a core priority of the United States. We report on its status in the pages that follow.

We also report on the status of media freedom, which remained poor in many countries and declined in others. The year 2011 brought an increase in the number of journalists and bloggers silenced to death or jail as they attempted to bring news to the public. These reports also chronicle the many ways in which some gov-

ernments attempted to censor the media through regulations or laws that are contrary to the universal right to freedom of expression and opinion, and through harassment, intimidation, or violence. In Ecuador and Venezuela, government actions against independent media outlets had a chilling effect on media freedom.

This year's reports highlight the treatment of marginalized people, including LGBT people and people with disabilities. Too many countries still criminalize consensual same-sex sexual activity, and LGBT people face discrimination and violence in many more countries. We continue to focus on other vulnerable populations, including women and children. Domestic and societal violence and discrimination against women continue to be serious problems in many countries. Women and children are often the first to suffer during conflicts.

In addition, we continue to monitor challenges to civil society organizations promoting respect for human rights and democratic transitions in their own countries. In last year's Human Rights Reports, we noted a surge in efforts by repressive governments to control and stifle independent non-governmental organizations (NGOs). Over the last several years, more than 90 governments have sought to pass laws that hampered the ability of NGOs to register, operate freely, or receive foreign funding. In a number of countries, including Egypt, Ethiopia, Malaysia, Algeria, Cambodia, and Russia, governments have imposed or threatened greater restrictions on foreign funding of these organizations, taken other measures that severely hamper their operations, or sought to intimidate them or shut them down completely. In many other places, the work of these organizations is misunderstood, or actively misrepresented by insecure governments that fear independent scrutiny of their actions. These trends intensified in 2011, when we saw a sharp escalation of official restrictions on the work of human rights and democracy advocates.

As President Obama has said, societies change from within. Civil society organizations lead that change by engaging citizens in conversations about how people want to be governed. These organizations spotlight human rights abuses, fight discrimination, and monitor whether authorities are upholding the rule of law. They speak out against the exclusion, persecution, or hatred of vulnerable minorities, and document where their societies fall short. By holding up a mirror to society, they ask their governments and their citizens to do better and to be better. In all of these ways, civil society groups are the lifeblood of free and open societies, and they are most vital in countries where democratic traditions and institutions are just beginning to take root.

The events of 2011, as documented in these pages, remind us once again that human rights and global security are inextricably linked. From Tunis to Tehran, from Cairo to California, from Moscow to Rangoon, citizens were ever more interconnected and so were the interrelationships between their freedoms, economic opportunity, and the security and prosperity of their societies.

Around the world, we see that where human rights are consistently abused or threatened, by authorities or by criminal, sectarian, or other undemocratic groups that enjoy impunity, the result is frequently political strife, economic contraction, and desta-

bilization that too often spills across borders. In contrast, where human rights are respected, the rule of law is enforced, and government actions are transparent, societies are more stable and secure. People who feel empowered to engage in the political process and who see their rights respected are less likely to join extremist groups that threaten domestic tranquility and international stability.

They gradually develop a greater trust of their government and feel a greater stake in the success of the system. In this way, respect for human rights builds political stability and lays the foundations for democratization, economic growth, shared prosperity, and enhanced global security.

This critical connection between human rights and national security plays out repeatedly in the pages that follow. It will continue to play out in the transitions to democracy occurring in the Arab world and beyond. The people who took to the streets to demonstrate in Tunis, Cairo, Tripoli, and Sanaa have proven that change can come without turning to extremism. In 2011 we saw too many governments crack down in the name of restoring order when their citizens demanded universal human rights and a voice in how they were governed. These acts of repression triggered more confrontation, more chaos, and ultimately greater instability. The events of the year showed that the real choice is not between stability and security; it is between reform and unrest.

I want to add a word about the production of these reports. Each year, they are prepared by human rights officers at U.S. embassies and other posts around the world, working with their counterparts in Washington, D.C. Each country team collects, analyzes, and synthesizes information from a variety of sources, including domestic and international human rights organizations, other governments, multilateral organizations, and members of civil society. Once the reports are drafted, they are rigorously edited, reviewed, and fact-checked to ensure accuracy and objectivity.

This year, we made the human rights reports easier to read online. Readers can jump directly to topics of interest with a new table of contents, share reports on social media, and research topics across countries with the Build a Report tool. Our goal is to allow readers to gather information quickly across regions on the issues that most interest them.

We have also attempted to make the reports more accessible to a broader spectrum of readers. Over the past 35 years, the length of the human rights reports had expanded, even as Congress mandated separate annual reports on the status of international religious freedom and human trafficking. This year, we have developed a streamlined format for each country report. As a result, we do not attempt to catalog every incidence, however egregious, of a particular type of human rights abuse in a country. Rather, we spotlight examples that typify and illuminate the types of problems frequently reported in 2011 in that country. The mention of fewer cases in a particular report should not be interpreted as a lessening of concern for the overall human rights situation in any particular country. Rather, our goal is to shed light on the nature, scope, and severity of the reported human rights abuses. For the first time, we

have also added an executive summary at the top of each report. We hope readers will find these changes useful.

2011 COUNTRY HIGHLIGHTS

AFRICA

Internal conflicts in the East, particularly in the North and South Kivu and Orientale provinces, continued to plague the Democratic Republic of Congo. Human rights abuses were committed by all parties to the conflict. Reported human rights abuses included killings, disappearances, and torture. Rebel and militia groups and some army units engaged in the illegal exploitation and trade of natural resources in the east. Foreign rebel and militia groups and some local militias formed coalitions, battled government forces, and attacked civilian populations. State security forces arrested, illegally detained, raped, tortured, or summarily executed civilians and looted villages during military actions against rebels. Fighting in the East impeded humanitarian aid in some areas, exacerbating an already severe humanitarian crisis that affects some 1.7 million displaced persons. Impunity remained a significant problem. The deeply flawed election in November was accompanied by disappearances and restrictions on freedoms of assembly, expression and movement.

Widespread human rights violations continued in Eritrea, where the government is under the control of authoritarian President Isaias Afwerki. The government forced men and women to participate in the national service program from which there were no clear criteria for demobilization, and persons worked indefinitely in any location or capacity chosen by the government. Security forces tortured and beat army deserters, draft evaders, persons attempting to flee the country, and members of certain religious groups. Harsh prison and detention center conditions, which included unventilated and underground cells with extreme temperatures, led to multiple deaths. The government controlled all media. It reportedly continued to detain more than 30 journalists, providing no information about their places of detention.

In Ethiopia, the government continued to repress civil society, including the media. The government arrested more than 100 opposition figures, activists, journalists, and bloggers, charging several of those arrested with terrorist or seditious activity. However, observers found the evidence presented at trials to be either open to interpretation or indicative of acts of a political nature rather than linked to terrorism. The Charities and Societies Proclamation (CSO law) continued to impose severe restrictions on civil society and NGO activities. As a result of the law, civil society activities have been severely curtailed. The government also restricted access to the Internet and blocked the websites of news organizations, opposition sites, and blogs.

In Nigeria, a campaign of attacks by the radical Islamist sect known as Boko Haram intensified during the year and violence spread to more areas of the country. The group committed bombings and drive-by shootings, assassinated religious leaders, security personnel and politicians, attacked police stations and banks, and conducted suicide bombings. In Maiduguri, Borno State, shootings

and bombings were a weekly and sometimes daily occurrence, with violence also occurring in neighboring states. In August, Boko Haram targeted an international organization for the first time, bombing the U.N. House headquarters in Abuja and killing 24 persons. The government deployed the Joint Task Force, which committed extrajudicial killings during attempts to apprehend Boko Haram members. The April 2011 general elections were Nigeria's most successful since its return to multiparty democracy in 1999. However, postelection violence erupted in the north and in the Middle Belt States, resulting in loss of lives, property damage, and restrictions of movement.

The Government of Sudan continued to conduct aerial bombardment of civilian areas. In Darfur, fighting involved government forces, government-aligned militias, rebel groups, and ethnic groups. These groups killed, injured, and raped civilians, and used child soldiers. During the year violence broke-out in the disputed border area of Abyei, as well as in the Sudanese states of Southern Kordofan and Blue Nile. The violence in these areas resulted in widespread civilian displacement and human rights abuses. Human rights abuses in Sudan went unpunished and impunity remained a serious problem. Parties to the conflicts obstructed the work of humanitarian organizations and the United Nations. In addition, the government also continued to crack down on journalists and restrict freedoms of speech, assembly, association, religion, and movement, and security forces continued to kill, torture, beat, and harass suspected political opponents and others.

In Zimbabwe, the chronically bad human rights situation did not improve. Despite a fledgling Government of National Unity, the government remains mostly under the control of President Mugabe's political party, Zimbabwe African National Union-Patriotic Front (ZANU-PF), which retains authority over the military, police and intelligence services. These security services continued to arrest, abuse, and torture non-ZANU-PF party members and civil society activists with impunity. The government infringed on citizens' freedoms of speech, assembly, association, and movement. Executive influence and interference in the judiciary remained a serious problem, and NGOs reported that magistrates were promised farms and homes for providing rulings favorable to ZANU-PF. In rural areas ZANU-PF sympathizers used threats and intimidation against local magistrates to gain favorable rulings.

EAST ASIA AND PACIFIC

Burma took important steps to improve human rights conditions in 2011, including the release of hundreds of political prisoners and the adoption of a labor law that, when implemented, can provide workers the right to organize and strike. In November, following the adoption of a revised political party registration law, Aung San Suu Kyi's National League for Democracy and other opposition parties were allowed to re-register as legal political parties. However, significant human rights problems persisted, including military harassment and abuse of activists promoting human rights and democracy, and denial of the rights to freedom of expression, association, assembly, religion, and movement. The government detained activists indefinitely and without charges and regime-sponsored

mass-member organizations harassed and abused them. Authorities arrested, detained, convicted, and imprisoned citizens for expressing political opinions critical of the government. The government took initial steps in 2011 toward lifting some of the longtime restrictions on the media. If implemented, these measures would lay the groundwork for meaningful freedom of expression in the country.

In China, the human rights situation deteriorated, particularly the freedoms of expression, assembly, and association. The government exercised tight control over Internet access and content. Members of civil society, including human rights activists, journalists, writers, and dissidents, were harassed and detained. Public interest lawyers who took cases deemed sensitive by the government faced disbarment and the closure of their firms, and in some cases were subject to arrest and detention. Activists, dissidents, and members of religious minorities were denied the freedoms to assemble, practice their religions, or travel. The government stepped up efforts to silence political activists and resorted to extralegal measures, including enforced disappearance, “soft detention,” and strict house arrest, including house arrest of family members, to prevent the public voicing of independent opinions. Abuses peaked around high-profile events, such as visits of foreign officials, sensitive anniversaries, and in response to calls for “Jasmine revolution,” protests. In Tibet, at least 12 monks and nuns immolated themselves to protest political restrictions and lack of religious freedom.

Vietnam’s May elections were neither free nor fair, since all candidates were required to pass vetting by the authorities. The government severely restricted political rights, including the freedoms of expression, assembly, movement, and association. It also restricted access to Internet content, and monitored bloggers. There were confirmed reports of attacks against websites critical of the Vietnamese government. Peaceful political activists were arbitrarily arrested, detained, and sentenced to prison; those alleged to have ties to foreign-based pro-democracy groups were particular targets. And 19 people reportedly died in police custody, including a man beaten while in detention for a traffic violation. At year’s end, the government reportedly held more than 100 political detainees, although some international observers claimed there were more. Independent nongovernmental organizations were not permitted, and corruption was a problem in the judiciary as well as at various levels in the police. Prosecution of officials who committed abuses was inconsistent.

EUROPE

Conditions in Belarus remained poor following the flawed presidential election of December 2010. Security forces beat protestors and detainees, and there were credible reports of torture. Trials were conducted behind closed doors or in absentia with verdicts predetermined. Five of the nine candidates who opposed incumbent Alyaksandr Lukashenka in the presidential election were tried and convicted. Individuals were detained for civic activism. For example, during the June-September “silent” demonstrations organized via Internet, police detained more than 2,000 people and sentenced

many of them to large fines or up to 15 days of administrative detention. The government targeted for harassment representatives of nongovernmental organizations, journalists, and political activists following the presidential elections and further restricted freedom of association.

In Russia, domestic and international monitors reported significant irregularities and fraud in many regions during the December elections to the State Duma, but also highlighted unprecedented civic involvement by Russians committed to trying to improve the process. There were large demonstrations in major cities protesting the conduct of the elections. While freedom of expression on the Internet and in some print media continued, self-censorship and the government's ownership of and pressure on some print and most broadcast media outlets limited political discourse. Attacks on and killings of journalists and activists continued. Individuals who challenged the government or well-connected business interests sometimes faced physical attack, harassment, increased scrutiny from government regulatory agencies, politically-motivated prosecutions, harsh detention conditions, and other forms of pressure. In the North Caucasus, the conflict among the government and insurgents, Islamist militants, and criminal elements led to numerous human rights abuses by security forces and insurgents.

In Ukraine, former Prime Minister Yulia Tymoshenko and 12 other senior members of her government were charged with abuse of power and misuse of state funds during their tenure. Three have been convicted, including Tymoshenko and former interior minister Yuriy Lutsenko. Two others remain in custody, and the former minister of the economy, Bohdan Danylyshyn, fled the country and was granted political asylum in the Czech Republic. Many domestic and foreign observers considered the prosecutions to be politically motivated.

NEAR EAST

In Bahrain, mass protests began in February calling for political reform and expanded civil rights for members the Shia majority. The government imposed a state of emergency, or "State of National Safety," from March 15 to June 1, during which time military and civilian security forces committed a number of human rights violations, including torture, arbitrary detentions, limitations on freedoms of speech and association, and lack of due process. Public employees were dismissed from their jobs for participating in protests, and individuals were prosecuted in both state security courts and civilian courts. In July, the king established the Bahrain Independent Commission of Inquiry (BICI), which determined that 13 Bahraini civilians died at the hands of security forces and an additional five as a result of torture. Individuals who expressed critical opinions, including through music and social media, faced arrest, were subjected to extended detention, or prosecution. In its November 23 report, the BICI described a "culture of impunity" created by a lack of accountability of security officials during the unrest. Over the course of 2011, some political prisoners were released and some dismissed employees were reinstated, but other prosecutions of journalists, activists, and opposition figures for their alleged anti-government activities continued. After the re-

lease of the report, the government began to take steps to implement the recommendations of the BICI, such as allowing access to prisons by the International Committee of the Red Cross, establishing a process to address worker reinstatements in collaboration with the trade union and employers, and restructuring oversight mechanisms in the Ministry of Interior and Bahrain National Security Agency.

In Egypt, massive street demonstrations culminated in the February 11 resignation of President Hosni Mubarak and the transfer of executive authority to the Supreme Council of the Armed Forces. A March 2011 referendum for a new constitution, and voting in parliamentary elections conducted from November 2011 through February 2012, were considered the freest in decades. However, human rights abuses were rampant during the uprising and continued after Mubarak's resignation. Attacks on demonstrators by security forces and clashes among demonstrators killed more than 900 people; female protesters were subjected to harassment and so-called "virginity tests," and journalists and bloggers were detained for criticizing the military. Sectarian violence escalated over the course of the year, with more than 90 people, primarily Coptic Christians, killed in religious clashes. Few perpetrators of abuses were held accountable.

The government of Iran continued to deny its citizens human rights, including the freedoms of expression, assembly, association, movement, and religion. It sentenced hundreds of people to death and carried out hundreds of executions without due process. It cracked down on all forms of dissent, arresting and detaining activists, opposition leaders, lawyers, journalists, artists, and academics. It executed juveniles, tortured political prisoners, and detained more journalists than nearly any country in the world. It limited the rights of citizens to peacefully change their government through free and fair elections, and also placed under house arrest for most of the year the two leaders of the main opposition movement, arbitrarily arrested their supporters, closed their websites and newspapers, and harassed their families. The Iranian government arrested, tortured, and prosecuted many for dissent, including demonstrators who rallied in solidarity with protesters in Tunisia and Egypt. It continued to mistreat women, LGBT people, and members of ethnic and religious minorities. Government officials made anti-Semitic statements, and disproportionately targeted members of minority groups, including Kurds, Arabs, Azeris, and Baluchis, for arbitrary arrest, prolonged detention, and physical abuse. The government also isolated its citizens by imposing severe restrictions on the Internet.

Iraq's most significant human rights abuses included reports of unlawful killings and violence, torture, impunity, disappearances, and widespread corruption. Abuses were committed by sectarian and ethnic armed groups and government-affiliated forces. Both terrorist groups, principally Sunni, such as al-Qaida in Iraq, and militant organizations, largely Shia, committed attacks against members of other sects or ethnic groups, security forces, places of worship, religious pilgrims, economic infrastructure, and government officials. Through suicide bombings, attacks with improvised explosive devices, drive-by shootings, and other acts of violence, the

groups aimed to weaken the government and deepen sectarian divisions.

In Libya, a revolution ended the Qadhafi regime, which perpetrated systematic human rights abuses throughout its four-decade rule and was also responsible for the majority of civilian deaths and abuses during the seven-month conflict in 2011. Abuses were committed by various actors in 2011, including after the conflict, and often with impunity. These included disappearances, extrajudicial killings, arbitrary arrests, abuse and lack of review in detention, and violence and widespread discrimination against migrants and members of some ethnic minorities. Following Qadhafi's death on October 20 and the takeover of his last stronghold in Sirte, the Transitional National Council declared the country's "liberation" on October 23 and remained an arm of the interim government engaged in transition planning. The interim Government of Libya expressed support for the protection of human rights for all people in Libya, but due to weak institutions, limited capacity, and a lack of control over the security environment, its ability to enforce the rule of law was limited. Continuing violence, organizational dysfunction, and corruption led to ongoing human rights abuses, particularly in the areas outside government control.

In Syria, nonviolent antigovernment demonstrations began in mid-March and continued throughout 2011. The government of President al-Asad used indiscriminate and deadly force to quell peaceful protests throughout the country and launched military assaults on several of its own cities. Government forces deprived cities of electricity, water, and medical services, and restricted entry and exit for approximately 20 days while using military weaponry on buildings, mosques, and other civilian targets. Despite the regime's November 2 agreement to an Arab League plan to engage in reforms and cease killing civilians, it continued to use deadly force against peaceful protesters. At the year's end, activists reported ongoing arrests, torture, intimidation, rape, extra-judicial killings and the use of military force against civilians. The government attempted to stop the flow of information about state violence, including by banning smart phones that had been used to document state violence against civilians, including children. Nonetheless, images of protesters allegedly being beaten, arrested, and killed continued to be smuggled out of the country and to appear on social media sites such as YouTube and Facebook. As next year's Human Rights Reports will cover, the situation deteriorated sharply early this year, with the government waging massive military operations against cities and towns, and laying siege to Homs and other cities. As of March, the United Nations estimated that more than 9,000 civilians had been killed since the beginning of the demonstrations. Efforts by the International Committee of the Red Cross to provide humanitarian assistance and medical care to besieged civilians were frequently thwarted by state forces.

The Arab Spring began in Tunisia in December 2010, when a young vendor named Mohammed Bouazizi set himself on fire in front of the headquarters of the provincial government to protest the confiscation of his goods by the police and the refusal of local officials to hear his complaint. That action, and the weeks of protests it sparked, ultimately toppled the Ben Ali regime. On October

23, a Constituent Assembly, the body that will draft a new constitution and appoint a new interim government, was elected. The proceedings were considered free and fair and marked the first open, inclusive, and truly democratic election in Tunisia's history. Overall, the January Revolution created an extraordinary opening for the protection of human rights in Tunisia. Under Ben Ali's 23-year dictatorship, human rights were systematically ignored. After the Revolution, restrictions on freedom of expression, assembly, and association diminished significantly. Exiled activists returned, political prisoners were released, and civil society and human rights activists pursued their work without disruption or intimidation by the state.

South and Central AsiaAfghanistan experienced continuing human rights challenges in 2011, including armed insurgent groups' killings of persons affiliated with the government and indiscriminate attacks on civilians. Corruption was pervasive. International organizations documented cases of alleged torture and abuse of detainees by the National Directorate for Security and Afghan National Police. Violence and discrimination against Afghan women and girls remained widespread, and in many cases, the police did not respond to such abuses. Women active in public life faced threats and violence and were attacked by the Taliban and other insurgents. A political dispute continued during the year over President Karzai's appointment of a special tribunal, not envisioned in the constitution, to adjudicate the disputed 2010 election results, until it was resolved in accordance with Afghan law in August.

In October, Kyrgyzstan experienced its first peaceful transfer of power in the republic's 20-year history. The elections, in which Almazbek Atambayev, the sitting prime minister, became president, were deemed generally transparent and competitive by independent observers. Ethnic tensions that had erupted in clashes in the south of Kyrgyzstan in 2010 continued in 2011, as did pervasive discrimination against ethnic Uzbeks and members of other minority groups. Law enforcement officers in the south reportedly committed such violations as arbitrary arrest, mistreatment, torture, and extortion against all demographic groups, but particularly against ethnic Uzbeks. The central government's inability to hold human rights violators accountable allowed security forces to act arbitrarily, emboldening law enforcement to prey on vulnerable citizens. Further, the weakness of central authority empowered mobs to disrupt dozens of trials by attacking defendants, attorneys, witnesses, and judges.

Pakistan continued to struggle with extrajudicial killings, torture, and forced disappearances committed by security forces and by extremist or separatist groups. These affected thousands of citizens in nearly all areas of the country. Both militant, terrorist, or extremist groups and security forces committed human rights abuses. Religious tensions remained high. On January 4, Punjab Governor Salman Taseer was assassinated by his bodyguard because of his opposition to the blasphemy law, which was used to clamp down on freedoms of expression and religion. On March 2, Federal Minister for Minorities Shabbaz Bhatti, the only Christian in the Pakistani Cabinet, was shot to death. Bhatti also was an

outspoken critic of the blasphemy law. The political, sectarian, and ethnic violence that has long plagued Karachi worsened during the year due in part to a large influx of Sindhi, Baloch, and Pashtun migrants following the 2005 earthquake and 2010 floods. Political parties and their affiliated gangs vied for political and economic control over these new populations. It was estimated that between 925 and 1,400 persons were killed due to sectarian and political violence in Karachi between January and August.

In Sri Lanka, disappearances and killings pro-government paramilitary groups continued, predominantly in Tamil areas. There were persistent reports of close, ground-level ties between paramilitary groups and government security forces. Civil society activists, persons viewed as Liberation Tigers of Tamil Eelam sympathizers, and journalists were attacked, intimidated or harassed by persons allegedly tied to the government. Torture and abuse of detainees and poor prison conditions remained a problem, and authorities arbitrarily arrested and detained citizens. A number of suspects died in detention under questionable circumstances. There was official impunity for a wide range of such human rights abuses. The president used his authority under the 18th Amendment, which passed in September 2010, to take greater control of appointments to previously independent public institutions that oversee compliance by the judiciary and the police, and with Sri Lanka's human rights obligations. A disproportionate number of victims of human rights abuses were Tamils.

In Uzbekistan, the centralized executive branch dominated political life and exercised nearly complete control over the other branches of government. Security forces reportedly tortured and abused detainees. Criminal suspects were denied due process and fair trial. Religious freedom was restricted, and religious minority group members were harassed and imprisoned. Other continuing human rights problems included: incommunicado and prolonged detention; harsh and sometimes life-threatening prison conditions; arbitrary arrest and detention; restrictions on freedoms of speech, assembly, and association; governmental restrictions on civil society activity; restrictions on freedom of movement; restrictions on the media; violence against women; and government-organized forced labor in cotton harvesting. Authorities subjected human rights activists, journalists, and others who criticized the government to harassment, arbitrary arrest, and politically motivated prosecution and detention. Government officials frequently engaged in corrupt practices with impunity.

Western HemisphereIn Cuba, the government continued its systemic repression of human rights and fundamental freedoms, including freedoms of speech, assembly, and association, and imposed severe restrictions on the media. The government strictly controlled all access to information. Human rights advocates were detained arbitrarily with increasing frequency; the number of short-term detentions doubled from 2010 to 2011. The government continued to organize mobs intended to intimidate opposition groups, particularly the Damas de Blanco ("Ladies in White"). These acts of repudiation ("actos de repudio") were particularly aggressive in July and August, and in October the government belied its claim that the mobs were spontaneous by announcing that it would deploy

them to prevent the Damas de Blanco from marching peacefully. Government officials and government-organized mobs detained, harassed, and assaulted dozens of peaceful human rights activists, journalists, and others to prevent them from marking Human Rights Day on December 10. Almost 800 detentions were recorded in December, a 30-year high.

Honduras had an extremely high murder rate, and crime and human rights abuses continued at very high levels. As in much of Central America, violence was perpetrated by gangs and drug trafficking organizations, and was a significant problem. The Honduran police force had deep-seated and unaddressed corruption problems, and police officers targeted vulnerable persons, including LGBT people. Four journalists were murdered. On December 7, unknown gunmen on a motorcycle shot and killed former senior government advisor on security Alfredo Landaverde. In the weeks preceding his death, Landaverde alleged that the National Police leadership was linked to organized crime and called for a clean-up. Police, vigilantes, and former members of the security forces carried out arbitrary and summary killings. The Honduran government established an independent internal affairs office and an outside police reform commission to address corruption in the National Police. In the Bajo Aguan region, there continued to be reports of killings of private security guards, agricultural workers, and security forces related to a land dispute.

In Mexico, the most serious human rights challenges in 2011 emanated from the country's fight against organized crime, which involved frequent clashes between security forces and drug cartels, which function as transnational criminal organizations (TCOs). Both TCOs and the gangs linked to them battled for control of drug trafficking routes and markets. TCOs remained the most significant perpetrator of violent crimes in Mexico. They engaged in human trafficking and used brutal tactics against citizens, including inhumane treatment, murder, and widespread intimidation. TCOs had a chilling effect on the media, executing bloggers who reported on their activities and threatening journalists who criticized them. In Nuevo Laredo, Tamaulipas, TCOs killed two bloggers in September and posted messages on their bodies warning of retaliation against anyone commenting about their activities on social media. A third Nuevo Laredo blogger was allegedly beaten and then killed in November, again in retaliation for posting comments on the Internet about local drug cartels. In the context of the fight against TCOs, but also at times unrelated to it, security forces reportedly engaged in unlawful killings, forced disappearances, and instances of physical abuse and torture.

In Venezuela, there was an accelerating concentration of power in the executive branch. President Chavez used a December 2010 law granting him broad authority to decree laws for a period of 18 months without consultation or approval by the elected National Assembly, to decree restrictions to fundamental economic and property rights. The government also took actions to impede freedom of expression and criminalize dissent. It harassed and intimidated privately owned television stations, other media outlets, and journalists throughout the year, using threats, fines, property seizures, targeted regulations, and criminal investigations and prosecutions.

Anti-Semitism colored official media attacks on opponents. The government used the judiciary to intimidate and prosecute political, union, business, and civil society leaders who were critical of government policies or actions.

AFRICA

ANGOLA

EXECUTIVE SUMMARY

Angola is a constitutional republic. The ruling Popular Movement for the Liberation of Angola (MPLA), led by President Jose Eduardo dos Santos, has been in power since independence in 1975 and exercised tight, centralized control over government planning, policymaking, and media outlets. In 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, Luanda. Security forces reported to civilian authorities.

The three most important human rights abuses were lack of judicial process and judicial inefficiency; limits on the freedom of assembly, association, speech, and press; and the abridgement of citizens' right to elect officials at all levels.

Other human rights abuses included: cruel and excessive punishment, including torture and beatings as well as unlawful killings by police and military personnel; harsh prison conditions; arbitrary arrest and detention; lengthy pretrial detention; impunity for human rights abusers; infringements on citizens' privacy rights and forced evictions without compensation; official corruption; restrictions on nongovernmental organizations (NGOs); discrimination and violence against women; abuse of children; trafficking in persons; discrimination against persons with disabilities, indigenous people, and persons with HIV/AIDS; limits on workers' rights; and forced labor.

The government took steps to prosecute or punish officials who committed abuses; however, accountability was limited due to a lack of checks and balances, lack of institutional capacity, a culture of impunity, and widespread government corruption.

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

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in previous years, there were several reports that the government or its agents committed politically motivated killings. Opposition parties, human rights activists, and domestic media sources reported that security forces arbitrarily killed at least four persons during the year.

In March the opposition party National Union for the Total Independence of Angola (UNITA) published a list of nine cases from 2010 of killing or disappearance in Huambo Province that UNITA argued were politically motivated. A National Assembly commission investigated the claims during the year and concluded there was no political intolerance in Huambo. However, civil society criticized the report.

In October *Januario Armindo Sikaleta*, the municipal secretary of UNITA in Bocoio, Benguela Province, was killed. UNITA representatives in Benguela suspected that *Januario* was one of nine persons killed for political motives in the province during the year.

The government made some progress prosecuting police officers responsible for human rights violations. However, impunity remained a problem, and the 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.

There were no developments in the cases reported of arbitrary killings in 2010.

In January 2010 FLEC claimed responsibility for an attack on a Togolese national soccer team, which was traveling through Cabinda to participate in the African Cup of Nations. Three persons were killed and nine injured. Two persons were arrested for direct involvement and six for tangential involvement. Of the first two, one person was sentenced to 24 years in prison, and the other was acquitted; the six arrested for tangential involvement were released in December 2010.

Land mines placed during the civil war remained a threat. According to the National Commission for Demining and Humanitarian Assistance, land mine and other explosive remnants of war (ERW) accidents killed 10 and injured at least 23 individuals during the first half of the year. A subsequent press report in November noted that there were 42 land mine victims. The government continued to strengthen and expand national demining capacity during the year, and it partnered extensively with international NGOs on demining operations and mine-risk education.

b. Disappearance.—There were no reports of politically motivated disappearances. There were some local media reports that persons “disappeared” in police or military custody following a public demonstration on September 3. The detainees’ location was reported within three days, and they were granted a timely trial according to the law.

In 2009 the president of a local movement for autonomy and independence, Jota Malakito, was taken into police custody and held incommunicado. In October 2010 he was tried with 33 other persons accused of crimes against state security and instigating a rebellion. In January 2011 Malakito and the 33 were released after their lawyer successfully argued for habeas corpus relief because the law on crimes against state security had been repealed.

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. Unlike in previous years, reports of beatings and other abuses in police stations during interrogations were not common.

Police and other security forces were not held accountable for torture committed in previous years. Although the government punished some violators administratively, no prosecutions occurred during the year.

The government continued to conduct operations throughout the country to identify, detain, and expel undocumented immigrants from the provinces bordering the Democratic Republic of Congo (DRC), Cabinda, Zaire, Uige, Lunda Norte, and Lunda Sul. In particular, in the diamond-rich province of Lunda Norte, NGOs and the media reported acts of violence and degrading treatment, including rape and sexual abuse, associated with these operations. Police expelled approximately 38,000 undocumented immigrants between April and October, according to an international NGO report. According to the same NGO, more than 2,000 deportees reported suffering sexual violence, and 7,000 reported physical abuse. Based on an assessment mission among those returned to the DRC, a 2010 U.N. report cited 117 victims of sexual violence in that year. The victims, irregular immigrants from the DRC, reported being detained and raped by military or police officers before being forcibly expelled to the DRC. The government responded that the allegations were unfounded, but reported uncovering one case of rape. During the year the alleged perpetrator was found guilty and sentenced to an unknown prison term.

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

According to an NGO report published in August, a local authority in Lunda Norte reported that the border police forced people to undress and conducted cavity searches on men and women to detect diamonds. The same authority reported that police accepted bribes.

Unlike in previous years, there were no reported cases of abuse by the army.

One political party reported abuses by private security companies in Lunda Norte. In previous years human rights activists reported that private security companies hired by diamond companies to protect their concessions from illegal exploitation committed abuses.

Land mine and other ERW-related injuries continued as infrastructure improvements made possible increased movement of persons and goods in rural, war-affected areas. At least 10 persons were killed and 23 injured by unexploded ordnance (see section 1.a.) during the year. A subsequent press report in November noted that there were 42 land mine victims.

Prison and Detention Center Conditions.—Prison conditions improved over the year, although NGOs continued to report corruption, overcrowding, and deaths from poor conditions.

Overcrowding was a major problem. According to the Ministry of Interior and press reports, the 34 prisons had 11,692 available places for 19,898 prisoners in November. The Viana prison, for example, had space for 2,436 inmates, but held 3,689 as of September. The Benguela prison was built for 1,500 inmates, but held more than 1,800, according to an April press report.

There were 9,234 men in pretrial detention and 10,113 men serving a sentence. There were 551 women, of whom 253 were in pretrial detention and 298 were sentenced. Most prisoners were between 16 and 35 years old.

The Ministry of Interior was building five new prisons in Bengo, Luanda, Malange, Huambo, and Cunene provinces to create 10,000 new places and eliminate overcrowding by 2013. The government opened new prisons in Bengo Province in 2010 and in Luanda and Lunda Norte in 2011. The new, expanded, or rehabilitated prisons are intended to alleviate the overcrowding that sparked riots in 2007 in which at least two persons were killed.

Prison conditions varied widely between urban and rural areas. Every prison provided some medical care, sanitation, potable water, and food. Most prisoners were allowed visitors, and it was customary for families to bring food to prisoners, although food was provided. Prisoners are allowed to list five visitors for free entry, but individuals not on the list must pay 50 kwanza (\$0.52) to enter. According to a press report, underpaid guards accepted bribes up to 1,000 kwanzas (\$10) for visitors to enter the prison expeditiously and deliver food. Prison guards continued to demand that prisoners pay for weekend passes to which they are entitled without charge.

At least six prisoners died of unknown causes; it was unclear whether they died due to prison conditions or preexisting medical conditions.

Authorities were taking steps to improve prison recordkeeping, and efforts were underway to move from a manual recordkeeping system to a computerized database including biometric data and a link to other agencies, such as police and justice. Adequate statistics were available in each facility, and authorities were able to locate every prisoner.

The law provides for prisoners to practice freedom of religion. The government allows prisoners to submit complaints to judicial authorities and request investigation of conditions. The government investigated and monitored prison and detention center conditions.

The government permitted visits to prisons by independent human rights observers, foreign diplomats, and international human rights observers. In September a foreign diplomatic delegation visited the new prison in Lunda Norte and noted it had sanitation, ventilation, lighting, medical care, food, and was not overcrowded. The International Committee of the Red Cross visits the Cabinda prison on a regular basis. In December a spokesperson for a local NGO reported having visited Luanda prisons during the year and described conditions as increasingly humane.

Unlike in previous years, there were no reported cases of prison rape. Guards were not allowed to have relationships with female detainees. There were unsubstantiated indications that male prisoners raped other male prisoners.

Children under three years old may stay with their mothers in prison. There were 83 children of female detainees and prisoners, 16 of whom were in Viana prison. The children may leave the prison with family members. The Ministry of Interior worked with social assistants to ensure the children's well-being. The children were supposed to receive dietary supplements, milk, and diapers and could benefit from a day care center.

Authorities at provincial prisons regularly housed juveniles, often incarcerated for petty theft, together with adults because separate juvenile detention centers did not exist outside Luanda. Authorities in Luanda prisons separated juveniles from the main prison population.

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.

An independent Office of the Ombudsman exists to mediate between an aggrieved public and an offending public office or institution. The office has no decision-making or adjudicative powers, but it helps citizens access justice and advises government entities on citizen rights. The office also educates the public about the role of the ombudsman, human rights, and publishes reports.

Prisoners were provided education and vocational training to prevent repeat offenders and help with social reintegration. In some prisons inmates grew food and made bread to feed other inmates and sell to police, as well as on the local market. Limited vocational training was done in a public-private partnership with local industry. The labor was voluntary, and the ministry was establishing a system to pay prisoners for their work. In some prisons inmates had access to sports and recreation facilities. In November the ministry inaugurated a prison hospital in Sao Paulo.

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.

According to a local NGO, police arbitrarily arrested individuals without due process. For example, in May a Somali national reported that he and 30 others had been in Caxito prison in Bengo Province since 2009. According to the detainees, they were being held without knowing the charges against them and had never appeared in court. The Somalis entered Angola from Zambia and did not have passports.

There was one report of citizens from the northern province of Cabinda being detained for crimes against the state. In November 2010 the National Assembly approved a new law on state security, replacing the 1978 law. According to press reports, on July 26, police detained nine young persons in Cabinda under the new law on state security for “inciting social disorder” when the youths attempted to deliver a letter requesting water, electricity, respect for human rights, and transparency to a visiting international delegation. All nine were acquitted the next day.

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 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 irregular immigrants, and small-scale actions against FLEC separatists in Cabinda.

Civilian authorities maintained effective control over the FAA and National Police, and the government had mechanisms to investigate and punish abuse and corruption. However, there were reports of impunity involving security forces during the year. The security forces were generally effective, although sometimes brutal. Impunity existed, particularly at the highest levels of power. The National Police and FAA have internal mechanisms to investigate security force abuses, and the government provided some training to reform the security forces.

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.

Police participated in professional training with foreign law enforcement officials from several countries in the region.

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. In 2010 a local NGO estimated that as many as 75 percent of searches were conducted without a warrant.

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. Pretrial detention may be prolonged by court order while officials build their case. Requests to prolong pretrial detention are not made public, which made it difficult to determine whether authorities exceeded the 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. Prisoners are allowed access to a lawyer, although this did not always happen in practice.

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.

Arbitrary Arrest.—Unlawful arrest and detention continued to be serious problems. NGOs continued efforts to secure the release of persons detained illegally. Security officials arbitrarily arrested members of the opposition. In 2010 the online independent news source Club-K reported that police in Bie Province detained one person for attending a UNITA meeting. UNITA member Alcides Sakala reported that police detained 11 persons more than two days for belonging to UNITA. In re-

sponse to similar reports from Huambo Province in 2010 and 2011, a Parliamentary Inquiry Commission claimed there was no political intolerance.

Between March and December, authorities in Balombo, Cubal, and Ganda municipalities, Benguela Province, detained and later released 22 individuals for being members of UNITA, according to the opposition party. At least one person was detained for a week before being released. The lengths of the other detentions were not known.

On October 10, authorities in Cambulo municipality, Lunda Norte Province, detained Alfonso Marcasso for being a member of the International Lunda Chokwe Protectorate Movement, according to the same civil society organization. He was transferred to Dundo and remained in prison until late December, when he was released. Authorities never filed charges against Marcasso.

Unlike in previous years, there were no reports of security forces detaining Cabinda residents suspected of FLEC activity or collaboration.

The six individuals arrested in January 2010 in Cabinda for “crimes against state security” by collaborating with FLEC were freed in December 2010.

Pretrial Detention.—The law states detainees should not be held longer than 24 hours, but many were held for days. Excessively long pretrial detention continued to be a serious problem. An inadequate number of judges and poor communication among authorities contributed to the problem. Police 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. NGOs reported 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 that previous releases of pretrial detainees had resulted in an increase in crime.

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

Unlike in previous years, the Ministry of Defense did not try civilians in military courts.

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

Informal courts remained the principal institutions through which citizens resolved conflicts in rural areas. Traditional leaders 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.

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 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 of 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. These rights were not always respected in practice.

The law extends to all citizens. A separate court under the Ministry of Justice is designated for children’s affairs. It functions as part of Luanda’s provincial court system. The Luanda juvenile court hears cases of youths under the age of 18 who are victims of a crime. The juvenile court also hears cases of minors between the ages of 12 and 16 who are accused of committing a criminal offense. Minors over the age of 16 accused of committing a criminal offense are tried in the regular court

system. In many rural provinces, there is no provision for juvenile courts, so offenders are tried as adults.

The president appoints Supreme Court justices for life terms without confirmation by the National Assembly. The Supreme Court generally heard cases concerning alleged political and security crimes.

Political Prisoners and Detainees.—There were reports of political prisoners. At year's end seven political activists from the Movement for Autonomy and Independence of the Lundas remained imprisoned for crimes against state security and instigating a rebellion. The seven remain imprisoned despite the fact that the state security law under which they were convicted has since been repealed. In October the seven prisoners went on a hunger strike. By year's end the provincial court of Lunda Norte had not disclosed why they should remain in prison.

Political activist Antonio Txichicussula reportedly was detained in February in Lunda Norte's Lukapa district for having documents related to a local separatist group. Txichicussula was tried, sentenced, and released in September on two years' probation after posting bail of 45,000 kwanzas (\$473).

Regional Human Rights Court Decisions.—There was no additional information at year's end about the 2010 African Commission on Human and People's Rights decision against Angola, or recommendation that the government establish a commission of inquiry to investigate the deportation of 126,264 foreigners in 2004.

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. In 2009 Luanda's civil courts had more than 2,000 pending civil suits. 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. For example, citizens widely believed that the government maintained surveillance of certain groups, including government critics, opposition parties, and journalists. A National Assembly bill on cybersecurity was withdrawn from debate after civil society groups claimed it hampered freedom of expression and press.

Property Restitution.—The law requires that citizens cannot be relocated without being provided a fair indemnification. In practice more than 6,000 persons were relocated during the year; most did not receive fair indemnification. Under the constitution, all land belongs to the state. The state claimed many of the former residents did not have clear title to their dwellings, which were constructed illegally.

The government exercised eminent domain to destroy private homes, although less often than in the previous year. The homeowners were not compensated at fair market value for the loss of their residences or land.

At year's end residents of the 1,557 homes destroyed in Lubango in September 2010 remained in resettlement camps in Tchimukua and Tchavola. A local NGO reported that the residents had insufficient access to water, shelter, health and education facilities, police, and jobs.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press; however, state dominance of most media outlets, minimal private media outside of Luanda, and self-censorship by journalists limited these rights in practice.

For example, according to independent Web site Club-K, news about the uprisings in Tunisia and Egypt was censored for fear that it might prompt comparisons to President dos Santos' 32-year rule. MPLA leaders Dino Matross and Rui Falcao spoke to private radio station LAC warning that the government would crack down if similar protests were to take place in the country.

Freedom of Speech.—Individual citizens reported practicing self-censorship but generally were 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. An NGO reported that citizens often curtailed their support of an opposition political party because they would suffer reprisal from MPLA supporters.

On September 1, a group of young people stated that they were asked by authorities to postpone their public protest against dos Santos scheduled for September 3. The group's leader, Carbone Casimiro, wrote an open letter in which he claimed that the government offered him \$270,000 and eight cars if he would cancel the demonstration.

Freedom of Press.—There were 12 privately owned weekly newspapers and four Luanda-based commercial radio stations. All but three of these publications, *Folha 8*, *Angolense*, and *Agora*, were rumored to be owned by groups or individuals tied to the government. Nongovernment radio stations could broadcast only in provinces where they physically established antennas. Only government-owned Radio Nacional was allowed to use repeaters to expand signal reach and was thus the only station broadcasting in much of the country. As a result most private radio stations could reach audiences only in Luanda. Radio Mais, whose ownership included individuals associated with the ruling party, also broadcast in Huambo and Benguela. Radio 2000, whose owners were also suspected to be connected to the ruling party, operated in Huila.

Private radio and print media criticized the government openly and at times harshly, but at their peril. Local journalists were not able to criticize government officials, particularly the president, without fear of arrest or harassment.

The government also restricted nationwide independent broadcasting through licensing laws. However, despite such restrictive laws, Radio Mais broadcast to three provinces outside Luanda. During the year Radio Ecclesia negotiated with the Ministry of Social Communication to expand its broadcast range to five provinces, but at year's end it still broadcast only in Luanda. State-owned Radio Nacional opened multiple community-based radio stations during the year, including the popular Radio Cazenga.

Official news outlets, including Angolan Public Television, favored the ruling party. Opposition parties were given limited access to state-owned media and were asked to pay in exchange for coverage of their events and statements.

Violence and Harassment.—During the year authorities arrested, harassed, and intimidated journalists. For example, on March 7, police detained three journalists from the independent weekly newspaper *Novo Jornal*, for attempting to cover a planned protest (see section on freedom of assembly). They were later released without being charged.

In October Voice of America reporter Jose Manuel Gimbi was searched for by what were presumed to be plainclothes officials who went door to door in his neighborhood. He was not home or harmed, but he filed a complaint with local authorities. This case was erroneously reported by some local and international human rights groups as a threat on Gimbi's life.

There was no new information at year's end on the six cases of journalists robbed, attacked, or killed in September and October 2010.

Censorship or Content Restrictions.—There were reports security forces interfered with journalists' attempts to take pictures or video during the year. For example, during a September 3 demonstration, journalists reported plainclothes individuals believed to be linked to the police stole or destroyed cameras and media equipment.

Visitors were warned during the year not to take photographs of any government-affiliated buildings or persons because security forces might seize their cameras or detain them.

Human rights activists and journalists practiced self-censorship.

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

In 2009 journalist Armando Chicoca was accused of defaming the president of the provincial court of Namibe Province, Antonio Vissandule. On March 3, Chicoca was sentenced to one year in prison for criminal defamation. At year's end he was out of jail on bail.

On October 10, William Tonet, editor of the private newspaper *Folha 8*, was convicted of criminal libel against high-level officials by the Luanda provincial court. The case pertained to an article *Folha 8* published in 2008 alleging these officials had gained control of diamond mines in Lunda Norte Province without public, competitive bidding. Tonet appealed, but he was initially sentenced to one year in prison and a fine of \$100,000.

Publishing Restrictions.—The minister of social communication, the spokesperson of the presidency, and the national director of information maintained significant decision-making authority over the media.

Internet Freedom.—There were no government restrictions on access to the Internet or credible reports the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. In November at least two independent online news sites suffered denial of service attacks simultaneously, leading some to allege government interference.

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 the right of assembly, the government at times restricted this right. At least 10 public demonstrations took place during the year, although police detained persons during at least five of these demonstrations.

The law requires written notification to the local administrator and police three days before public assemblies are to be held, but it does not require government permission for such events. 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.” Police and administrators did not interfere with progovernment gatherings. However, groups intending to criticize the government or government leaders often met a heavy police presence and government excuses preventing them from carrying out the event. Usually authorities claimed that the timing or venue requested was problematic or that the proper authorities had not received notification.

During the year activists suffered intimidation, including anonymous death threats, because of their involvement in public demonstrations.

On March 7, an anonymous group planned a demonstration to protest the president’s 32-year term in office. Fourteen persons were arrested, including three journalists from *Novo Jornal*. They were later released without being charged. Official statements indicated they were detained for their personal protection.

In March members of the NGO *Associacao Maos Livres* reported receiving threats and having at least one car vandalized. The victims believed the incident was related to the March 7 demonstration and other human rights-related work.

On May 25, the youth-led group *Revolutionary Movement for Social Intervention* (MRIS) planned a demonstration at Independence Square in Luanda to protest poor living conditions. Police detained several of the organizers: two musicians, a journalist from independent, UNITA-linked *Radio Despertar*, and another citizen. All four detainees were released the same day without being charged. They then returned to Independence Square, and the demonstration continued without police interference.

On September 3, MRIS and an estimated 200 persons demonstrated under the slogan, “32 is enough,” a reference to the number of years the president had been in office. Police arrested 24 individuals, including at least one of the organizers. According to multiple reports, police injured some demonstrators and journalists and destroyed media equipment. A Luanda court sentenced five persons to three months in prison and fines and damages totaling almost 10,000 kwanzas (\$105) for resisting arrest and allegedly causing bodily harm to four police officers during the demonstration. The court also sentenced 13 persons to 45 days in prison for disobedience. Two minors were sentenced to two years with suspended sentences. Three of the accused protesters were acquitted for lack of evidence. On October 14, the Supreme Court overturned the convictions for lack of evidence, and the imprisoned demonstrators were released.

Freedom of Association.—The constitution and law provide for the right of association, and the government generally respected this right in practice. Nevertheless, extensive and unexplained delays in the NGO registration process continued to be a problem. According to a 2011 survey, approximately 70 percent of the NGOs operating in the country were properly certified by the Ministry of Justice. The rest were unable to obtain certification, but were nevertheless allowed to operate.

The government sometimes arbitrarily restricted the activities of 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 obstructions to the free exercise of their parties’ right to meet. For example, local authorities threatened members who attended such meetings.

c. Freedom of Religion.—See the Department of State’s International Religious Freedom Report at <http://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; however, the government at times restricted these rights in practice. During the year the government improved the road network and decreased checkpoints between provinces. The government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR), the International Organization for Migration, and other humanitarian or-

ganizations in providing protection and assistance to internally displaced persons (IDPs), refugees, asylum seekers, and other persons of concern.

In-country Movement.—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 the areas around designated diamond concessions. Citizens living near concession areas regularly were denied access for any purpose, including obtaining water.

Land mines and other ERW remaining from the civil war continued to impede freedom of movement in rural areas.

Internally Displaced Persons (IDPs).—Officially there were no longer significant numbers of IDPs. The majority of Angolans previously considered IDPs either returned home or did not intend to return to their area of origin, as many now considered their new locations to be home. Some of those who may have wanted to return to their original homes stated that a lack of physical infrastructure and government services, such as medical care and the presence of land mines, were major deterrents to their return.

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

The government did not restrict aid efforts by international humanitarian groups. Unlike in previous years, the government allowed international organizations access to refugee camps, returnee welcome centers, and border crossings to conduct assessment missions. Diplomatic missions were denied access to these facilities on one occasion.

Protection of Refugees.—In 2010 all Angolan returnees who were forcibly returned from the DRC in late 2009 had been settled in communities, mostly in Uige and Zaire provinces. Government officials and returnees reported in 2011 that returnees had received some assistance from MINARS and international organizations, but continued to require legal assistance to regularize their status, supplies to restart their careers, education and language training, agricultural supplies, and housing materials.

In 2009 the government and UNHCR resumed joint efforts to repatriate thousands of refugees remaining outside the country since the civil war. These efforts continued; during the year Angolan refugees returned voluntarily from Namibia, Zambia, the Republic of Congo, and the DRC. According to UNHCR statistics, more than 100,000 Angolan refugees remained in neighboring countries at year's end. The government cooperated with the UNHCR on voluntary refugee repatriation and reintegration programs, but operations were significantly delayed due to funding constraints and lack of reintegration support to returnees.

Access to Asylum.—The country's law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The country hosted nearly 15,000 refugees and more than 4,000 asylum seekers, the majority from the DRC.

Nonrefoulement.—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.

Employment.—There were no formal restrictions on refugees' ability to seek employment. Refugees sometimes faced difficulty obtaining employment due to a lack of legal documents required to work in the formal sector and difficulty in obtaining such documents.

Access to Basic Services.—Persons with recognized refugee status could take advantage of public services. Refugees sometimes faced difficulty obtaining access to public services such as health care and education due to a lack of legal documents.

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. Citizens were able to exercise the right to elect legislative representatives in 2008. The constitution calls for the first ever elections at the municipal and provincial levels to happen according to the principle of "gradualism" where local elections are to be phased in provinces and municipalities based on a variable

timeline. However, the right to elect local leaders remained restricted and elections did not occur at the provincial or municipal levels.

Elections and Political Participation.—Recent Elections.—After having postponed legislative elections for two years, the government held the first postwar elections in 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 at polling stations to verify a voter's identity and residence. Despite these and other irregularities, more than 87 percent of registered voters participated. Opposition parties generally accepted the electoral results.

Observers had expected a presidential election in 2009. However, elections did not occur due to a delay to accommodate constitutional reform. The new constitution calls for elections within five years of the previous elections and were scheduled for late 2012. Voters will elect candidates from a party list, with the presidential candidate at the head of the list.

Political Parties.—The ruling MPLA party dominated all political institutions. Political power was concentrated in the presidency 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 consists of 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 2008 legislative elections, opposition deputies held fewer than 20 percent of the parliamentary seats.

Opposition parties stated that their members were subject to harassment, intimidation, and assault by supporters of the MPLA. UNITA continued to argue that the MPLA had not lived up to the terms of the 2002 peace accord, and former combatants lacked the social services and assistance needed to reintegrate into society. Former combatants also reported difficulties obtaining pensions due to bureaucratic delays or discrimination. UNITA headquarters buildings in at least three provinces were denied access to public utilities, including electricity and water. During the year UNITA reported that its members suffered intimidation and harassment.

In February UNITA claimed that at least nine of its supporters were killed in Huambo Province for political reasons in the previous year. A parliamentary commission sent to investigate the claim found no political intolerance in Huambo Province. However, civil society criticized the report.

Opposition party members and civil society leaders cited examples of political intolerance during the 2008 election process.

Participation of Women and Minorities.—Of the 220 deputies in the National Assembly, 79 were women (36 percent), exceeding the U.N.-recommended quota of 30 percent. Six women served as governors or vice governors, and 20 women were executive level officials (ministers, state secretaries, presidential appointees).

The country has three dominant linguistic groups: the Ovimbundu, Mbundu, and Bakongo, which together constitute approximately 77 percent of the population. All were represented in government. Other groups also took part in governing at the national level. There were six members of smaller ethnic groups in the National Assembly and one minority member, a Chokwe, in the cabinet. Political parties must be represented in all 18 provinces; however, most political parties had limited national constituencies. By law no political party could limit party membership based on ethnicity, race, or gender.

Section 4. Official Corruption and Government Transparency

Although the law provides criminal penalties for official corruption, 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.

Despite the widespread perception that government corruption at all levels was endemic, public prosecutions were rare. By year's end no high-level official had been charged or prosecuted for corruption, which added to the popular belief that officials were unwilling to enforce the law. The Financial Court was the government agency

responsible for combating government corruption; the National Criminal Investigation Department also investigated some cases.

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. The judiciary was corrupt and subject to political influence and conflict of interest.

In July the governor of Luanda, Jose Maria dos Santos, was dismissed after only eight months in office. Private media reported that he tried to extort \$25 million from an Israeli developer that needed a building permit. He reportedly was fired not for attempting to extort the funds, but for invoking the name of one of the president's closest advisors in doing so. No charges were filed against the governor.

Joaquim Ribeiro, former commander of the Luanda Provincial Police, was removed from his post and accused of ordering the homicide of a police officer. According to private media, Ribeiro was under investigation for embezzling public funds and ordered the murder because the victim had incriminating information against him. Ribeiro remained in prison charged with murder and embezzlement, and the trial was continued at year's end.

On October 10, David Mendes from the Partido Popular (an opposition party) filed a criminal complaint with the attorney general against President dos Santos and Elisio Figueiredo (a Portuguese citizen and the financial advisor of President dos Santos), Pierre Falcone (a French citizen and arms dealer), and Manuel Vicente (the president of the state-owned oil company Sonangol) for their involvement in embezzling public funds of more than \$775 million. By year's end the attorney general had not responded.

In October 2010 the president fired both the minister of the interior and the vice minister for immigration for authorizing the illegal extradition of a Portuguese citizen from Sao Tome and Principe. The media reported that the Portuguese man was accused of embezzling funds from a local businessman, who also was a business partner of the interior minister. Despite a presidential statement declaring the extradition illegal, no charges were brought against any government officials involved in the case. Apart from the demotion, no other action was taken against the two ministers.

In March 2010 the National Assembly approved a law on public probity, which requires most government officials to declare their assets to the attorney general. However, the information was not made available to the general public during the year, and the president, vice president, and president of the National Assembly are exempt from the law's requirements.

The government made progress in improving transparency in its economic operations, in large part due to the measures implemented under a Stand-By Arrangement agreement reached with the International Monetary Fund (IMF) in 2009.

As a condition of the loan, the state-owned oil company Sonangol published its 2009 and 2010 audited financial statements on its Web site. By year's end the government had not started to gradually phase out the quasi-fiscal activities of Sonangol and to concentrate such operations in the central government. The government published online a detailed block-by-block accounting of the monthly revenues it received from Sonangol's oil production, but critics noted that the figures on oil production and revenues published by the Ministries of Petroleum and Finance and by Sonangol were contradictory, undermining the goal of transparency. However, there continued to be a significant lack of transparency in the overall process of the government's procurement and use of loans, taken from both private banks and foreign governments.

In December the IMF reported that \$32 billion was unaccounted for in the government's fiscal accounts during the period 2007-10, most of which was believed to stem from misreporting of transfers from Sonangol to the national treasury.

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.

The financial statements of Endiama, the state diamond parastatal, were not made public. Serious transparency problems remained in the diamond industry, particularly regarding allocation of exploration, production, and purchasing rights and reporting of revenues.

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 are laws and regulations regarding conflict of interest, but they were not widely enforced. Petty corruption among police, teachers, and other government employees was widespread. Police extorted money from citizens and refugees, and prison officials extorted money from family members of inmates (see sections 1.c., 1.d., and 2.d.).

Like in the previous year, there were credible reports that high-level officials received substantial bribes from private companies that were awarded government contracts. According to press reports, in October the president of the National Agency for Private Investment (ANIP), Aguinaldo Jaime, was fired for conflict of interest due to his involvement in a real estate contract project Bem Morar approved by ANIP.

The law provides for public access to government information; however, the information posted on most government Web sites remained limited. Laws are made public by being published in the official gazette; this publication can be purchased for a small fee but is not available online.

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.

Local NGOs actively promoted and defended human rights during the year by asserting constitutional rights, documenting prison conditions, protesting labor conditions, 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. 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; however, NGO leaders suspected the motive was to silence their criticism. No NGOs were banned during the year.

The government allowed local NGOs to exist and carry out human rights-related work. However, many NGOs were forced to limit the scope of their work because they faced problems registering, were subject to subtle forms of intimidation, and risked more serious forms of harassment and closure.

The government arrested and harassed NGO workers. For example, on March 8, unknown assailants threatened activists and members of the human rights defenders' NGO Associacao Maos Livres. The leader's car was vandalized.

Unlike in the previous year, the government criticized domestic and international NGOs.

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

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, an umbrella organization 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 attend public forums throughout the year. Former leaders experienced low-level harassment and intimidation throughout the year. For example, four of the seven individuals detained in Cabinda for links with the attack on the Togolese soccer team were former members of Mpalabanda. In December Mpalabanda petitioned the Supreme Court to reexamine the 2006 decision.

U.N. and Other International Bodies.—The government cooperated with international governmental organizations and permitted visits by U.N. representatives. In 2008 the U.N. Human Rights Office (UNHRO) closed its office following a government decision not to grant a full mandate to the office. The decision to close the office directly contradicted government commitments to work more closely with the UNHRO, which were made when the country won a three-year term on the U.N. Human Rights Council in 2007. Authorities allowed U.N. officials to monitor human rights. In March Special Representative of the Secretary General Margot Wallstrom visited the country following allegations of abuse in Lunda Norte. A representative of the UNHRO also visited in November.

The government restricted access of international NGO observers to the country. For example, in August immigration officials denied 17 activists entry into the country to attend a civil society forum connected with the Southern African Development Community summit. According to the press, officials confiscated reports a Zimbabwean activist was carrying. Immigration authorities claimed that none of the activists had valid visas. In August two Mozambican journalists with valid visas were denied entry to attend a workshop.

Some international NGOs reported long delays in obtaining visas, although the delays were not significantly longer than those experienced by other foreigners.

Government Human Rights Bodies.—The National Assembly Committee on Human Rights ostensibly focused on human rights; however, it did not issue any reports. An interministerial commission for human rights meets regularly and prepares reports for the U.N. and other international organizations.

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 and Domestic Violence: 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. In 2009 the police commissioner in Luanda estimated that 10 cases of rape occurred daily nationwide. However, the true incidence of rape was likely much higher. 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.

Domestic violence against women, including spousal abuse, was pervasive and reportedly occurred in both urban and rural areas. In June a law was passed prohibiting domestic abuse; the law does not distinguish between men and women. Penalties for violating the law had not been finalized by year's end.

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 2010 police recorded 831 cases of domestic violence. The Ministry of Family and Promotion of Women registered more than 6,000 cases of domestic violence in 2010. Of these cases, 80 percent were for minor offenses, and 99.5 percent of the victims were women, according to a press report. It is believed the police and ministry statistics seriously undercounted the number of domestic violence cases, since many if not most victims believed that authorities would not help them and they feared reprisal if they reported the abuse. Common-law husbands or boyfriends perpetrated the majority of violence. The ministry maintained a program with the Angolan Bar Association to give free legal assistance to abused women and established counseling centers to help families cope with domestic abuse. Statistics on prosecutions for violence against women were not available.

Female Genital Mutilation (FGM).—FGM was not considered to be a widespread practice, although there were reports of instances in rural regions.

Other Harmful Traditional Practices.—Religious leaders in Lunda Norte and Uige provinces reported that societal violence against elderly persons and rural and impoverished women and children occurred occasionally, with most cases stemming from accusations of witchcraft. Some women were killed, beaten, or expelled from their families, or died from mistreatment and malnourishment. The religious leaders, who offered church-run shelters to the victims, reported that police did not take action due to fears that the women might practice witchcraft against them. According to a 2009 newspaper article, priests killed more than 400 persons in "faith-based" cures that involved violent rituals, beatings, and poison.

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

Reproductive Rights.—Couples and individuals may decide freely and responsibly the number, spacing, and timing of their children, and have access to the information and means to do so free from discrimination, coercion, and violence. Women have access to contraception. According to a 2011 study, 6 percent of women used contraception. A 2009 study found 47 percent of women who gave birth had four or more prenatal consultations. Approximately 67 percent of women saw a qualified person at least once, 49 percent of births were attended by a qualified person, and 42 percent gave birth in a medical center. According to U.N. estimates, the maternal mortality ratio in the country in 2008 was 610 deaths per 100,000 live births. High maternal mortality was likely due to inadequate access to health facilities before, during, and after giving birth. A woman's lifetime risk of maternal death was one in 29. There were no reports of coercive family planning practices such as female infanticide or coercive sterilization. There were no legal, social, cultural, or other

barriers that limit access to these services. Information on government provisions for reproductive health services or diagnosis and treatment of sexually transmitted infections, including HIV, was not available.

Discrimination.—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 Ministry of Labor and the Ministry of 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. In an interministerial effort spearheaded by the Ministry of Family and Promotion of Women, the government 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.—Birth Registration.—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. As many as 30 percent of children under age five were undocumented, according to a 2009 study. 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 financial need. The government implemented a previous plan to provide birth certificates in health clinics and maternity wards during the year.

Education.—Education is tuition-free and compulsory for documented children until the sixth grade, but students often had significant additional expenses. The educational infrastructure remained in disrepair. There were insufficient schools and teachers to provide universal primary education. An independent study in 2010 reported 18 percent of boys and 13 percent of girls enrolled in secondary or higher education. The same study reported that 25 percent of the school-age population did not attend school during the year. A 2009 survey reported the annual dropout rate was 1.3 percent per year.

Children of any age in an urban area were more likely to attend school than children in a rural area. Children in rural areas generally lacked access to secondary education. Even in provincial capitals, there were not enough classroom spaces for all children. There were reports of families paying bribes to education officials to ensure their child got a place in a classroom. According to UNESCO enrollment rates were higher for boys than for girls, especially at the secondary level.

Child Abuse.—Child abuse was widespread. Reports of physical abuse within the family were commonplace, and local officials largely tolerated abuse. Religion and superstitions played a role in child abuse. Abuse of children accused of witchcraft continued to be a problem. Children accused of witchcraft were subject to abuses such as isolation from their families, denial of food and water, ritualistic cuttings, and the placing of various caustic oils or peppers on their eyes or ears. Children were sometimes killed 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.

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

Harmful Traditional Practices.—In 2010 a total of 55 children in Sanza-Pombo, Uige Province, were accused of being witches. A Congolese priest chained and tortured 12 of the accused children for being witches and therefore dangerous to their families. No action was taken against the priest.

Churches, many based in the DRC, convinced impoverished families living in rural areas and the outskirts towns that their children had supernatural powers, leading to allegations that these children were practicing witchcraft. According to the National Institution of Child Welfare (INAC), some religious sects were closed in 2010 because they endangered the health and welfare of citizens. Despite actions

taken against these religious sects, sporadic information on children accused of practicing witchcraft continued, especially in the northern provinces. However, INAC reported that incidents involving witchcraft declined 70 percent between 2003 and 2010. INAC also reported that an unknown number of individuals had gone to jail for alleging children committed witchcraft.

Sexual Exploitation of Children.—All forms of prostitution, including child prostitution, are illegal; however, local NGOs expressed concern over child prostitution, especially in Luanda, Benguela, and Cunene provinces.

Sexual relations between an adult and a child under the age of 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.

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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There is a Jewish community of approximately 450-500 persons, primarily Israelis. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://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. The constitution mentions persons with disabilities in articles 23 (principle of equality), 77 (health and social protection), 80 (childhood), 83 (disabled citizens), and 84 (former combatants and veterans). Article 83 grants persons with disabilities full rights without restrictions. The constitution permits the state to adopt a national policy to prevent, treat, rehabilitate, and integrate persons with disabilities, provide support for their families, remove obstacles to mobility, raise awareness in society, and foster special education and training opportunities.

Persons with disabilities included more than 80,000 land mine victims. The NGO Handicap International estimated that persons with disabilities constituted 10 percent of the population. However, a 2010 study estimated that 2.6 percent of the population had a physical or mental disability. Only 30 percent of persons with disabilities were able to take advantage of state-provided services such as physical rehabilitation, schooling, training, or counseling. According to MINARS statistics published in December, there were an estimated 150,000 persons with disabilities, most between the ages of 25 and 44, and 56 percent male. Of those persons with disabilities, 62 percent had physical disabilities (of whom 75 percent were ERW victims and 22 percent from polio), 28 percent had sensory disabilities, and 10 percent had mental disabilities. MINARS assisted approximately 90,000 persons with disabilities.

Presidential decree number 14 protects persons with disabilities. However, persons with disabilities found it difficult to access public or private facilities, and it was difficult for such persons to find employment or participate in the education system. MINARS sought to address problems facing persons with disabilities, including veterans with disabilities, and several government entities supported programs to assist individuals disabled by land mine incidents. During the 2008 election, the government provided voting assistance to persons with disabilities.

Indigenous People.—An estimated 3,500 San persons 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 same-sex activity, although discussing such topics in society is highly taboo. The constitution defines marriage as between a man and a woman. NGOs reported a small but underground lesbian, gay, bisexual, and transgender community in Luanda. A 2011 health-related study on gay men in Luanda indicated that almost half of the interviewed men had con-

fronted homophobia and reported suffering violence or discrimination based on sexual orientation.

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 condition or 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.

Persons with albinism were common victims of discrimination, although church groups worked to eliminate the abuse.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The constitution and law provide for the right of workers to form and join independent unions and specifies rights for trade unions. The law allows unions to conduct their activities without government interference and grants workers, except government workers, the right to strike. 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. The law protects the right to collective bargaining, and there are no legal restrictions on collective bargaining. The law prohibits antiunion discrimination and stipulates that worker complaints be adjudicated in the labor court.

Under the law employers are required to reinstate workers who have been dismissed for union activities. There were unions for journalists, teachers, and taxi drivers, among others.

The constitution grants workers 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. 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.

In practice the government did not protect these rights, although the Ministry of Labor has a hotline for workers who believe their rights have been violated. Government approval is required to form a union, and the government admitted that unions were hampered by membership and legalization issues. 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.

There were several examples during the year of workers going on strike to demand a salary increase. The government routinely thwarted union efforts at collective bargaining with long delays in processing, and collective bargaining was restricted in practice. In addition the judicial system did not enforce these provisions.

The government is the country's largest employer, and the Ministry of Public Administration, Employment, and Social Security (MAPESS) centrally mandated wages.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but such practices occurred. Child labor is punishable under the labor law, although no cases were punished during the year. 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. Forced labor occurred in the artisanal diamond mining sector. Additionally, men and boys were trafficked into the country for forced labor, especially in the construction sector. Children also reportedly worked in charcoal and in forced child labor in the production of rice. Migrant workers were employed under forced labor conditions in diamond mining areas, particularly in Lunda Norte and Lunda Sul. The government took steps to eliminate illegal immigration and illegal diamond mining activities during the year.

Some Angolan boys were taken to Namibia for forced labor in cattle herding and forced to act as couriers in the illegal cross-border trade with Namibia. Adult criminals sometimes used children under the age of 12 for forced criminal activity, since a loophole in the justice system prevents youth from being tried in court. Angolan women and children were subjected to domestic servitude in South Africa, the DRC, Namibia, and some European nations, primarily Portugal. See also the Department of State's Trafficking in Persons Report at <http://www.state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—Child labor in the formal sector was restricted under the law. Article 282 of the labor law requires

that the minor submit evidence that he/she is over 14 years of age to obtain an employment contract. The law prohibits children under 14 from working. Although children could work from age 14 to 16 with parental permission, they could not do so if it interfered with schooling. The law was effectively enforced in the formal sector. Child labor, especially in the informal sector, remained a problem. MAPESS had oversight of formal work sites in all 18 provinces, and inspectors are supposed to check on the age of workers at such sites. If it determined a business was using child labor, it transferred the case to the Ministry of Interior to investigate and possibly press charges. An unknown number of businesses were warned or fined for using child labor. Although MAPESS, other government agencies, and labor unions developed a national plan against child labor, MAPESS could not regulate the sizeable informal sector as it was not within its purview. In October 2010 the newspaper *Agora* published a study conducted in Benguela that found more than 70,000 children worked in Benguela Province. A living standards survey published in 2010 reported that 20.4 percent of children between the ages of five and 14 worked; more children worked in rural than in urban areas. The study also reported that boys and girls were equally likely to work.

Most work done by children was in the informal sector. Children engaged in economic activities, such as agricultural labor on family farms and commercial plantations, fishing, 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.

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 responsible for enforcing all labor laws, including complaints of child labor. The Ministry of Family and Promotion of Women and INAC play a significant role in coordinating the response to a case of child labor and protecting possible victims. Ultimately, the Ministry of Interior and the Ministry of Justice are charged with investigating and prosecuting cases of child labor, although no such prosecutions were reported during the year.

A separate court under the Ministry of Justice is designated for children's affairs. The Luanda juvenile court hears cases of youths under the age of 18 who are victims of a crime. The juvenile court also hears cases of minors between the ages of 12 and 16 accused of having committed criminal offenses. Regular courts hear the cases of minors between the ages of 16 and 18 who are accused of criminal offenses. There were no courts to hear cases involving children under the age of 12. In many rural provinces, there was no separate structure to work with children's crimes. In these cases minors could be either tried as adults or have their cases dismissed.

The government, through INAC, worked to create, train, and strengthen child protection networks at the provincial and municipal levels 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 and livelihood opportunities for children and their families. Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://www.dol.gov/ilab/programs/ocft/tda.htm>

d. Acceptable Conditions of Work.—The minimum wage was 11,044 kwanza (\$116) per month for all formal sectors. Workers in informal sectors, such as street vendors, subsistence agriculture, and domestic household, are not covered by the minimum wage law. The minimum wage law was effectively enforced in the formal sector.

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. The government sets occupational health and safety standards. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment.

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 regarding working conditions.

The workweek standards were not enforced effectively unless employees lodged a formal complaint with MAPESS.

In September 2010 the MPLA-linked labor union, Uniao Nacional dos Trabalhadores Angolana, published a report on working conditions that highlighted high unemployment, poor living conditions, and inequality as continuing problems despite various economic measures and new laws. Workers found they did not have job stability, employers violated workers' rights, and workers unable to find employment in the formal sector had to seek work in the informal labor market.

The Ministry of Labor's inspector general did not enforce these standards effectively. Inspections occurred, although rulings on labor violations found by inspectors were not effectively enforced. Despite the law providing for the right, workers were unable to remove themselves from unsafe working conditions without jeopardizing their employment.

The secretary general of the General Centre of Independent and Free Unions of Angola (CGSILA), an independent labor union, stated that workers in the civil construction sector were subjected to hazardous working conditions that led to many accidents and even death. The problem was worse in Luanda, where construction activity is concentrated. There was inadequate monitoring of the construction sector, although MAPESS created commissions to oversee the occupational safety of this sector. Two officials in CGSILA noted that health workers also were subjected to unsafe and unsanitary conditions that led to their contracting various diseases or becoming sick.

BENIN

EXECUTIVE SUMMARY

Benin is a constitutional democracy. On March 13, President Boni Yayi won a second, and final, five-year term in multiparty elections. In the April 30 legislative elections, President Yayi's supporting coalition, Cowry Force for an Emerging Benin, won 41 of 83 seats in the National Assembly and formed a majority coalition with the Renaissance of Benin Party and other minor supporting parties for a total of 61 seats. As a result the coalition controlled the Bureau of the National Assembly with six of the seven seats. International observers viewed both the presidential and legislative elections as free, fair, and transparent. Security forces reported to civilian authorities.

Three main human rights abuses reported during the year included police use of excessive force; violence and discrimination against women and girls, including female genital mutilation (FGM); and harsh prison conditions.

Other major human rights problems included arbitrary arrest and detention with prolonged pretrial detention. Vigilante violence occurred, as did trafficking and abuse of children, including infanticide and child labor.

Although the government made an effort to control corruption and abuses, including prosecuting and punishing public officials, officials sometimes engaged in corrupt practices with impunity.

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, including politically motivated killings. Elements of security forces occasionally shot and killed armed robbers and claimed self-defense to justify the shootings.

For example, on January 18, police shot and killed a wanted criminal in Fidjrosse, in Cotonou. The criminal, who was reported to have "challenged and made a fool of" the police officers, refused to surrender despite their warnings.

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 of such incidents. Beatings in custody reportedly were commonplace. The Constitutional Court received complaints from citizens who were brutalized by the police.

Prison and Detention Center Conditions.—Prison conditions continued to be harsh and life threatening. Overcrowding and lack of proper sanitation and medical facilities posed risks to prisoners' health. A July 2010 mediator of the republic's (ombudsman) report on the condition in the nine civil prisons indicated that prisons were overcrowded, and malnutrition and disease were common. Potable water was available. Some prisoners suffered from mental illness. There were deaths due to lack of medical care and neglect. Eight of the nine civil prisons were filled far beyond

their capacity. The July 2010 ombudsman's report, commissioned by the president, indicated the total prison population (including pretrial detainees and remand prisoners) was 6,908, in a system with an official capacity of 1,900; of that number, pretrial detainees and remand prisoners totaled 5,174. Statistics from 2008 indicated that female prisoners were 3.5 percent of the prison population and that juveniles were 2.1 percent.

Women were not held together with men.

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.

Prisoners and detainees had access to visitors and were permitted religious observance. There was no formal system to submit complaints to judicial authorities without censorship, but prisoners could directly address the director of the prison or complain through the normal judicial processes.

The government permitted prison visits by human rights monitors. Religious groups and nongovernmental organizations (NGOs) 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, and the government generally observed these prohibitions in practice.

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.

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.

There is an internal affairs division of the police, called the Inspector General, which investigates internal police matters.

The police were inadequately equipped and poorly trained, but the government continued to respond to these problems by recruiting more officers, building more stations, and modernizing equipment during the year; however, problems remained, including impunity.

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, but this was not always observed in practice. Under exceptional circumstances the magistrate may authorize continued detention not to exceed eight days. Detainees have the right to prompt judicial determination; this was generally observed in practice. Detainees were promptly informed of charges against them. They have the right to prompt lawyer access after being brought before a judge, also generally observed. They are allowed to receive family visits, which were generally permitted in practice. 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 a 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.

Arbitrary Arrest.—The constitution and law prohibit arbitrary arrest. However, at times the authorities did not respect these prohibitions.

Pretrial Detention.—Approximately 75 percent of persons in prison were pretrial detainees; length of pretrial detention varied from two to 11 years. 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. Authorities respected court orders.

Trial Procedures.—While the constitution provides for the right to a fair trial, 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; 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 judiciary in civil matters. If administrative or informal remedies are unsuccessful, a citizen may file a complaint concerning an alleged human rights violation with the Constitutional Court. An individual can appeal to the Economic Community of West African States' Court of Justice.

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. 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.—*Status of Freedom of Speech and Press.*—Although the constitution and law provide for freedom of speech, the government did not always respect this right. There were radio and television broadcasts in which citizens openly criticized the president's policies without reprisal; however, the government occasionally inhibited freedom of the press.

Freedom of Speech.—The law 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. There were no reports that the law was invoked during the year.

Freedom of Press.—The independent media were active and expressed a wide variety of views without restriction. Publications criticized the government freely and frequently. A nongovernmental media ethics commission 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 are illiterate, live in rural areas, and generally receive their news via radio. The Office de Radiodiffusion et Television du Benin (ORTB) broadcasts 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 (\$78,000) in financial assistance to the private media during the year.

Censorship or Content Restrictions.—Journalists practiced self-censorship.

Libel Laws/National Security.—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.

An official from a nongovernmental media ethics commission indicated that the court continued to receive libel cases against journalists during the year, but judges generally refrained from prosecuting them. Journalists continued to fight for the decriminalization of press-related offenses.

Publishing Restrictions.—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 the information was used for administrative purposes; however, some journalists complained it was a form of harassment.

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

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.

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.

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.—For a description of religious freedom, see the Department of State’s International Religious Freedom Report at www.state.gov/j/drl/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 U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

In-Country Movement.—The presence of police, gendarmes, and illegal roadblocks impeded domestic movement. Although meant to enforce vehicle safety and customs regulations, many checkpoints served as 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.

Foreign Travel.—The government maintained documentary requirements for minors traveling abroad as part of its continuing campaign against trafficking in persons. This was not always enforced, and trafficking of minors across borders continued.

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.

Protection of Refugees.—The government has established a system for providing protection to refugees. As of November 1, there were approximately 2,700 Togolese refugees at the Agamey Refugee Camp and 200 refugees of various nationalities at the Kpomasse Refugee Camp. 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 did not provide temporary protection during the year. If individuals do not qualify as refugees under the 1951 U.N. Refugee Convention, authorities direct them to the Immigration Office to apply for a residence permit.

Access to Asylum.—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.

Employment.—The government continued to permit Togolese refugees residing in local communities and refugee camps to participate in most economic activities and enroll their children in local schools.

Durable Solutions.—The government and the UNHCR continued to educate Togolese refugees on the 2007 voluntary repatriation initiative. Despite the government and UNHCR’s July decision to close the Kpomasse camp, the 201 remaining refugees refused the government and UNHCR’s assistance in resettling in Benin and refused to leave the camp.

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.—Recent Elections.—The country held presidential elections on March 13 and legislative elections on April 30. International observers viewed both the presidential and legislative elections as generally free and fair. Both elections were hampered by delays on the days of the vote, usually in re-

ceiving voting materials or due to polling staff arriving late. Even with delays, all polling stations remained open the full nine hours required by law. There were no reports of eligible voters unable to cast ballots.

Political Parties.—Parties could freely run candidates for election. There were no government restrictions on the political opposition. No single party or group has recently dominated politics. For legislative elections, all candidates must be associated with a political party; there were no independent candidates.

Participation of Women and Minorities.—There were eight women out of 83 members in the National Assembly and eight female ministers in the 26-member cabinet. The Constitutional Court had two women among its seven justices.

The country has no majority ethnic group. Various ethnic groups were well represented in government agencies, including the civil service, and the armed forces. Nine cabinet ministers were from the Bariba, Somba, and Dendi ethnic groups; eleven were from the Fon, Goun, and Adja ethnic groups; and six were from the Yoruba and Nago ethnic groups.

Section 4. Official Corruption and Government Transparency

Although the law provides criminal penalties for official corruption, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. President Yayi continued his 2006 anticorruption initiative.

On August 30, the National Assembly approved the law to prevent corruption and related offenses that was pending since 2006.

The government took a number of actions during the year to combat corruption, including appointment of internal auditors to public companies and creation of a hotline to the presidency to enable citizens to denounce incidents of corruption. To combat customs fraud, the government established the use of scanners to inspect imported cargo before clearance as part of its Imports Verification Program (PVI).

Police corruption was widespread. Police continued to extort money from travelers at roadblocks. For example, on August 12, two police officers positioned at a roundabout called “La gaité” in Cotonou to regulate traffic were caught extorting money from travelers. The two police officers were arrested and jailed for disciplinary infraction.

The Watchdog to Combat Corruption (OLC), a governmental agency, continued to address corruption. The OLC trained observers and polling agents on measures to prevent electoral fraud during the March and April presidential and legislative elections.

It was commonly believed, and acknowledged by some judicial personnel, that the judicial system at all levels was susceptible to corruption.

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

Public officials were not subject to financial disclosure laws.

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.

U.N. and Other International Bodies.—In June 2010 an assessment team composed of two experts from the Office of the U.N. High Commissioner for Human Rights and the French Speaking Countries Association for Human Rights National Commissions came to the country to check whether the proposed amendments to the law on the Beninese Human Rights Commission were in line with the Principles relating to the Status of National Institutions (Paris Principles). The team provided recommendations for improvement and an implementation plan for priority action.

Government Human Rights Bodies.—The government met with domestic NGO monitors through the Advisory National Human Rights Council and the Ministry of Justice, Legislation, and Human Rights. The ministry coordinated awareness campaigns to educate the populace on human rights.

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

The constitution and laws prohibit discrimination based on race, gender, disability, language, and social status, but societal discrimination against women con-

tinued. Persons with disabilities were disadvantaged. The government did not take concrete measures to address those problems.

Women.—Rape and Domestic Violence.—The law prohibits rape, but enforcement was weak due to police ineffectiveness, victims' unwillingness to take 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. Prison sentences for rape convictions ranged from one to five years. From January to October 2010, civil society organizations reported 636 gender-based violence cases reported to courts and 1,316 cases to police stations and brigades in the framework of an international NGO's project to combat gender-based violence in the country. These statistics, however, did not cover gender violence in the whole country. Statistics were not available on prosecutions or convictions. Because of police lack of training in collecting evidence associated with sexual assaults and victims' ignorance of their rights and inability to present evidence in court, judges reduced most sexual offenses to misdemeanors.

The penal code prohibits domestic violence, and penalties range from six to 36 months' imprisonment. However, domestic violence against women was common. 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; the Female Jurists Association of Benin (AFJB); and the Women's Justice and Empowerment Initiative 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.

Female Genital Mutilation (FGM).—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 (\$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 (\$110 to \$220). Enforcement was rare due to the code of silence associated with this crime. FGM was practiced on girls and women from infancy up to 30 years of age (although the majority of cases occurred before the age of 13, with half occurring before the age of five), and generally took the form of excision. Approximately 13 percent of women and girls have been subjected to FGM; the figure was higher in some regions, especially the northern departments, including Alibori and Donga (48 percent) and Borgou (59 percent), and among certain ethnic groups; more than 70 percent of Bariba and Peul (Fulani) and 53 percent of Yoa-Lokpa women and girls had 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.

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 the display of banners. NGOs also addressed this problem in local languages on local radio stations.

Sexual Harassment.—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 (\$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. Sexual harassment was common, especially of female students by their male teachers.

Sex Tourism.—There is no specific law addressing sex tourism. It was not clear whether tourists who used the services of prostitutes came to the region specifically for sex tourism. There was no evidence of government involvement or complicity.

Reproductive Rights.—The constitution provides that the government should protect the family, particularly the mother and the child. The law promotes responsible fertility to reduce early and/or late childbearing and promote family planning through the distribution of contraceptives. The law guarantees couples' and individuals' reproductive rights, including access to health care, freedom to give birth, free-

dom of marriage, rights to nondiscrimination, access to contraception, and equal access to health care for people living with sexually transmitted infections, including HIV. The law provides penalties for the commission of all acts prejudicial to the enjoyment of sexual and reproductive health. The government generally respected these rights. An estimated 30 percent of women had an unmet need for family planning. According to the Benin Demographic and Health Survey, 88 percent of women benefitted from prenatal care given by health personnel (80 percent by nurses and midwives, 4 percent by physicians, and 4 percent by others). The proportion of women who had access to prenatal care provided by physicians was higher in Cotonou (18 percent) and other cities (5 percent) than in rural areas (3 percent). The maternal mortality rate was 397 deaths per 100,000 live births; factors contributing to the high rate were delivering without adequate medical assistance and unhygienic conditions during birth.

Discrimination.—Although the constitution provides for equality for women in the political, economic, and social spheres, women experienced extensive discrimination because of societal attitudes and resistance to behavioral change.

Women are no longer subject to customary law (Coutumier du Dahomey). The code of persons and the family bans all discrimination against women regarding marriage and provides for the right to equal inheritance.

In response to a complaint filed by a woman being prosecuted for adultery in 2009, 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 sections of law that provide women with inheritance and property rights and significantly increase their rights in marriage, including prohibitions on forced marriage, child marriage, and polygamy.

In practice women experienced discrimination in obtaining employment, credit, equal pay, and in owning or managing businesses. Women do not face legal restrictions but may face societal restrictions and discrimination. During the year the government granted microcredit to poor persons, especially to women in rural areas, to help them develop income-generating activities. An estimated 816,936 women benefited from these microcredit projects since they began in 2007.

Children.—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 with regard to child welfare.

Birth Registration.—Citizenship is derived by birth within the country's territory and/or from one's parents. 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. This could result in denial of public services such as education and health care. The government issued birth certificates to children who did not have one through an Administrative Census for Birth Registration. Several donors operated programs to increase the number of registered children. For example, over the last three 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 NGOs Catholic Relief Services and World Education also supported the government's campaign to register every birth.

Education.—Primary education was compulsory for all children between six and 11 years of age. Education became tuition-free for all children starting with the 2007-08 school year, but 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. According to UNICEF, the net primary school enrollment rate in 2007 was approximately 93 percent for boys and 83 percent for girls. The enrollment rate for secondary education was much lower for girls. Girls did not have the same educational opportunities as boys, and female literacy was approximately 18 percent, compared to 50 percent male literacy.

Child Abuse.—FGM was practiced on girls. This practice was largely limited to remote rural areas in the north (see section 6, Women).

Child Marriage.—The law prohibits marriage under 18 years of age, but underage marriage (14 to 17 years of age) was permitted with parental consent. Child marriage included forced marriage, barter marriage, and marriage by abduction. A 2008

gender-based violence survey conducted in 13 communes indicated that 23 percent of the 594 children interviewed were subjected to forced and precocious marriage. As part of forced marriage, there is 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 practice.

Sexual Exploitation of Children.—The penal code provides penalties for rape, sexual exploitation, corruption of minors, procuring, and facilitating prostitution, and it increases penalties for cases involving children under 15 years old. The child trafficking law provides penalties for people involved in sexual exploitation of children as a result of child trafficking. Under the penal code, individuals involved in child prostitution, including those who facilitate and solicit it, face imprisonment of two to five years and fines of 1,000,000 to 10,000,000 CFA (\$2,000 to \$20,000). The law does not specifically prohibit child pornography. The de facto minimum age for consensual sex is 18 years.

Child prostitution continued in some areas. Some children, including street children, engaged in prostitution to support themselves without third-party involvement. The penal code prohibits child prostitution; however, enforcement was limited, and the commercial sexual exploitation of children occurred. A 2009 report on the commercial sexual exploitation of children in 11 communes indicated that 43.2 percent of surveyed children (ages 12-17) who engaged in prostitution were also subjected to commercial sexual exploitation.

Through the traditional practice of vidomegon, which literally means “placed child,” poor, generally rural, families place a child in the home of a wealthier family. The child receives living accommodations but often faces long hours of work, inadequate food, and sexual exploitation. Sometimes the income generated by the child’s activities is split between the child’s parents and the urban family that raises the child. 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. Several local NGOs led public education and awareness campaigns to decrease the practice.

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 awareness about the law and children’s rights, lack of access to the courts, or fear of police involvement.

Infanticide.—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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—For information on trafficking in persons, see the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law does not explicitly prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities in education, access to health care, or provision of other state services; 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. The Office for the Rehabilitation and the Insertion of Persons with Disabilities under the jurisdiction of the Ministry of Family coordinated assistance to disabled people through the Aid Fund for the Rehabilitation and Insertion of Persons with Disabilities (Fonds Ariphe).

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 and the Ministry of Family are 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 explicitly criminalizing same-sex sexual activity. There were no reports of criminal cases involving homosexuality. There were no reports of societal discrimination or violence based on a person’s sexual orientation.

Other Societal Violence or Discrimination.—There were no reports of discrimination or violence based on HIV/AIDS status. It is illegal to discriminate against persons, at any stage of hiring or employment, based on their HIV status.

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 January 2, residents of Klogbome in the commune of Dangbo, in the southeast, chased, caught, and burned to death an individual riding a motorbike that he allegedly had just stolen from a nurse's aide in the neighboring village of Hetin Houedomey. The victim was reported to be a well-known and feared criminal who had been operating in the area for years. The police did not investigate the killing or arrest those involved.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The labor code allows workers, including government employees, to form and join independent unions of their choice without previous authorization or excessive requirements, and the government generally respected these rights. Worker organizations are independent of the government and political parties. New unions must register with the Ministry of Interior, a three-month process, or risk a fine. 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 have the right to strike, and they exercised this right during the year. Civil servants also enjoy the right to strike and went on strike throughout the year. The right to strike is enshrined in article 31 of the constitution.

A 2002 law on the right to strike confirms this right for civil servants, employees of public companies, and parastatals. The act provides that civil servants, public and private entities' workers, and parastatal employees who provide essential services shall maintain minimum services during strikes. The act states that essential services refer to services pertaining to health, security, energy, water, air transport, and telecommunications. Workers must provide three days' 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 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.

The labor code allows unions to conduct their activities without interference, and the government generally protected this right. There are no restrictions on collective bargaining. 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.

In 2009 the government created a National Consultation and Collective Bargaining Commission to facilitate collective bargaining and enhance social dialogue. The commission held sessions during the year to discuss workers' claims and propose solutions.

The labor code prohibits antiunion discrimination and provides for reinstatement of workers fired for union activity. 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.

b. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced or compulsory labor, including by children; however, the government did not effectively enforce this aspect of the law, and such practices occurred in the agricultural, quarrying, fishing, commercial, and construction sectors. Forced labor mainly involved domestic servitude and bonded labor by children. Trafficking in persons was a problem. Perpetrators of forced labor were mostly Beninese involved in child trafficking. Many traffickers were relatives or acquaintances of their victims, exploiting the traditional system of *vidomegon*, in which parents allow their children to live with and work for richer relatives, usually in urban areas. The law provides for imprisonment with compulsory labor, and during the year judges sentenced convicts to forced labor for various crimes. Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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. On January 31, President Yayi signed into law the list of types of hazardous work prohibited to children. The list includes 22 trades and 74 related hazardous activities that children under 18 are not allowed to engage in. 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, including children working in construction, car and motorcycle repair, hairdressing, and dressmaking. Children worked as laborers with adults in quarries in many areas. Forced child labor, including street children engaged in prostitution, street hawking, and begging, was a problem. Children under age 14 worked 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, including Nigeria, Cote d’Ivoire, Togo, and Ghana, 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 arrangement, and abuse of child domestic servants was a problem. Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at <http://dol.gov/lab/programs/ocft/tda.htm>.

The Labor Office under the Ministry of Labor and Civil Service enforced the labor code ineffectively and only in the formal sector due to a lack of inspectors. The government took steps to educate parents on the labor code and prevent compulsory labor by children, including through media campaigns, regional workshops, and public pronouncements on child labor problems. These initiatives were part of the Labor Office’s traditional sensitization program. The government also worked with a network of NGOs and journalists to educate the population about child labor and child trafficking. The government began drafting a National Plan for the Elimination of Child Labor. On July 12, the government, in cooperation with an international organization, held a two-day workshop to examine the first draft of the National Plan for the Elimination of Child Labor. The government undertook a nationwide awareness campaign as a key activity for the 2011 World Day of Action Against Child Labor. On September 21, the government signed an accord with the Republic of Congo aimed at halting the trafficking of children between the two countries. An estimated 1,800 children from Benin, mostly ages 11 to 18, have been trafficked to neighboring Congo.

d. Acceptable Conditions of Work.—The government set minimum wage scales for a number of occupations. The minimum wage was 30,000 CFA (\$66) per month. 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. The government did not effectively monitor or control foreign or migrant workers’ conditions of work.

BOTSWANA

EXECUTIVE SUMMARY

Botswana 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. In 2009 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 2008, retained his position. The BDP has held the presidency and a majority of National Assembly seats since independence. Security forces reported to civilian authorities.

The main human rights concerns during the year included violence against women and children, child labor in the form of cattle herding, and discrimination against the San people.

Other human rights problems included overcrowded prison conditions and lengthy delays in the judicial process. Societal problems included trafficking in persons.

The government took steps to prosecute officials who committed abuses, including prosecuting and convicting military officers for murder. Impunity was generally not a problem.

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, unlawful killings by police or other security force members reportedly occurred during the year.

For example, in June police officers shot and killed Jonathan Eliot while attempting to arrest him for smuggling tobacco into the country. The case was under investigation at year's end.

In October police arrested and detained Pulaenele Sekate for various offences. The suspect reportedly committed suicide in custody. The case was under investigation at year's end.

Robbery suspect Olebile Kefhitilwe disappeared while in police custody after being detained by police in September 2010. The investigation continued at year's end. The case of Moitaly Setlampoloka, who died in custody in 2009, was opened as a murder case in 2011 and was before the High Court at year's end.

In 2009 a police officer mistakenly shot and killed Mothusinyana Moag, who fit the description of a man police were chasing. The victim ran from police when confronted and was shot during the chase. The inquest determined the police officer involved was negligent. He was charged with manslaughter, and his case was pending at year's end.

Four government security officers who shot and killed John Kalafatis in 2009 were convicted in June of murder and sentenced to prison. Corporals Dzikamani Mothobi, Goitseman Sechele, Ronny Matakoko, and Boitshoko Maifela appealed, and their cases were pending appeal at year's end. Attorneys for the Kalafatis family alleged he was killed by government agents while he sat in a parked car. The government contended that Kalafatis was a wanted criminal who was killed during a lawful arrest.

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; there were no confirmed reports that security forces abused suspects during the year.

Prison and Detention Center Conditions.—Conditions in the country's 22 prisons and two detention centers for irregular immigrants remained poor due to overcrowding. The prison system held approximately 15-20 percent more inmates than its 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. Unlike during the prior year, there were no reports of abuse by government agents in prison.

There was adequate food, sanitation, ventilation, and lighting in prisons. Prisoners received access to basic medical care, and HIV-positive citizen prisoners received access to antiretroviral drugs if needed. The government allowed access to noncitizen prisoners by international and local nongovernmental organizations (NGOs) but did not provide HIV-positive noncitizen prisoners with antiretroviral drugs.

Mothers were allowed to bring their nursing babies under the age of two with them into the prison system, which lacked maternity facilities. In instances where a child is above two years in age, and no family is available to take care of the child, arrangements are made with NGOs to care for the child until the mother is released. Juveniles occasionally were held with adults but only for a few days while awaiting transport. Pretrial detainees and convicts were held together.

Officers of the courts, including magistrates and judges, regularly conducted visits to prisons to check on prison conditions. Government-appointed welfare and oversight committees also visited prisons during the year. Reports on such visits were not made public.

Prisoners and detainees had access to visitors, including foreign government representatives, and were permitted to observe religious practices. Prison authorities investigated allegations of inhumane conditions, which could be reported directly to authorities or through a prison ombudsman.

The International Committee of the Red Cross (ICRC) visited prison facilities, and Representatives of the Office of the U.N. High Commissioner for Refugees (UNHCR) visited the Center for Illegal Immigrants in Francistown during the year.

The prison commissioner had the authority to release terminally ill prisoners in the last 12 months of their sentences and to 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. Eligible prisoners must have served short-term sentences with at least half of their sentences completed and must not have been previously incarcerated. Prisoners convicted of violent and other serious felonies were ineligible. A total of 170 male and five female prisoners were released during the year to complete their sentences through extramural labor.

Prisons and overnight jails had access to potable water, and prisoners and detainees could register complaints about prison conditions with authorities. Prison record keeping was mostly by hard copy record, and there was no immediate plan to upgrade to computerized systems.

Conditions for men and women prisoners were comparable.

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 of Defense, Justice, and Security in the Office of the President, has primary responsibility for internal security. The security forces are accountable to civilian leaders in the ministry. The army is responsible for external security and has some domestic security responsibilities.

During the year 72 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. Directorate on Intelligence and Security (DIS) personnel have 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 that it was not subject to sufficient independent oversight and posed a potential threat to civil liberties.

Suspects must be informed of their rights upon arrest, including the right to remain silent, and must be charged before a magistrate within 48 hours. Authorities generally respected these rights in practice. Unlike in the past, there were no reports during the year that suspects' right to an attorney had been denied during the first 48 hours after arrest, prior to a suspect being brought before a magistrate. A magistrate may order a suspect held for 14 days through a writ of detention, which he may renew every 14 days. The law provides for a prompt judicial determination of the legality of a person's detention. However, this determination occasionally was delayed in practice. Authorities generally informed detainees of the reason for their detention, although there were some complaints this did not always occur. There is a functioning bail system, 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 attorneys of their choice; however, in practice most could not afford legal counsel. In capital cases the government provides counsel or private attorneys provide pro bono services for indigent clients.

Pretrial Detention.—Pretrial detainees waited from several weeks to several months between the filing of charges and the start of their trials. As of December 2010, 900 of the 5,063 persons in custody 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. Trials are open to the public.

In addition to the civil court system, a customary or traditional court system also exists. According to traditional practice, a tribal chief presides over most small villages. Small claims courts were established in 2009 in Gaborone and some surrounding areas; there were some reports of heavy caseloads and new procedures impacting the courts' effectiveness. The courts reduced their backlog of cases during the year, but cases still were delayed for several months.

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 procedural rights as they relate to 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 states these rights extend to all citizens.

Some NGOs provided limited free legal assistance.

While customary or traditional courts enjoy widespread citizen support and respect, they often did not afford the same due process protections as the formal court system. Defendants can confront, question, and present witnesses in customary court proceedings. They do not have legal counsel, and there are no standardized rules of evidence. 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. The quality of decisions reached in the customary courts varied considerably, and defendants 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, which does not try civilians. Military courts have separate procedures from civil courts. Defendants in military courts are able to retain private attorneys at their own expense and see evidence that will be used against them.

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, including for human rights cases, which includes a separate industrial court for most labor-related cases. Administrative remedies were not widely available. By mutual agreements of the parties involved, most civil cases were tried in customary courts, which handle land, marital, and property disputes and often do not afford due process.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit arbitrary interference with privacy, family, home, or correspondence, and the government generally respected these prohibitions in practice. However, the government's continued narrow interpretation of a 2006 High Court ruling resulted in a few hundred indigenous San people being prohibited from living or hunting in their tribal homeland, the Central Kalahari Game Reserve. In 2002 the government forcibly resettled the remaining indigenous San and other minority members living in the Central Kalahari Game Reserve (CKGR) who had not voluntarily left to resettlement sites outside the reserve. Government officials maintained 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, Indigenous People).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and 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.

Freedom of Press.—In 2008 Parliament passed the Media Practitioners Act, which established a 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 (MPs), 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 print media through its free, nationally distributed newspaper, Daily News, and it operated two FM radio stations. State-owned media generally featured reporting favorable to the government and were susceptible to political interference. Opposition political parties claimed 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 than for government-owned ones 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 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 in the government-run media that it deemed undesirable, and government journalists sometimes practiced self-censorship.

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

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.—See the Department of State's International Religious Freedom Report at <http://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 in practice.

In-country Movement.—In January the Court of Appeals awarded the San the right to reopen or drill new boreholes to gain access to water for domestic use. Prior to the ruling, the government had banned the San from accessing wells, which had prevented them from returning home to the CKGR. Following the ruling, the government granted the appropriate permits for workers and machinery to enter the CKGR to drill the borehole. With funding from international advocacy groups and a local diamond mining company, the San were able to access water through a borehole in September.

Protection of Refugees.—Access to Asylum.—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'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 U.N. refugee 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. During the year, following the UNHCR's revocation of refugee status for 43 people, the gov-

ernment gave notice that it intended to deport those denied refugee status. As of year's end, the refugees had not been deported.

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 until their resettlement or voluntary repatriation. 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 for possible resettlement. Refugees in Dukwe had access to education and health care.

Although asylum seekers were housed separately from illegal immigrants, 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. Conditions at the center generally were adequate, but children in the center did not have sufficient access to education during their detention, which in a few cases lasted many months. In 2009 the government changed its 1997 policy that allowed some registered refugees to obtain special residency permits allowing them to live and work outside the camp for one year with the possibility of renewal. As of December 2010, only 19 of the country's 3,185 registered refugees were living and working outside Dukwe. The government stated that as a general policy all registered refugees must reside in the Dukwe camp, although it may permit residence outside the camp in a few exceptional cases, such as refugees enrolled at a university or with unique skills.

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.—Recent Elections.—In 2009 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 retained the presidency, which he has held since 2008.

Political Parties.—At year's end the BDP held 39 seats in parliament, the new Botswana Movement for Democracy (BMD) party led the opposition with six seats, the BNF controlled six seats, the BCP had five seats, and there was one independent. The BMD, which split from the BDP in 2010, had two of its eight MPs return to the BDP in 2011.

The House of Chiefs consists of eight paramount chiefs, five chiefs chosen by the president, and 22 elected chiefs from designated regions. It acts as an advisory upper chamber to the National Assembly on any legislation affecting tribal organization and property, customary law, and administration of the customary courts. The paramount chiefs are members of the House of Chiefs for life, while the chosen and elected chiefs serve five-year terms since 2009. The first election, based on amendments made to the constitution in 2006, was held the same year. In order to hold concurrent elections with Parliament, another election was held in 2009.

Political parties operated without restriction or outside interference.

Participation of Women and Minorities.—There were five women in the 61-seat National Assembly, one of whom was the speaker; four in the 24-member cabinet; and four in the expanded 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. Under the law members from all groups enjoy equal rights, and minority tribes have representation that is at least equal to that of the eight principal tribes. There were members of minority tribes in the assembly, the cabinet, and on the High Court.

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. The minister of defense, justice, and security resigned his cabinet position in August 2010 while charges of corruption were investigated. He was exonerated on all charges by the High Court in October 2011 and resumed his duties.

There are no formal financial disclosure laws; however, in 2009 a presidential directive required all cabinet ministers to declare their interests, assets, and liabilities

to the president. Critics contended the policy did not go far enough to promote transparency and that financial declarations by senior government officials should be available to the public. In 2010 the Directorate on Corruption and Economic Crime initiated investigations into 38 suspicious transactions.

In April 2010 portions of an anti-money laundering law enacted in March 2009 came into effect. The act created a new Financial Intelligence Agency (FIA), but the agency was still being formed during the year. The minister of finance appointed a permanent director for the FIA in October, and the agency secured independent office space. At year's end the agency had not hired staff or begun processing suspicious transaction reports.

The law does not provide 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.

During the year police initiated investigations into 15 cases of police corruption; 10 officers were charged, and five officers were dismissed. 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 27 police officers were arrested for criminal offenses. Thirteen cases were before the courts at year's end, two were referred for prosecution, and seven cases remained under investigation.

The security forces reported to civilian authorities, and the government had effective mechanisms to investigate and punish abuse and corruption, including investigation by police and referral to the criminal court system.

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 domestic 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 DITSHWANELO, a human rights organization.

U.N. and Other International Bodies.—The government worked cooperatively with the ICRC and the U.N. during the year. The government allowed visits from U.N. representatives and representatives from human rights and humanitarian organizations such as the ICRC.

The U.N. special rapporteur on indigenous persons visited the country in 2009, and the U.N. issued a report on his visit in February 2011. The U.N. noted that although the government had undertaken many initiatives to address the conditions of disadvantaged and marginalized peoples and to celebrate their cultures, it needed to increase its efforts to tackle the challenges faced by indigenous groups, such as land rights. According to the U.N. report, "Certain indigenous groups continue to suffer from a lack of secure land tenure, including access to and use of their ancestral lands and resources, in part due to the nonrecognition of these groups' customary land use practices."

Government Human Rights Bodies.—An autonomous ombudsman handled complaints of administrative wrongdoing in the public sector, and the government generally cooperated with the ombudsman. However, 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. As long as a government job applicant is able to perform the duties of the position, he or she may not be discriminated against due to disability or language. However, the law does not prohibit discrimination by private persons or 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 gays and lesbians.

Women.—Rape and Domestic Violence.—The law prohibits rape but does not recognize spousal rape as a crime, which is difficult to track without reporting. Laws against rape were effectively enforced when victims pressed charges; however, police noted victims often declined to press charges against the perpetrators, and the extent of the problem was likely underreported. In some cases of domestic but nonspousal rape, victims were afraid of losing financial support if perpetrators were

found guilty and imprisoned. The number of reported rape cases decreased during the year from 1,332 in 2010 to 1,173 in 2011 between January and September in both years. NGOs continued efforts to improve awareness of the crime. 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 with corporal punishment if the offender was aware of having HIV-positive status. Corporal punishment was used more often in the customary than in the formal courts and typically consisted of strokes to the buttocks with a stick. Rape cases must be tried in formal courts. A person convicted of rape is required to undergo an HIV test before sentencing. The police do not have a specific unit dedicated to rape investigation, but the police have trained crime scene investigators and a forensics unit to respond to cases of rape and domestic violence.

The law prohibits domestic and other violence, whether against women or men, but it remained a serious problem. Police reported the following statistics for the year related to domestic violence: four cases of incest; 393 of indecent assault on girls, although those sexual assault cases reported were thought to represent only a fraction of the actual number of such incidents; 60 reported cases of passion killings; and 663 of death threats. In 2010 police reported 12,367 cases of common assault and 2,069 cases of assault causing bodily harm. Greater public awareness resulted in increased reporting of domestic violence and sexual assault.

Sexual Harassment.—The law prohibits sexual harassment in both the private and public sectors. Sexual harassment committed by a public officer is considered misconduct and punishable by termination, potentially with 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 reprimand. Nonetheless sexual harassment continued to be a widespread problem, particularly by men in positions of authority, including teachers, supervisors, and older male relatives.

Reproductive Rights.—Couples and individuals have the right, and were able in practice, to decide freely 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. 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 and treatment for sexually transmitted diseases, including HIV/AIDS. A government program, Prevention of Mother-to-Child Transmission of HIV, has effectively curtailed mother-to-child transmission. According to the Ministry of Health, the maternal mortality rate was 193 deaths per 100,000 births, and 90 percent of births were in hospitals.

Discrimination.—By law women have the same civil rights as men, but 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 may 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 they retained their full legal rights as adults. Polygamy 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 bodies, such as speaker of the General Assembly, governor of the Bank of Botswana, attorney general, ministers of trade and industry and in education and skills development, assistant ministers in finance and development planning and in local government, and numerous permanent secretary positions. However, a 2007 U.N. report found that women's political participation trailed that of men. In 2008 the Botswana Defense Force began to admit women. In 2008 the first class of Botswana female officer candidates completed training in Tanzania. During 2009 women were included as officer candidates in the first such in-country training and continued to be inducted as officer candidates during the year.

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 issues. A local NGO reported in 2010 that women were increasingly able to access credit markets 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.

Birth Registration.—In general, citizenship is derived from one's parents, although there are very limited circumstances in which citizenship can be derived from birth within the country's territory. The government generally registers births immediately; however, there were some delays in remote locations. Unregistered children may be denied some government services.

Education.—The government continued to allocate the largest portion of its budget to the Ministry of Education. The Ministry of Local Government distributed books, food, and materials for primary education. Education was not compulsory. The government reintroduced school fees in 2006. The fees could be waived for children whose family income fell below a certain amount. The government also provided uniforms, books, and covered some 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.

Child Abuse.—Child abuse occurred and was often reported to the police in the case of physical harm to the child. The police referred the children to counseling in the Department of Social Services as well as to local NGOs. Some cases were referred to the attorney general's chambers for prosecution. There were no known cases of physically harmful traditional practices, such as female genital mutilation.

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

Sexual Exploitation of Children.—The Children's Act of 2010 prohibits prostitution and sexual abuse of children. Sex with a child younger than 16 is known as defilement and is prohibited and punishable by a minimum of 10 years' incarceration. Police received reports through the end of September of 393 cases of defilement, 1,173 cases of rape (of both girls and women), 118 cases of indecent assault on females, and four cases of incest. There were defilement investigations and convictions during the year. There were reports of sexual abuse of students by teachers. Children were sometimes sexually abused by extended family members with whom they lived. The law considers incest a punishable act only if it occurs between blood relatives.

Child prostitution and pornography are criminal offenses punishable with five to 15 years in prison. Media and NGO reports claimed that prostituted children had been made available to truck drivers on the main road linking the country with South Africa and that many of the girls and boys were thought to be orphans. This was mainly concentrated along the trucking route in the eastern part of the country.

Displaced Children.—In 2005 the U.N. 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. As of December 2010, the government had registered 37,233 children as orphans. The discrepancy between the two estimates was due to the fact the government has a more restrictive definition of when a child is orphaned than the U.N. The government requires both parents of a child to have died before considering the child an orphan. Once registered as orphans, the children received clothes, shelter, a monthly food basket worth between 216 pula (approximately \$33) and 350 pula (\$54) depending upon location, and counseling as needed. There were no reports of orphans being abused by the police.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community was estimated to number 70 people. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in education, employment, access to health care, or the provision of other state services. The government has an effective national policy that provides for integrating the needs of persons with disabilities into all aspects of government policymaking. The government mandates access to public buildings or transportation for persons with disabilities. 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 for persons with disabilities to vote. Although new government buildings were being constructed to assure access by persons with disabilities, older government office buildings remained largely inaccessible. Most new privately owned buildings provide disabled access. There is a Department of Disability Coordination in the Office of the President to assist persons with disabilities.

The Department of Labor is responsible for protecting the rights of persons with disabilities in the labor force 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.—An estimated 50,000-60,000 people belong to one of the many scattered, diverse tribal groups known as San or Basarwa. The San represented approximately 3 percent of the population and are culturally and linguistically distinct from most other residents. The law prohibits discrimination against the San with respect to employment, housing, health services, and cultural practices; however, the San remained economically and politically marginalized and generally did not have access to their traditional land. The San continued to be geographically isolated, had limited access to education, lacked adequate political representation, and were not fully aware of their civil rights.

While the government respected the December 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 to return to the CKGR. The court ruled that the applicants were entitled to return to the CKGR without entry permits and to be issued permits to hunt in designated wildlife management areas, which are not located in the CKGR. Many of the San and their supporters continued to object to the government's narrow interpretation of this ruling. Negotiations between San representatives and the government regarding residency and hunting rights stalled after the court ruling provided the right to access water.

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 government to allow mining exploration in the CKGR. The NGOs argued that diamond exploration in the CKGR would have a significant negative impact on the life and environment of the San.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The country has no law explicitly criminalizing consensual same-sex sexual activity. However, what the law describes as “unnatural acts” are criminalized, and there is widespread belief this is directed toward gay, lesbian, bisexual, and transgender persons. Police did not target same-sex activity, and there were no reports of violence against persons based on their sexual orientation or gender identity during the year.

An independent organization LeGaBiBo (Lesbians, Gays, and Bisexuals of Botswana) attempted to register in 2009 as an NGO to advocate for the rights of gay, lesbian, transgender, and bisexual persons, but the government refused to register it. LeGaBiBo operated under the umbrella of the Botswana Network of Ethics on Law and HIV/AIDS (BONELA), which in February filed a lawsuit challenging the government's decision not to register LeGaBiBo. In November BONELA withdrew its lawsuit against the government due to technical errors in its founding affidavit.

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.

In contrast to 2010, there were no reports that persons with albinism were subject to societal discrimination.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides for the rights of workers, except police, military, and prison personnel, to form and join independent unions to bargain collectively, and to strike, provided certain

restrictions are observed. Police, military, and prison personnel are represented by employee associations, which serve as a means to communicate collective needs and concerns to their government employer. The Trade Union and Employers' Organizations (TUEO) law provides for certain restrictions that limit the right to organize. The TUEO law grants certain privileges (such as access to an employer's premises for purposes of recruiting members, holding meetings or representing workers, deduction of trade union dues, recognition of trade union representation with regard to grievances) only to unions representing at least one-third of the employees in an enterprise. Trade unions that fail to meet some of the formal registration requirements are automatically dissolved and banned from carrying out union activities. The TUEO law also authorizes the registrar to inspect accounts, books, and documents of a trade union at "any reasonable time" and provides the minister of defense, justice, and security with the authority to inspect a trade union "whenever he considers it necessary in the public interest."

The law provides for collective bargaining only for unions that have enrolled 25 percent of an organization's labor force. The law also permits an employer or employers' organization to apply to the government to withdraw the recognition granted to a trade union on the grounds the trade union refuses to negotiate in good faith with the employer.

The law severely restricts the right to strike. Strikes are illegal unless arbitration procedures are first exhausted. Sympathy strikes are prohibited. Employees categorized as those in the "essential services" as specified in the Schedule of the Trade Disputes Act, including the Bank of Botswana, railway services, health care, fire-fighting, military, transport services, telecommunications infrastructure, electricity, water, and sewage are not allowed to strike. In response to the 2011 Public Sector Strike, the minister of labor and home affairs issued a regulation that added teachers, veterinarians, and diamond workers to the list of those providing essential services. The Trade Disputes Act empowers the commissioner and the minister to refer a dispute in essential services to arbitration or to the industrial court for determination. Striking workers participating in an illegal strike may face dismissal.

Civil service disputes were referred to an ombudsman for resolution. Private labor disputes were mediated by labor commissioners and, if not resolved, sent to the Industrial Court. The average time to resolve a labor dispute dropped from 20 months to 11 months by year's end.

While the law allows formally registered unions to conduct their activities without interference, members of nonregistered unions are not protected against antiunion discrimination. The law provides for protection against antiunion discrimination. Workers may not be fired for legal union-related activities. Dismissals may be appealed to civil courts or labor officers, which rarely ordered more than two months' severance pay. The law does not provide for reinstatement of workers, but a judge may order reinstatement if the firing is deemed to be related to union activities. However, the law does not provide adequate protection to public employees' organizations from acts of interference by the public authorities in their establishment or administration.

Workers exercised the right to form and join unions. The government protected the right to conduct union activities in practice. When the unions followed legal requirements of exhausting arbitration and notifying the government of a strike, the government permitted the unions to strike and did not use force on strikers.

In a public sector strike from April 18 to June 10, unions and government claimed the other side had not maintained the terms negotiated for striking by workers in the "essential services." The unions filed a case against the government and the Industrial Court ruled the government was in violation of the Trade Dispute Act by using replacement labor in the first 14 days of a strike. The Directorate of Public Service Management filed a counter court application, and on April 26, the court ruled in favor of the government, ordering all health workers, including workers not in essential services (such as cooks and cleaners) to return to work immediately.

b. Prohibition of Forced or Compulsory Labor.—The constitution and law prohibit forced and compulsory labor, including by children; however, there were reports of forced child labor in cattle herding and in domestic servitude.

Some Zimbabwean women employed as domestic workers reported being exploited by employers through inadequate or nonpayment of wages, restriction of movement, and threats of deportation. The government conducted 2,291 labor inspections throughout the year, finding 360 cases of unpaid overtime worked and 265 cases of payment below the minimum wage.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—Children 14 years or older may be employed in light work that is “not harmful to [their] health and development” and is approved by a parent or guardian. The law provides that work shall not exceed six hours per day when a child is not in school, and five hours when a child is in school. The law provides that adopted children may not be exploited for labor and prohibits the exploitation or coercion into prostitution.

The Ministry of Labor and Home Affairs is responsible for enforcing child labor laws and policies in all sectors; however, resources were too limited for effective oversight in remote areas. District and municipal councils have child welfare divisions, which are also responsible for enforcing child labor laws. Other involved government entities included offices with 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 and which advised the government on the state of children three to four times throughout the year. 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.

The law provides that a child should not “move anything so heavy as to be likely to endanger his physical development,” work underground or at night, or engage in anything dangerous or immoral. Despite the laws and policies designed to protect children from exploitation in the workplace, there were reports of child labor, mostly on subsistence-level cattle posts or farms.

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. According to the 2005-06 labor survey, slightly fewer than 38,000 children between the ages of seven and 17 were employed in 2006. Approximately half of those were under 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 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.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at <http://dol.gov/llab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The minimum hourly wage for most full-time labor in the private sector was 3.80 pula (\$0.58). 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. The minimum wage for domestic workers was two pula (\$0.30) per hour, or approximately 16 pula (\$2.40) a day. The minimum for workers in the agricultural sector was 408 pula (\$62) per month; however, the cost of feeding a worker who lived on the employer’s premises could be deducted from the wages. A 2003 government household income survey found that 23 percent of people lived on less than a dollar a day. The government defines poverty as a lack of food, shelter, clothing, etc. rather than an absolute income level; the same survey estimated that 30 percent of people lived in poverty. A smaller survey in 2009 estimated that 23 percent were impoverished.

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 Botswana Federation of Trade Unions. The Ministry of Labor and Home Affairs is responsible for enforcing the minimum wage, and each of the country’s districts had at least one labor inspector.

The law permits a maximum 48-hour workweek, exclusive of overtime, which is payable at time-and-a-half. The law does not specifically outline rest periods or prohibit excessive compulsory overtime. The law prescribes 40-hour workweek for most modern private sector jobs, and a 48-hour workweek for the public sector. The labor law also applies to farm and migrant workers. The Department of Labor had inspectors to oversee and enforce labor regulations. There are limited requirements for occupational safety contained in the Employment Act. The government’s ability to enforce its workplace safety legislation remained limited by inadequate staffing and unclear jurisdictions among different ministries.

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.

The government generally enforced wage, hour, health, and safety requirements, but the number of labor inspectors was insufficient to inspect all workplaces. For-

sign migrant workers were vulnerable to exploitative working conditions, mainly in domestic labor. Employers in the formal sector generally provided for worker safety.

BURKINA FASO

EXECUTIVE SUMMARY

Burkina Faso is a presidential republic. In November 2010 President Blaise Compaore was reelected to a fourth term with more than 80 percent of the vote. Despite some irregularities and the resource advantage held by the president, international observers considered the election to have been free and transparent. 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. There were instances in which elements of the security forces acted independently of civilian control.

Major human rights problems included security force use of excessive force against civilians, criminal suspects, and detainees; abuse of prisoners and harsh prison conditions; and societal violence and discrimination against women and children, including female genital mutilation.

Other major abuses included arbitrary arrest and detention, judicial inefficiency and lack of independence, official corruption, trafficking in persons, discrimination against persons with disabilities, and child labor.

The government took steps to prosecute individuals in the police and military accused of human rights abuse. However, impunity remained a problem in the country.

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 February 20, Justin Zongo, a 24-year old high school student, died in a Koudougou hospital. Zongo was questioned by police several times between December 2010 and February 2011 after a female classmate pressed charges against him for battery. Students and civil society organizations claimed that Zongo died as a result of police brutality, and not of meningitis as the government initially claimed. This death sparked violent protests first in the Koudougou area and then throughout the country. In the days following Zongo's death, the confrontations between protesters and security forces turned violent. A total of five civilians were killed in separate incidents by stray bullets when the overwhelmed police tried to keep the crowd under control and protect government buildings. On February 23, students Wendkuni Kissou and Assad Ouedraogo and mechanic Issa Bado died after clashes with security forces in Koudougou. Students Ahmed Zougba in Poa and Michel Bouda in Kindi died on February 24. Policeman Andre Dabire was lynched by a mob in Poa the same day in retaliation for the deaths of civilians. According to the Burkina Faso Movement for Human and Peoples' Rights (MBDHP), live fire used by police and gendarmerie units during crowd control caused those deaths.

On February 26, the government responded to the violent protests by relieving the governor of the Central West region and the regional police director of their duties. On March 11, the Ministry of Justice indicted three policemen in connection with Justin Zongo's death and kept them in detention while investigations were underway. The attorney general later stated that the Ouagadougou Court of Appeal would investigate Zongo's death, and the incidents in Poa, Kindi, and Koudougou as separate events.

On August 23, the Ouagadougou Court of Appeal jury found two of the indicted policemen guilty of manslaughter and one of being an accessory to manslaughter in the death of Justin Zongo. They were sentenced respectively to 10 and eight years of imprisonment and immediately transferred to the city jail. The defendants' lawyers filed an appeal with the Cour de Cassation, the highest court of appeal in the country. The Criminal Chamber of the Cour de Cassation was called upon to try the three other cases. In the Koudougou incidents, two individuals were charged and were in jail pending trial at year's end. Regarding events in Poa, a policeman and two civilians were detained on murder, and destruction of public buildings and personal properties charges. In Kindi, a police assistant was arrested. At year's end investigations were underway with the judges ordering ballistic expertise in Koudougou and Kindi, and autopsies of the victims in the all cases.

In June 2010 Da Arnaud Some died while in police custody several hours after having been arrested in Danyoro for alleged drug possession. The circumstances of Some's death in a Gaoua hospital were unclear. According to the police, Some tried to escape and sustained injuries falling down a steep ravine. He died a few hours later in the hospital. Human rights organizations, including the MBDHP, investigated the death and concluded that Some died as a result of a police beating and not because of an alleged fall. The MBDHP called for an independent investigation and the arrest of those responsible for Some's death. The government took rapid disciplinary action, arresting the three policemen allegedly involved in Some's death and reassigning the entire police staffs in Danyoro and Gaoua, including the two chiefs of police, to other police stations. The three policemen were tried by the criminal chamber of the Bobo-Dioulasso Court of Appeal. On June 17, two of them were convicted of manslaughter and sentenced to five years in jail; charges were dropped against the third.

In July 2010 security forces killed two young men in Gaoua after violent demonstrations organized to protest the June 30 killing of Some. According to official reports, security forces used shotguns to restore order. Human rights associations collected empty cartridges after the incidents and said injuries were consistent with the use of live fire. Official post-incident reports referred to the causes of death as "accidental" (see section 1c).

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 treatment, members of the security forces continued to abuse individuals. The government made efforts to investigate and bring such cases to justice (see section 1.a). Suspects in police or gendarmerie custody reportedly were subjected frequently to beatings and threats. Government actions to prevent such treatment were limited, with only a few known cases when this behavior was punished. For example, in February four soldiers publicly humiliated a civilian by forcing him to undress and parade naked (see section 1.d.).

Prison and Detention Center Conditions.—Prisons and detention facilities did not meet international standards. Conditions in prisons and detention facilities were harsh and at times life-threatening. Prisons were overcrowded, and medical care and sanitation were poor. Although regulations require the presence of a doctor and five nurses at the Maison d'Arret et de Correction de Ouagadougou's (MACO) health unit, only three nurses are on duty to treat the 1,506 detainees. Prisoners' diets were inadequate, and inmates often relied on supplemental food from relatives. Typically, a designated group of detainees are tasked with cooking meals each day. Pretrial detainees usually were held with convicted prisoners. The infrastructures are decrepit and not adequately maintained. In some prisons such as the MACO, the severe overcrowding hinders appropriate ventilation. However, each cell has electricity and inmates can opt to buy a fan. They have access to potable water and rudimentary sanitation. There is not an office of the ombudsmen; however, the Burkina Faso Movement for the Emergence of Justice (MBEJUS) reported that it occasionally acted as ombudsman at the MACO. Women are held in a separate area of the prison, and their detention conditions are better than those of men, in large part because they are so few and thus have access to larger living spaces. According to human rights organizations, deaths from prison conditions or neglect occurred. Human rights activists believed that two to four inmates die every week as a result of prison conditions. In order to address overcrowding, the Ministry of Justice regularly grants provisional release to inmates who have served at least two-thirds of their sentences. Other alternative measures include community service and half way house.

According to the Ministry of Justice, as of December 17, there were 4,837 persons incarcerated countrywide, including 103 women and 102 minors. Juveniles and adults were not held together in Ouagadougou; however, in provincial prisons they were held together because no separate facilities existed for juveniles. Under the supervision of the Ministry of Justice, the Centre Laye houses convicted juveniles and provides them with training to help them transition back to jobs.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane incarceration conditions. The government investigated and monitored prison and detention center conditions. Prison authorities granted permission to visit prisons without requiring advance notice for representatives of local and international human rights groups, the media, foreign embassies, and the International Committee of the Red Cross (ICRC). The ICRC visited prisons as did members of local nongovernmental organizations (NGOs), foreign embassies,

and the press. The government conducted human rights and civil liberties training for security forces, including prison officers.

Two riots occurred in Ouagadougou and Bobo-Dioulasso prisons during the year. In Ouagadougou, on February 16, a group of prisoners tried to escape from the MACO during the night. The attempt to tunnel out failed but turned into a riot after prison officers intervened. Prisoners demanded speedy trials, better diet and health care, and measures to alleviate overcrowding. An inmate was injured and a building was damaged due to a fire. After the incident, the minister of justice and human rights promotion visited the MACO and met with prisoners to discuss their demands. The MBEJUS reported that improvements were made, including efforts by the government to increase food rations and establish a better medication supply for the prison health unit.

Similar events took place in the Bobo-Dioulasso prison on April 1. After a failed escape attempt, a group of prisoners fought with prison guards. One prisoner was killed during the riot, and 10 others were injured.

The government conducted investigations on both prison incidents. As a result, 10 MACO inmates were charged with malicious damage of property, attempting to escape, and rebellion. They were sentenced to an additional 12 months in jail. Investigations were underway at year's end for Bobo-Dioulasso's prison.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, security forces did not consistently observe these prohibitions. The government did not take steps to prevent such treatment and did not systematically investigate and punish those responsible.

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, under the Ministry of Security, are responsible for restoring law and order during a disturbance, enforcing the penal code, and taking preventive action, such as checking if individuals are carrying required official documents.

Human rights organizations stated that, although overall there was a climate of impunity, the government took steps to address police abuse. Policemen were convicted and sentenced to jail time in the Justin Zongo and Da Arnaud cases (see section 1 a). Security forces, particularly the army, sometimes acted independently of civilian control as illustrated by this year's multiple military mutinies.

On March 22, in response to actions after an altercation between a senior enlisted soldier and four of his soldier friends, on one side, and his wife's suspected lover, a Ouagadougou High Court sentenced four soldiers to 12 months in jail, and a fifth to 15 months and also a three million CFA fine (approximately \$6,016) to cover damages to the victim. The judge found them guilty of public indecency and theft because they publicly had humiliated the wife's alleged lover in February by forcing him to undress and parade naked.

This court decision angered some of their fellow soldiers, who felt the sentences were too harsh. They decided to forcibly free their colleagues using their military-issued weapons, caused damage to the courthouse, and succeeded in freeing their fellow soldiers from the base prison. The government, to avoid the escalation of violence, did not immediately re-incarcerate them. In protest, on March 24, magistrate and lawyers' unions announced a nationwide suspension of all judicial activities until the convicted soldiers were returned to prison. The soldiers were re-incarcerated on April 6 and are still awaiting trial; magistrates resumed their functions on April 11.

The criminal court of the Court of Appeals, however, granted the convicted soldiers provisional release on April 8, pending their appeal trial. The appeal trial was scheduled to take place on October 28, but the court postponed the trial to March 9, 2012.

In June soldiers mutinied to obtain better working conditions, new uniforms, and increased benefits. On July 7, the government published a presidential decree dismissing 566 soldiers for taking part in the mutiny. On December 15, an additional 60 soldiers were dismissed. In both instances, the charges cited were "particularly egregious conduct contrary to honor and morals, and incitement to public disorder." Among those dismissed in July, more than 308 were detained in military and civil jails and awaiting trial at year's end.

Observers stated that security forces were not effective in responding to societal violence. They pointed to complicated procedures for authorizing security force action as a hindrance to preventing and responding to societal violence. For example, authorities were not effective in addressing incidents last year between Fulani herders and Mossi, Gourounsi, and Gourmanche farmers, or in cases in which elderly women accused of witchcraft, were expelled from their homes or villages.

The Justice and Human Rights Promotion Ministry conducted seminars during the year to educate security forces on human rights.

Arrest Procedures and Treatment While in Detention.—By law, police must possess a warrant based on sufficient evidence issued by authorized officials to apprehend a suspect; however, in practice these rights were not always respected. Detainees were not consistently informed of charges against them. The law provides 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 detainees to have access to family members, although detainees generally were allowed such access through court-issued authorizations.

Arbitrary Arrest.—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 the law. The law permits judges to impose an unlimited number of six-month preventive detention periods. The average time of detention without charge (preventive detention) was one week. Defendants without access to legal counsel often were detained for weeks or months before appearing before a magistrate. For nonviolent offenders, ombudsmen are permitted to serve on behalf of prisoners and detainees to negotiate alternatives to incarceration to alleviate inhumane overcrowding.

Pretrial Detention.—Government officials estimated that 48 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. A pretrial release (release on bail) system exists; however, the extent of its use was unknown. Human rights advocates stated that the justice system, including prisons, had unreliable mechanisms to track detainees and occasionally “lost” some of them and/or their paperwork.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, NGOs reported that the judiciary was corrupt, inefficient, and subject to executive influence. Constitutionally, the head of state also serves as president of the Superior Council of the Magistrature, which nominates and removes senior magistrates and examines their performance. Other systemic weaknesses in the justice system included corruption of magistrates, outdated legal codes, insufficient number of courts, and excessive legal costs.

Military courts try cases only involving military personnel charged with violation of the military code of conduct while on duty, and provide rights equivalent to those in civil criminal courts. Military courts are headed by a civilian judge. They hold public trials and publish verdicts in the local press.

Trial Procedures.—Trials are public, but juries are only used for criminal cases. 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 informed promptly of charges against them, to provide their own evidence, and to have access to government-held evidence. Defendants can challenge and present witnesses and have the right of appeal. In civil cases where the defendant is destitute and makes the request, the state provides a court-appointed lawyer. In criminal cases, court-appointed lawyers are mandatory for those who cannot afford it. However, these rights were not always respected, due in part to popular ignorance of the law and a continuing shortage of magistrates and court-appointed lawyers. Human rights organizations claim that there were major court backlogs but according to the Ministry of Justice and Human Rights Promotion, 74.8 percent of cases are tried within three months of formal indictment.

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, lack of trust, and inefficiency of the judiciary, citizens sometimes preferred to rely on the ombudsman (see section 5) 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. Several such court orders were issued during the year. There were problems enforcing court orders in sensitive cases involving national security, wealthy or influential persons, and government officials.

Property Restitution.—The constitution provides women with equal property and inheritance rights. In practice, however, the courts did not consistently uphold a woman’s right to inheritance. This practice was most prevalent in rural areas,

where a widow's right of inheritance was superseded by her deceased husband's family claim on land and possessions.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respects these prohibitions in practice. These rights were suspended in cases of national security, where the law permits surveillance, searches, and monitoring of telephones and private correspondence without a warrant.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and PressThe constitution and law provide for freedom of speech and of the press, and the government generally respected these rights in practice. Government media outlets including newspaper, television, and radio displayed a progovernment bias, but allowed significant participation in their newspaper and television programming by those representing opposition views. There were numerous independent newspapers, satirical weeklies, and radio and television stations, some of which were highly critical of the government. Foreign radio stations broadcast without government interference.

Individuals could criticize the government publicly or privately without reprisal. During the year the government did not attempt to impede criticism. All media are under the administrative and technical supervision of the Ministry of Communications, which is responsible for developing and implementing government policy and projects concerning information and communication. The Superior Council of Communication (SCC), a semiautonomous body under the Office of the President, also regulates the media by overseeing the content of radio and television programs and newspapers to ensure they adhere to professional ethics standards and government policy on information and communication. The SCC may summon a journalist to attend a hearing about his work, followed by a warning for any subsequent violations. Hearings may concern alleged libel, disturbing the peace, inciting violence, or violations of state security. After the death of Justin Zongo, the SCC repeatedly called for journalists and private newspapers to refrain from incendiary language and instead promote social peace. Some journalists saw this as a limitation of their freedom of speech.

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.

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; the government generally respected this right.

Political parties and labor unions may hold meetings and rallies without government permission; however, advance notification is required for demonstrations on the streets that might impact traffic or threaten public order. If a demonstration or rally results in violence, injuries, or significant property damage, penalties for the organizers include six months to five years of imprisonment, and fines comprised between 100,000 and 2 million CFA (\$200 and \$4,000). These penalties may be doubled for an unauthorized rally or demonstration. 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.

The government at times reportedly limited communications by disabling text message service on telephone networks. Human rights groups alleged that during the March and April student protests, the government employed such tactics.

On February 23 and 24, demonstrations in Koudougou, Poa, and Kindi following Justin Zongo's death resulted in six deaths. According to the MBDHP and other observers, police units used teargas and live fire to disperse protesters (see section 1.a.).

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations to provide protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The government, in accordance with the Economic Community of West African States' guidelines, required travel documents, such as identification cards, for regional travel.

Protection of Refugees.—Access to Asylum.—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 granted refugee or asylum status and also provided temporary protection to individuals who may not qualify as refugees under the 1951 Refugee Convention or its 1967 Protocol.

Access to Basic Services.—Under the law, refugees have equal access to employment, basic services, education, police, and court services. There were no reports of refugees being denied these rights during the year.

Temporary Protection.—According to the UNHCR and the National Commission for Refugees, 78 Ivoirian asylum-seekers were registered in Burkina Faso in April due to the Ivoirian political crisis. The majority resided in Ouagadougou.

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, the ruling party's control of official resources and dominance in the government severely disadvantaged the political opposition.

Elections and Political Participation.—Recent Elections: In November 2010 President Blaise Compaore won reelection with more than 80 percent of the vote. Opposition candidate Hama Arba Diallo, the runner-up, received 7.96 percent. Despite some irregularities, international observers considered the election to have been free and transparent despite the resource advantage held by the president.

Political Parties.—Political parties operated freely. Individuals and parties may declare their candidacies and stand for election in presidential elections provided the Constitutional Council validates their candidacy; however, individuals must be members of a registered 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. Of the 38 non-CDP members of parliament, 25 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 cases of fraud 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 no cabinet members from the political opposition

Participation of Women and Minorities.—There were 16 women in the 111-seats National Assembly and three women in the 30-member presidential cabinet. One of the four higher courts was led by a woman, the national ombudsman was a woman, 22 elected mayors were women, and an estimated 40 to 45 percent of new communal councilors were women. There are more than 60 ethnic groups in the country. Major ethnic groups include Mossi (50 percent of the population), Fulanis (12 percent), and Dioula (10 percent). Ethnicity is not a factor in cabinet appointments.

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. Local NGOs denounced what they called the overwhelming corruption of senior civil servants. They reported that corruption was especially acute in the customs service, gendarmerie, taxing agencies, national police, municipal police, public health service, municipalities, the education sector, government procurement, and the Ministry of Justice and Human Right Promotion. In recent years, despite numerous alleged instances of high-level corruption, no senior government officials were prosecuted for corruption. On July 27, the Council of Ministers dismissed the mayors of Nangreongo and Boulmiougou because of accusations of embezzlement and mishandling of communal resources. At year's end the Ministry of Justice and Human Rights Promotion indicated that the High Courts of Ouagadougou and Ziniare have not prosecuted these cases.

Corruption was widespread, particularly among lower levels of police and gendarmerie. The 2010 report by the National Network to Fight Against Corruption, a non-

governmental organization, stated that customs, police, the health sector and tax offices were among the most corrupt institutions in the country. Corruption and official impunity were also a problem in the military. The gendarmerie is responsible for investigating abuse by police and gendarmes, but the results of their investigations were not always made public. The military courts held a number of trials in which civilians pressed charges against military personnel. These trials were public, and verdicts were reported in the press. The government took some judicial action against representatives of security forces accused by human rights groups of being responsible for abuses and took disciplinary action against policemen (see section 1.a.) and soldiers accused of looting and mutiny. At year's end 308 soldiers were detained for their role in the mutinies and are awaiting trial. On July 7, 566 were dismissed from their position by presidential decree as were another 60 on December 15.

Some public officials like the president, the prime minister, cabinet members, heads of institutions, ambassadors, and directors of state-owned companies are subject to financial disclosure laws, but anticorruption NGOs complain that those disclosures are not made public.

No laws provide for public access to government information. While government ministries released some nonsensitive documents, local journalists complained that ministries generally were unresponsive to requests for information, ostensibly for reasons of national security and confidentiality. There is no procedure to appeal denials of requests for information.

On July 20, the Council of Ministers adopted a new government communication strategy to improve accountability and transparency. The new measures, already in effect, include: a toll-free number for citizens seeking information on governmental action; a weekly column in newspapers; press conferences every Thursday; and production of television and radio shows. In 2009 and in an effort to fight corruption, the government also implemented a toll-free number to allow citizens to report suspected cases of corruption involving civil servants.

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 without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The government permitted international human rights groups to visit and operate in the country; the International Red Cross visited during the year.

The Ministry of Justice and Human Rights Promotion is responsible for the protection and promotion of human rights and coordinates relevant efforts of other ministries. The minister of justice and human rights promotion reports to the prime minister. During the year the ministry conducted education campaigns and published pamphlets to raise awareness of human rights among security force members.

Government Human Rights Bodies.—The ombudsman is appointed by the president for a nonrenewable five-year term and cannot be removed during the term. The public generally trusted the ombudsman's impartiality. In accordance with the law, the ombudsman presented his 2010 report to the president on June 9. The institution investigates complaints related to conflicts between Burkinabe and non-Burkinabe nationals living in Burkina Faso and complaints involving government services. In 2010 the institution investigated 528 of the 880 registered complaints. The ombudsman office pursued 145 cases but was unsuccessful in negotiating a settlement in 30 cases.

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 MBDHP did not participate in the commission and continued to charge that the commission was subject to government influence. According to NGOs, the commission was inadequately funded and thus ineffective.

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 problems.

Women.—Rape and Domestic Violence.—Rape is a crime. Although there were prosecutions during the year, no official statistics were available on the number of rapes reported. Article 417 of the Penal Code makes rape punishable with five to 10 years' imprisonment. Human rights associations reported rape occurs frequently. The law makes no explicit mention of spousal rape, and there have been no recent

court cases. Several organizations counseled rape victims, including Roman Catholic and Protestant missions, the Association of Women Jurists in Burkina, the MBDHP, the Association of Women, and Promofemmes (a regional network that works to combat violence against women). Once a rape is reported, police investigate the accusation and, if the evidence warrants, bring the case to court.

Domestic violence against women 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. Such legal actions were infrequent, because women were ashamed, afraid, or otherwise reluctant to take their spouses to court. Cases that involve severe injury were usually handled through the legal system. There are no government-run shelters in the country for women victims of domestic violence, but there are counseling centers in each of the 13 regional “Maison de la Femme” structures. In addition, a toll-free help number was activated. Since December, there have been daily advertisements publishing the number in local papers.

The Ministry for Promotion of Women, the Ministry for Social Action and National Solidarity, and several NGOs cooperated to protect women’s rights. The legal section in the Ministry for the Promotion of Women has a legal affairs section that informs women of their rights and encourages them to defend those rights. It organized a number of workshops and led several sensitization campaigns to inform women of their rights. Although the fight to achieve effective rights for women is a longstanding process, increasing numbers of women, primarily in urban areas, voiced their demand for equal rights. The numbers of women occupying decision-making positions has increased, with many active in politics. The government enacted a gender quota law in April 2009. This law requires that political parties have at least 30 percent women among candidates on their electoral lists for legislative and municipal elections. The law is scheduled to take effect during the 2012 elections and establishes financial incentives for political parties who reach the 30 percent threshold.

In July 2009 the government adopted a national gender policy aimed at reducing inequalities and gender discrimination in the country. At years’ end the Ministry for Promotion of Women launched a national sensitization campaign focused on abating early and forced marriage and teen pregnancies.

On occasion, vulnerable elderly women with no support, primarily in rural areas and often widowed, were accused of witchcraft by fellow villagers and banned from their villages. They are 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 urban centers.

The Ministry of Social Action and National Solidarity recorded nearly 500 such women accused of being witches who had fled their villages. During the year the Roman Catholic-operated Delwende center housed approximately 317 persons accused of witchcraft. The Ministry of Social Action and National Solidarity provides financial assistance to the Delwende center and is building another center nearby to relocate them in an area not prone to flooding. Another similar government-run center is located in the Paspanga area in Ouagadougou and houses approximately 100 women. The government and traditional authorities worked together during the year to stop such persecutions. In particular, the Ministry of Social Action and National Solidarity initiated specific awareness programs with ethnic Mossi villages and assisted with mediation efforts between suspected “witches” and village elders. As part of an NGO-led sensitization campaign, women from the two centers demonstrated peacefully on March 6 in Ouagadougou. The Mogho Naaba, Emperor of the Mossi, was the sponsor of this event and wrote a letter denouncing the condition of these women and calling for an end to this practice.

Sexual Harassment.—The labor code explicitly prohibits sexual harassment in the workplace, but such harassment of women was common and considered by many as culturally acceptable. The law prescribes fines of 50,000 to 600,000 CFA francs (\$100 to \$1,203) 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.

Reproductive Rights.—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 may do so without facing discrimination, coercion, or violence. In practice, however, a lack of access to information and medical care constrained these rights, especially in remote areas. Cultural norms, especially in rural areas with less educated populations, also limited the availability and use of these resources. Reproductive rights were usually re-

spected in urban areas and among more educated people. According to the 2010 demographic and health survey preliminary report (published in August 2011), the modern contraceptive prevalence rate is 15 percent. A DHS preliminary report also shows that 67 percent of births were attended by skilled personnel. However, women often were subject to their husbands' decision regarding birth control. In 2008 UNICEF estimated that the maternal mortality ratio was 560 deaths per 100,000 live births, that a woman's lifetime risk of maternal death was one in 28, and that a total of 54 percent of births were attended by skilled personnel (mainly midwives).

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. However, remote villages often lacked these facilities or did not have adequate road infrastructure and transportation to permit easy access. To obtain specific treatment or deliver under medical supervision, women in rural areas sometimes had to travel great distances to the closest urban health center. According to Amnesty International, maternal deaths could also be partly explained by health workers lacking adequate training.

Discrimination.—Women continued to occupy a subordinate position in society and often experienced discrimination in education, jobs, property ownership, access to credit, management or ownership of a business, and family rights. Polygyny is permitted, but both parties have to agree to it prior to marriage. A wife may oppose further marriages by her husband if she provides evidence that he has abandoned her and her children. Each spouse may petition for divorce, and the law provides that custody of a child may be granted to either parent, based on the child's best interest. In practice, however, the mother retained custody until the child reached the age of seven, at which time custody reverted to the father or his family. Women represented approximately 45 percent of the general workforce in the formal sector and were primarily concentrated in lower-paying subservient positions. Although the law provides equal property rights for women and, depending on other family relationships, inheritance benefits, traditional law often denied women the right to own property, particularly real estate. This is exacerbated by the fact that 75 percent of marriages are defined as common law (religious or traditional ceremony) marriages and not legally binding. For example, in rural areas, land owned by a woman becomes the property of the family of her husband after marriage. 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 was slow. The Ministry for Women's Promotion is responsible for increasing women's awareness of their rights, and is working to facilitate their access to land. The government sponsored a number of community outreach efforts and awareness campaigns to promote women's rights.

Children.—Birth Registration.—Citizenship is derived either by birth within the country's territory or through a parent. Many births are not registered immediately, particularly in rural areas where administrative structures are insufficient, geographically distant, and rural parents do not know such registration is required. Lack of registration sometimes resulted in denial of public services and inability to register for school. To address the problem, the government periodically organized registration drives and issued belated birth certificates.

Education.—The law calls for compulsory, tuition-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 of age were responsible for paying all education costs, unless they qualified for tuition assistance from merit- and need-based programs. The overall primary, school enrollment was approximately 78 percent for boys and 71 percent for girls.

Child Abuse.—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 (\$601 to \$1,805) 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.

In September, 29 year-old Boukary Sawadogo was convicted and sentenced to three years in jail for public indecency and sexually abusing a minor.

On September 13, the Ministry of Social Action and National Solidarity launched a toll-free number enabling people to anonymously report cases of violence against

children. During the year the ministry equipped two care centers in Ouagadougou and Bobo-Dioulasso for child victims.

Child Marriage.—Several NGOs stated that child marriage was a problem. In rural areas, the Population Council estimated that, in 2009, 62 percent of girls and women aged between 20 and 24 were married by the age of 18. In the Sahel region, 19 percent of girls are married before 15. According to the law, the legal age for marriage is 17 for women and 20 for men. 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 less than 13 years of age; however, there were no reports during the year of prosecutions of violators. Many NGOs worked with traditional leaders and village elders to halt this practice. From 2008 to 2010, the government carried out a project called “Getting rid of early marriages in Burkina Faso: a plan for protection, accountability and community’s intervention.” The project aimed at fighting early marriage by strengthening young girls’ skills and their civil rights knowledge.

Harmful Traditional Practices.—Female genital mutilation (FGM) was practiced, especially in rural areas, despite being illegal, and usually was performed at an early age. Although there are no accurate and recent figures on FGM, the National Committee for the Fight Against Excision (CNLPE) believes that the practice has decreased significantly in recent years. In 2008 the committee reported that 249 girls had undergone FGM, but this number should take into consideration the fact that some parents take their child to neighboring countries, such as Mali, where the practice of FGM is legal. Perpetrators are subject to a significant fine of 150,000 to 900,000 CFA (between \$301 and \$1,811), and imprisonment of six months to three years, or up to 10 years if the victim dies. During the year security forces and social workers from the Ministry of Social Action and National Solidarity arrested several FGM practitioners and their accomplices. In accordance with the law, they were sentenced to prison terms. On September 16, the Bobo-Dioulasso High Court sentenced Daouda Konate to three years in jail and a fine for perpetrating FGM on four girls under the age of three. It was the first time that a man was convicted of FGM.

Burkina Faso’s First Lady Chantal Compaore is the honorary president of the CNLPE and is actively involved in the fight against FGM. On February 28, she chaired a roundtable at the U.N. headquarters entitled: “International Campaign for a United Nations General Assembly Resolution to Ban FGM Worldwide”.

The government, through the Regional Committees to Combat Excision, continued to work with local populations to address FGM. These regional committees (presided over by government-appointed high commissioners) brought together representatives of the Ministries of Social Action, Basic Education, Secondary and Superior Education, Women’s Rights, Justice, Health, the police and gendarmerie, and local and religious leaders; they actively campaigned against the practice.

The government continued its national action plan, a “Zero Tolerance to FGM” that aimed to reduce the practice of FGM by at least 30 percent by year 2013. Towards that end during the year the government conducted awareness campaigns, trainings, and identification and support programs for victims of this practice.

In September the Network of Burkina Faso Islamic Organizations organized a national conference to raise awareness and fight against FGM. They explained that despite popular belief, FGM is not a Muslim tradition.

Sexual Exploitation of Children.—There were no statistics on child prostitution; however, government services and human rights associations believed 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.

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

Displaced Children.—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, after their parents sent them to the city to study with an unregistered Qur’an teacher, or to live with relatives and go to school. According to a 2010 report by the Ministry of Social Action and National Solidarity, there were 5,721 street children in Burkina Faso among which 2,308 children were enrolled in unregistered Qur’anic schools. Several NGOs assisted street children. Two directorates within the Ministry of Social Action and National Solidarity also ran educational programs, including vocational training, for street children; funded income-generating activities; and assisted in the reintegra-

tion and rehabilitation of street children. Nevertheless, the number of street children far outstripped the capacity of these institutions.

On September 10, the Regional Direction of Social Action and National Solidarity in the Cascades region (in the west) organized a workshop with members of the Muslim community, Qur'anic teachers, police, gendarmerie and social workers. They worked with and educated members of the Muslim community and discussed solutions to end the phenomenon of street children, particularly child-beggars in Qur'anic schools.

International Child Abductions.—The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were no reports of anti-Semitic acts. There was no known Jewish community in the country.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://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. In April 2010 the government enacted additional legislation to expand the rights of persons with disabilities. The law provides for reduced-cost or free healthcare and access to education, and establishes codes for access to buildings, and access to employment persons with disabilities often faced societal 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 and NGOs conducted awareness campaigns and implemented integration programs and capacity-building programs to manage income-generating activities better. High commissioners, teachers and NGOs worked together to inform citizens about the rights of persons with disabilities, specifically the rights of children with disabilities. A number of NGOs schooled and provided vocational training to persons with disabilities and provided equipment for them to work.

National/Racial/Ethnic Minorities.—Incidents of conflict have flared over trampled fields involving cattle herders 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 farm lands of the other groups, or farmers wanting to cultivate land set aside by local authorities for grazing. According to the Ministry of Animal Resources, more than 3,800 of such conflicts occurred between 2005 and 2011, including 318 during the first half of 2011. These conflicts caused 55 deaths since 2005 (see section 1.d., Role of the Police and Security Apparatus).

In May clashes between members of Bwaba and Mossi ethnic groups occurred in Solenzo over alleged disrespect for a traditional Bwaba initiation ceremony by a Mossi. The confrontation resulted in two deaths. The governor of the region and local authorities went to Solenzo to mediate with local residents in order to resolve the conflict. This incident also reflected long-lasting tensions over land use in the region.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law does not discriminate on the basis of sexual orientation in employment and occupation, housing, statelessness, or access to education or health care. However, societal discrimination based on sexual orientation and gender identity remained a problem. Religious and traditional beliefs do not accept homosexuality, and lesbian, gay, bisexual, and transgender (LGBT) persons were reportedly occasional victims of verbal and physical abuse. There were no reports that the government responded to societal violence and discrimination against such persons.

LGBT organizations had no legal presence in the country but existed unofficially. 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. During the year approximately 130,000 persons were HIV-positive, 1.8 percent of the population. Persons who tested positive were sometimes shunned by their families, and HIV-positive wives were sometimes evicted from their homes while their husbands were not. 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. In Janu-

ary 2010 the government announced free distribution of antiretroviral medication for HIV-positive persons.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements; however, “essential” workers such as police, army, and other security personnel may not join unions. The law provides unions the right to conduct their activities without interference.

The law provides for the right to strike, although it stipulates a very narrow definition of this right. For strikes that call on workers to stay home and that do not entail participation in a rally, the union is required to send an advance notice (eight to 15 days) to the government. If unions call for a march, then the government requires the same request and that a notice also be submitted to the concerned city mayor. March organizers are held accountable for any damage or property destruction that occurs during the demonstration. Magistrates, police, military personnel, and gendarmes do not have the right to strike.

The law prohibits anti-union discrimination and allows a labor inspector to immediately reinstate workers fired because of their union activities. All workers without distinction benefit from the relevant legal protections. The government generally enforced these laws.

The government respected freedom of association and the right to collective bargaining. During the year the government received 16 requests for union recognition. All were granted. The government respected the right to conduct their activities without interference.

Unions have the right to bargain directly with employers and industry associations for wages and other benefits. Approximately 86 percent of the work force 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. Worker organizations are independent of the government and political parties. There were no reports of strikebreaking during the year.

There were no reports of government restrictions on collective bargaining during the year. There was extensive collective bargaining in the formal wage sector; however, this sector included only a small percentage of workers. Moreover, employers sometimes refused to bargain with unions. This was the case for the establishment of an inter-professional collective convention. In the private sector, particularly in the mining sector and other industries, employers’ use of subcontracting made it difficult to systematically enforce workers rights.

There were no reports of antiunion discrimination during the year.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Forced child labor was found in the country’s agricultural (particularly cotton), informal trade, domestic servitude, and animal husbandry sectors as well as in gold panning sites and stone quarries. Some children sent to Qur’anic schools by their parents were forced to engage in begging (see section 6, displaced children).

There were no instances of compulsory participation in public works or forced prison labor.

Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age for employment at 16 and prohibits children less than 18 years of age from working at night except in times of emergency. The minimum age for employment was consistent with the age for completing educational requirements, which 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. There were no explicit restrictions regarding occupational health and safety in the law.

The law prohibits the worst forms of child labor, including the commercial sexual exploitation of children, child pornography, and jobs that harm their health. The 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. However, the government did not effectively enforce the law.

The Ministry of Civil Service, Labor and Social Security, which oversees labor standards, lacked the financial and transportation means as well as a sufficient number of inspectors 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 (\$1,207). The number of convictions during the year was unknown.

The government organized workshops during the year, and in cooperation with donors, undertook sensitization programs to inform children, parents, and employers of the dangers of exploitative child labor and sending children away from home to work. The government worked with local NGOs to monitor the opening of new gold mines to ensure that no children were employed there illegally.

Child labor was a problem. According to the National Institute of Statistics and Demography 41.1 percent of the children between five and 17 years were engaged in some form of economic activity. Children mostly worked in the following areas: agriculture (69.2 percent), mining (2.2 percent), trade (5 percent) and sometimes as domestic servants in the informal sector (19 percent). Some children, particularly those working as cattle herders and street hawkers did not attend school. A 2010 UNICEF study found that of 50,000 gold miners, 19,881 were children. The main reason for this phenomenon was poverty and insufficient access to education.

Many children under the age of 15 worked long hours. 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.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>

d. Acceptable Conditions of Work.—The law mandates a minimum monthly wage of 30,684 CFA francs (\$61) in the formal sector; the minimum wage does not apply to subsistence agriculture or other informal occupations.

The law mandates a standard workweek of 40 hours for non-domestic workers and a 60-hour workweek for household employees, 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.

The government sets occupational health and safety standards. Every company with 10 or more employees is required to have a work safety committee. If the government's Labor Inspection Office declares a workplace unsafe for any reason, workers have the right to remove themselves without jeopardizing continued employment. The Ministry of Civil service, Labor and Social Security was responsible for enforcing the minimum wage. Government inspectors under the Ministry of Civil Service, Labor, and Social Security and the labor tribunals are responsible for overseeing occupational health and safety standards in the small industrial and commercial sectors, but these standards do not apply in subsistence agriculture and other informal sectors.

These standards were generally not effectively enforced. During the year the government in conjunction with the Action Catholique des Travailleurs provided technical assistance for trainings and seminars as well as workshops on legislation and workers rights. The government's Labor Inspector Corps did not have sufficient resources, including sufficient numbers of inspectors and offices and financial and transportation means, to fulfill its duties adequately. There were 125 labor inspectors and 116 labor controllers. There were no reports of effective enforcement of inspection findings during the year. There were indications that the right to remove oneself from unsafe working conditions was respected, although such declarations by the Labor Inspection Office were rare.

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.

BURUNDI

EXECUTIVE SUMMARY

The Republic of Burundi is a democratic, multiparty republic. The 2005 constitution provides for an executive branch that reports to the president, a bicameral parliament, and an independent judiciary. In June 2010 voters reelected President Pierre Nkurunziza, and in July 2010 they selected a new National Assembly (lower house) in elections that international observers found largely free, fair, peaceful, and consistent with international standards. The armed forces and other security forces reported to civilian authorities. While observers considered the military generally professional and apolitical, the intelligence service and the police tended to be influ-

enced directly by and responsive to the ruling National Council for the Defense of Democracy-Forces for the Defense of Democracy party (CNDD-FDD).

During the year the main human rights abuses included torture and extrajudicial executions of detainees, particularly of members of certain opposition political parties, by police, military, and intelligence services; prolonged pretrial detention of detainees, often without formal charges, in overcrowded, harsh, degrading, and sometimes life-threatening prison conditions; and a lack of judicial independence.

Other human rights abuses included interference with and intimidation of government officials and political opposition members by certain members of the ruling CNDD-FDD party and the intelligence and police services. The political rights of certain opposition political parties—including the right to hold party meetings—were restricted arbitrarily, and members of these parties were detained and/or threatened and intimidated. Some journalists and members of civil society and non-governmental organizations (NGOs) critical of the ruling CNDD-FDD party and government were the objects of harassment and intimidation. Corruption existed at all levels of government. Women and girls suffered from violence and discrimination, and children and women were trafficked. Forced child labor also existed.

The general reluctance and slowness of police and public prosecutors to investigate and prosecute—and of judges to hear—cases of government corruption and human rights abuse led to a widespread perception of impunity for government and ruling CNDD-FDD party officials and agents. In many cases investigative and judicial officials hesitated to act as a result of bribes or threats to themselves or their families.

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

a. Arbitrary or Unlawful Deprivation of Life.—The U.N. Office of the High Commissioner for Human Rights (UNOHCR) documented 61 cases of extrajudicial executions committed by police, intelligence service, military, and local government officials during the year. Members of the Youth Wing (Imbonerakure) of the ruling CNDD-FDD political party also were implicated in some of these cases. The UNOHCR conveyed all these cases and their documentation to representatives of an interministerial committee of the Ministry of Interior; the Ministry of National Solidarity, Human Rights, and Gender; the Ministry of Public Security; the National Intelligence Service (SNR); and others in the government. The UNOHCR monitored the government's actions on each case; as of November 30, no prosecutions were underway in any of the cases. Besides these 61 cases, through November 30, the UNOHCR documented an additional 42 cases of politically motivated assassination in which the perpetrators were unknown; the victims included members of the opposition parties National Liberation Front (FNL) and Movement for Solidarity and Democracy (MSD), as well as members of the ruling CNDD-FDD.

In November the UNOHCR requested from the Ministry of Justice a list of those police officials who the government claimed were in custody pending trial or serving jail terms for commission of human rights violations, including extrajudicial killings. As of mid-December the ministry did not produce the list. On May 19, the government established an ad hoc commission to investigate, within three months, incidents of violence committed before, during, and after the 2010 elections. By year's end the commission's report was not conveyed to the prosecutor general of the republic.

The government established an ad hoc commission under the jurisdiction of the public prosecutor for Bujumbura City to investigate cases of extrajudicial executions in Bujumbura Rurale Province reported during the period from November 2010 through June. In August the commission completed its investigations and transmitted its report to the prosecutor for Bujumbura City, but it did not release the report publicly. To address the numerous unsolved killings and allegations of extrajudicial executions and to prevent recurrences in the future, in September the government instructed all public prosecutors to open case files and pursue all murder cases, regardless of whether or not a suspect was in custody.

The new National Independent Human Rights Commission (CNIDH), which commenced its work in June, investigated as “emblematic” one case of extrajudicial execution, that of Joel Ndereyimana, who was killed on the night of June 22 while in the custody of police in Gihanga Commune, Bubanza Province. According to the commission's investigation, villagers apprehended Ndereyimana attempting to burglarize a local residence and turned him over to the local Ndava-Busongo village police. The Ndava-Busongo police then delivered Ndereyimana to Gihanga police chief Dieudonne Magorwa on the night of June 22. Ndereyimana was last seen alive in Magorwa's custody; his corpse was discovered on June 23 in another location. On July 4, the commission requested the Bubanza prosecutor general to open a case file and pursue an investigation as required by law. The prosecutor general initially was

reluctant to open a case file and did not do so until late July. The commission's on-site investigation revealed that the delay in opening the case was due primarily to the unwillingness of the two Ndava-Busongo village police officers to testify because certain unidentified senior police officials had threatened them with death if they talked to the commission or cooperated in any investigation. In August the commission recommended to the prosecutor general of the republic that Magorwa and a lower level police officer be charged formally with extrajudicial execution. The prosecutor general of the republic turned the case over to the Bubanza provincial prosecutor general for investigation. A trial date was set for October 26, but due to a strike by judges and court personnel, the hearing was rescheduled to begin after the end of the year.

Investigation into the alleged extrajudicial killing and beheading of opposition MSD party member Leandre Bukuru in November continued. The head prosecutor for the Gitega court of appeals investigated the case, as a local police commissioner was alleged to be involved in the killing. The CNIDH conducted its own investigation. Both investigations continued at year's end.

The Special Commission of Inquiry established by the minister of justice in November 2010 to investigate cases of extrajudicial executions in the provinces of Cibitoke and Bubanza through the end of October 2010 submitted its report to the prosecutor general of the republic in June. According to the prosecutor general of the republic, four cases involving local police officials were being pursued but, as of November 30, no one was arrested. In addition, no action was taken on the following cases from 2010: police officer Jackson Ndikuriyo, who was killed in August 2010 while in the custody of Bubanza Province Police Commissioner Remegie Nzeyimana and four other police officers; and Japhet Bigirimana (alias Kadura), Boniface Mahungu, Nsabiyaemye (alias Zairois), and Niyonkuru who were killed in September 2010 while in the custody of Police Chief Eugene Bizindavyi of Buganda Commune, Cibitoke Province, and other police officers.

In September the government's investigation of the 2010 killing of Fabien Mpfubusa found that Mpfubusa was shot while resisting arrest; four of his accomplices in the killing of two persons in Mubanga were charged and in detention. There was no independent information available to confirm or deny the allegation that Mpfubusa was a victim of extrajudicial execution.

The high-profile criminal case of the killing of Ernest Manirumva in 2009, allegedly by police and SNR personnel, continued. On January 19, a hearing to determine which court had jurisdiction resulted in the case's being sent to the Bujumbura City High Court on January 26. At a June 15 hearing before the court, the government prosecutor requested that the case file be returned for further investigation, including the results of the interrogation of a major suspect, Gabriel Nduwayo, who was extradited by the government of Canada to Burundi in May. Nduwayo and 16 other defendants remain in custody.

b. Disappearance.—There were no reports of politically motivated abductions or kidnappings.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and the law ban torture, but incidents nonetheless occurred. During the year the UNOHCR documented 33 cases of torture by police and SNR personnel.

The UNOHCR documented 35 victims of cruel, inhuman, or degrading treatment or punishment for the year, mostly committed by the national police. No information on arrests or convictions of the perpetrators was available.

The UNOHCR documented 30 cases of rape and sexual abuse by government agents during the year. Nine of the presumed perpetrators were arrested. No information on the current status of the legal cases against them was available.

Prison and Detention Center Conditions.—Prisons were overcrowded, and prison conditions remained harsh and sometimes life-threatening. Conditions in detention centers managed by the SNR and in local "lock-ups" managed by police generally were worse than in the prisons. The director of prison administration in the Office of Penitentiary Affairs reported that as of November 30, 10,478 persons were held in 11 prisons built before 1965 to accommodate a total of 4,050 inmates. Government officials estimated that more than half of the persons held in prisons, detention centers, and "lock-ups" were held, often without charge, in pretrial detention.

The government improved conditions and alleviated overcrowding by releasing hundreds of pretrial detainees. The director of prison administration was not able to provide information on the number of persons held in detention centers managed by the SNR or in "lock-ups." All prisons had access to potable water.

According to government officials and international human rights observers, prisoners suffered from digestive illnesses and malaria; an unknown number died as a

result of disease. Each inmate is supposed to receive 12 ounces (350 grams) of manioc and 12 ounces of beans daily. Oil and salt may be provided on some days. Family and friends are expected to provide funds and all other food to inmates. Although each prison had at least one qualified nurse and at least a weekly visit by a doctor, 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 sole provider of medicines. Cases of physical abuse and prolonged solitary confinement also were reported.

As of November 30, there were 415 women in prisons and 88 children under three years of age, some of whom were born in prison. There were 231 juveniles in pretrial detention and 154 convicted juveniles. A separate area for female inmates existed in each prison. These areas generally were better than the men's sections. For example, the female prisoners made better use of the space provided; they received free rations of charcoal; and NGOs provided more support such as furnishing soap to women. A small prison in Ngozi Province was reserved for women only. Juvenile prisoners were held in the same prisons as adults. During the year 10 of the 11 prisons were rehabilitated to accommodate juvenile prisoners in separate areas; however, adult prisoners often were allowed in those areas as well due to overcrowding. Juveniles generally were held with adults in detention centers and communal "lock-ups." Pretrial detainees commonly were held with convicted prisoners.

Prisoners were permitted religious observance without discrimination. Prisoners were allowed to submit complaints to judicial authorities without censorship; however, judicial authorities rarely investigated prisoner complaints.

In May an estimated 900 inmates detained at Ruyigi prison, which has a capacity of 300, rioted to protest deteriorating living conditions. Rioters told local media they had not been fed for a week. Guards restored order in a matter of hours; two inmates who were attempting to use a rope to climb the prison wall were shot and killed.

In September the Office of the Prosecutor General of the Republic and the Office of the Ombudsman began separate investigations into prison conditions and individual cases (see section 1.d., Pretrial Detention).

During the year the government permitted all visits requested by international and local human rights monitors, including the ICRC. The ICRC regularly visited all prisons, including police "lock-ups," and the SNR "lock-up." The visits took place in accordance with the ICRC's standard operating procedures. The ICRC was confident that it had access to all prisons as well as SNR and police detention centers and local "lock-ups."

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention. However, there were credible reports that they occurred (see section 1.e., Political Prisoners and Detainees).

Role of the Police and Security Apparatus.—Under the Ministry of Public Security, the Burundi National Police has responsibility in law and practice for law enforcement and maintenance of order with the country. The Ministry of Defense, which commands the armed forces, is responsible for external security but also has some domestic security responsibilities. The SNR, which reports directly to the president, has arrest and detention authorities. Elements of the police, the SNR, the military, and local officials were responsible for human rights abuses during the year (see sections 1.a. and 1.c.).

The constitution provides for a 50/50 quota (Hutu/Tutsi) in both the military and the police to prevent these armed elements from being used against one ethnic group or the other. The formal integration (with international oversight and assistance) of Hutu into the previously Tutsi-dominated army and police began in 2004 and largely has been completed.

Burundi National Police.—The police generally were undertrained, under-equipped, underpaid, and unprofessional. They were widely perceived by local citizens as corrupt and were often implicated in criminal activity, including receiving bribes. Approximately 75 percent of the police force included former rebels; 85 percent of the force had received minimal entry-level training without any refresher training in the past five years; and 15 percent of the police force did not receive any training. Due to low wages, petty corruption was widespread. For example, according to the government's Anti-Corruption Brigade in the Ministry in the Office of the President in Charge of Good Governance and Privatization, a truck or bus driver typically was compelled to pay bribes totaling approximately 19,500 Burundian francs (\$16) at arbitrary police roadblocks and "vehicle inspections" on the main road from Bujumbura to Makamba.

The public perceived police as heavily politicized and responsive to the ruling CNDD-FDD party. During the year police officials were implicated in cases of tor-

ture, killing, and extrajudicial execution (see sections 1.a. and 1.c.). The government's general reluctance and slowness to investigate and prosecute these cases led to a widespread perception of impunity.

The international community was heavily engaged in providing instruction at the police academy on human rights, code of conduct, and community-oriented policing.

Armed Forces.—The armed forces generally were perceived as politically neutral and professional. The country has contributed peacekeepers to the African Union Mission in Somalia (AMISOM) since 2008. In September a board of inquiry of the African Union determined that four Burundian peacekeepers deployed with AMISOM in Mogadishu were responsible for the death of a Malaysian journalist and the wounding of another. Burundian authorities disputed this finding. Also in September the government officially requested the African Union to conduct an independent investigation of the charges, but results were not available at year's end. The four soldiers accused of the killing continued to work in Mogadishu at the end of the year. The international community was heavily engaged in training the armed forces and regularly provided training in international humanitarian law and in countering sexual- and gender-based violence to soldiers assigned to AMISOM.

National Intelligence Service (SNR).—The SNR was a 200-person force with mandates for both external and internal security. It was reasonably effective at investigating what the government defined as terrorists, including certain opposition political party leaders and their supporters. The SNR was perceived by many citizens to be heavily politicized and responsive to the ruling CNDD-FDD party. During the year intelligence officials were implicated in cases of torture, killing, and extrajudicial execution (see sections 1.a. and 1.c.). SNR officials claimed that officers who were found guilty of abusing their authority were punished internally. However, the government's general reluctance and slowness to investigate and prosecute these cases led to a widespread perception of impunity.

Arrest Procedures and Treatment While in Detention.—The law requires arrest warrants issued by the presiding magistrate. Police can make arrests without a warrant but are required to notify their supervisor before doing so. The police have seven days to finish their investigation and to transfer suspects to the magistrate. The police can request seven more days if additional investigation time is required. However, police rarely respected these provisions in practice and routinely violated the requirement that detainees be charged and appear before a magistrate within seven days of arrest.

A magistrate can order the release of suspects or confirm the charges and continue detention, initially for 14 days, then for seven more days as necessary to prepare the case for trial. Magistrates routinely failed to convene preliminary hearings, often citing their "heavy" case backlog and/or improper documentation by police. Lack of transportation for suspects, police, and magistrates was, however, the most frequently cited reason for the failure to convene preliminary hearings. This was a particular problem in the six provinces where there were no prisons; there was a lack of transportation to transfer suspects to the provincial court with jurisdiction from their place of detention in another province.

Police are authorized to release suspects on bail, but this provision rarely was exercised. 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 it reportedly occurred. Authorities on occasion denied family members prompt access to detainees.

Arbitrary Arrest.—There were allegations of arbitrary detentions by police and SNR personnel.

Pretrial Detention.—Prolonged pretrial detention remained a serious problem. The law specifies that a person cannot be held longer than 14 days without charge. As of November 30, according to the director of prison administration, 49 percent of those being held in prisons and detention centers were pretrial detainees—that is, held without formal charge—and the average time in pretrial detention was one year; some persons were held for nearly five years. Police, prosecutorial, and judicial inefficiency and corruption contributed to the problem. For example, a large number of persons were deprived of their legal right to release on personal recognizance because public prosecutors simply failed to open case files or because prosecutorial and court officials "could not find" the case files. Others were held without proper arrest warrants either because the police failed to complete the initial investigation and transfer the case to the appropriate magistrate or because the magistrate failed to convene the required hearing to rule on the charges.

In September the prosecutor general of the republic and the Office of the Ombudsman initiated separate reviews of the cases of all prisoners with the goal of releas-

ing either provisionally or completely those held in pretrial detention. As a result of the review, in October the government announced the release of 328 persons from Mpimba Prison in Bujumbura.

In July lawyer Francois Nyamoya was arrested for allegedly suborning a witness in the 2002 murder case of a World Health Organization official, Dr. Kassy Manlan, in which he had defended his sister, Gertrude Nyamoya. On August 19, the Superior Court ruled that Nyamoya be provisionally released pending trial, on the conditions that he not leave the country and that he report once a week or whenever summoned to a magistrate. However, at the end of the year Nyamoya remained in custody at Mpimba Prison, and his lawyer continued to appeal his case.

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, there were instances in which members of the judiciary were subjected to political interference and/or took bribes to drop investigations and prosecutions, predetermine the outcome of trials, or to fail to enforce court orders.

Judicial officials, including the president of the Supreme Court responsible for prosecuting and trying high-profile corruption and criminal cases, often were subjected to direct and indirect threats from persons named in the cases or their political supporters. In October magistrates went on strike for two months to protest political interference and demand the removal of incompetent and corrupt judicial personnel appointed by the government in violation of the law.

Executive officials also were threatened and harassed: In March the ministers of justice and of good governance and privatization were the targets of threatening telephone calls and text messages from persons who sought to block a list of nominations for senior judicial positions presented by the executive branch to the Senate for confirmation. Among the nominees were several persons known for being tough on corruption and on human rights violators.

Trial Procedures.—Defendants are presumed innocent. All trials are conducted publicly by panels of judges. Defendants have a right to counsel but not at the government's expense, even in cases involving serious criminal charges. Few defendants had legal representation because few could afford the services of one of the 131 registered lawyers in the country. Some local and international NGOs provided legal assistance but could not assist in all cases. Defendants have a right to defend themselves, including to question the prosecution's witnesses, call their own witnesses, and examine evidence against them. Defendants also can present evidence on their own behalf and did so in the majority of cases. The law extends the above rights to all defendants.

All defendants, except those in military courts, have the right to appeal their cases 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.

Procedures for civilian and military courts are similar, but military courts typically reached decisions more quickly. 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 government denied that persons were detained or convicted for political reasons. Through the end of November, the UNOHCR documented 107 cases of detention of members of opposition political parties by police, intelligence service, military, and local officials; these cases and documentation were conveyed to the government for investigation. As of mid-December there was no action.

Civil Judicial Procedures and Remedies.—Individuals and organizations may seek civil remedies for human rights violations, including appeal to the African Court on Human and Peoples' Rights.

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 did not always respect the law requiring search warrants.

Membership in a registered political party often is needed to obtain or retain employment in the civil service and the benefits that accrue from such positions, such as transportation allowances, free housing, electricity, and water, exemption from personal income taxes, and interest-free loans.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The constitution and law provide for freedom of speech and press; the government usually respected these rights.

Freedom of Speech.—The government mostly respected freedom of speech. Throughout the year political party leaders, including those representing the non-parliamentary opposition coalition that boycotted the 2010 elections, convened press conferences, were interviewed by the media, and issued/circulated written statements (including on the Internet) in which they criticized the government and the ruling party. In August prosecutors called in for questioning the president of one of these opposition parties, the Front for Democracy in Burundi (FRODEBU), after he expressed support for violence against the government in a press conference. He was released after questioning during which he retracted his statement by explaining that he had been “provoked” by one of the journalists into saying what he had said.

On July 27, the president of the Burundian Bar Association, Isidore Rufikiri, was detained by the public prosecutor of Bujumbura Mairie for having repeatedly and publicly insulted government magistrates. After “apologizing” for his statements, he was released on August 4.

Freedom of Press: The law prohibits political parties, labor unions, and foreign nongovernmental organizations from owning media outlets. The law also prohibits the media from spreading “hate” messages or from using abusive or defamatory language against public servants acting in their official role that could damage the dignity of or respect for the public office.

The National Communications Council (CNC), an independent state agency, oversaw enforcement of these laws and was charged with promoting freedom of the press and expression, guaranteeing access to information by all political parties, labor groups and media, as well as accreditation of journalists. It reviewed all projects or legislative proposals relating to the press and imposed sanctions against media organizations that it deemed violated the law. The CNC used counseling sessions with and reprimands of the heads of media organizations or journalists who it thought violated the law. It did not file lawsuits and lacked the resources to investigate cases; instead, it referred cases to the prosecutor general of the appropriate province. During the year the CNC issued eight reprimands in total to four private, independent FM radio stations and one television station: Rema FM, which tended to reflect the views of the ruling CNDD-FDD, and African Public Radio, which was viewed as favorable to the opposition, each received two reprimands; Radio Isanganiro, Renaissance TV, and CCIB FM+, which were viewed as more politically neutral, each received one. Following the reprimands, journalists from two radio stations, African Public Radio and Bonesha, were summoned by public prosecutors to respond to “judicial investigations,” but no criminal charges were filed.

Violence and Harassment.—Some journalists investigating controversial subjects such as corruption and human rights violations reported threats from certain members of the police, the SNR, and the ruling CNDD-FDD party.

Censorship or Content Restrictions.—The law protects public servants and the president against “words, gestures, threats, or writing of any kind” that are “abusive or defamatory” and would “impair the dignity of or respect for their office.” The law also prohibits racially or ethnically motivated hate speech. The law mandates a penalty of six months to five years in jail and a fine of approximately 10,000 to 50,000 Burundian francs (\$8 to \$40) for insulting the head of state. Some journalists, lawyers, political party, and civil society or NGO leaders alleged that the government used these articles to intimidate and harass them.

In May by decision of the cabinet, the government suspended for three days a popular call-in program aired on the private, independent African Public Radio because the host permitted a prominent opposition political party leader to call the president a thief and murderer for 10 minutes before cutting him off. The program resumed broadcasting and subsequently aired numerous live and taped interviews with prominent opposition political party leaders.

Following the massacre of civilians in a bar near Gatumba on September 18, the Burundian National Security Council (NSC) directed the media to “refrain from any communication that may undermine peace and security and not publish, comment on or analyze” information related to the ongoing investigation of the massacre. A few days after the NSC directives, most of the radio stations in the country flouted the NSC order by broadcasting interviews about the massacre simultaneously on all of their stations; the government took no actions against them. The stations complied with the order after this single act of defiance.

Libel Laws/National Security.—Libel laws prohibit the public distribution of information that exposes a person to “public contempt” and carry penalties of prison terms and fines. The crime of treason, which includes knowingly demoralizing the military or the nation in a manner that endangers national defense during a time of war, carries a criminal penalty of life imprisonment. It is a crime for anyone knowingly to disseminate or publicize false rumors likely to alarm the people or to excite them against the government or promote civil war. It is illegal for anyone to display drawings, posters, photographs and other items that may disturb the public peace. Penalties range from two months to three years and fines. Some journalists, lawyers, and political party, civil society, and NGO leaders alleged that the government used these laws to intimidate and harass them.

On May 13, the High Court of Bujumbura, on appeal, acquitted NetPress editor and owner Jean Claude Kavumbagu of treason, libel, and harmful imputation but confirmed the charge of “publishing information likely to harm the assets of the state and the national economy.” He paid the fine of 100,000 Burundian francs (\$80) and was immediately released. Kavumbagu was sentenced to eight months in prison but was immediately released as he had already spent 10 months in pretrial detention. The state prosecutor had requested a life sentence.

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

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 mostly respected it in practice. The law requires political parties to notify the government prior to a meeting. Some nonparliamentary opposition political parties claimed that local officials refused permission for them to hold meetings and/or dispersed meetings. In November at the request of the president of the Unity for National Progress Party (UPRONA), one of the parties in the government coalition, police dispersed a meeting of members of a dissident faction of the party.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected it in practice.

c. Freedom of Religion.—See the Department of State’s International Religious Freedom Report at <http://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 mostly respected these rights in practice. The government cooperated with the Office of the U.N. 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.

In-Country Movement.—The government strongly encouraged citizens to participate in community-level work projects every Saturday morning and imposed travel restrictions on citizens during the hours of 8:30-10:30 a.m. Permits were required for movement outside of one’s community during those hours, and these restrictions were enforced by police roadblocks. Waivers could be obtained in advance; all foreign residents were exempt.

Exile.—The law does not provide for forced exile, and the government did not practice it. Several leaders of political parties which boycotted the 2010 elections remain in self-imposed exile, claiming to fear for their lives.

Emigration and Repatriation: The International Organization for Migration estimated that 200,000 refugees from the country remained in Tanzania.

Internally Displaced Persons (IDPs).—According to the government estimates, there were approximately 150,000 IDPs. Some attempted to return to their places of origin, but the majority relocated to urban centers. The government generally permitted IDPs to be included in the UNHCR’s and other humanitarian groups’ activities benefiting returning refugees, such as shelter and legal assistance programs.

Protection of Refugees.—Access to Asylum.—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. At the end of 2010, the latest UNHCR data available, 29,365 refugees and 12,062 asylum seekers lived in the country.

Employment.—Refugees have the right to work except in protected sectors like the army, police, and judiciary.

Access to Basic Services.—Refugees may access public services, including for example education, health, and legal assistance.

Stateless Persons.—Citizenship is derived from the parents, not the place of birth. According to the UNHCR at the end of 2010, 1,059 stateless persons lived in the country. The UNHCR stated that the stateless persons were all Omani, and they were waiting for the government of Oman to provide them with proof of their citizenship. The government of Burundi offered them Burundian citizenship if they could not get Omani citizenship. They reported no negative or prejudicial events during the year.

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.—Recent Elections.—Between May and September 2010 the government held five separate elections: communal councils (in May), presidential (in June), National Assembly (in July), Senate (in July), and village councils (in September). Voter turnout in the communal elections was more than 90 percent. Following the communal elections, a coalition of 12 parties withdrew and boycotted the remaining four elections. Following the withdrawal of the opposition coalition, the CNDD-FDD's presidential candidate, Pierre Nkurunziza, ran unopposed, and the ruling CNDD-FDD party won absolute majorities in the National Assembly and Senate.

The EU's Election Observation Mission, which monitored the five elections, noted that the June 28 presidential and July 23 National Assembly elections were largely peaceful and generally well managed by the Independent Electoral Commission, but that the political and electoral environment was characterized by unfair use by the ruling CNDD-FDD of government facilities and financial resources during the campaigns, the absence of pluralistic competition, and restrictions by the government and ruling party on the freedoms of political party expression and assembly of its competitors. Members of the youth wings of the CNDD-FDD and of several rival political parties engaged in intimidation and violence before, during, and after the elections.

Political Parties.—There were 43 registered political parties, the vast majority based on family, clan, or region and representing localized interests. Only six parties fielded candidates in all 17 provinces and 129 communes in the May 2010 communal elections. In July the National Assembly mandated that all parties reregister by the end of the year. According to the new law, in order to qualify for public campaign funding and to compete in the 2015 legislative and presidential elections, parties must be "nationally" based (i.e., be ethnically and regionally diverse) and demonstrate in writing that they have party membership and organizations in all of the provinces. A provision that all party presidents must reside in Burundi was rejected by the coalition of political parties that boycotted the 2010 elections, given that the presidents of three of the parties in the coalition remain in self-imposed exile abroad.

Participation of Women and Minorities.—The constitution reserves 30 percent of the seats in the National Assembly, the Senate, and the communal councils for women. There were 32 women in the 106-seat National Assembly and 19 women in the 41-seat Senate. The constitution also mandates that 30 percent of appointed government positions be set aside for women. After a cabinet reshuffle in December, women held eight of 21 ministerial positions; there were seven women on the 17-seat Supreme Court, and three women on the seven-seat Constitutional Court.

The constitution provides for representation in all elected and appointed government positions for the two main ethnic groups: the Hutu majority is entitled to no more than 60 percent and the Tutsi minority to no less than 40 percent. In addition, the Batwa ethnic group, which makes up less than 1 percent of the population, is allotted three seats in each chamber of parliament. However, in 2010 the government named a non-Batwa to one of three Senate seats reserved for Batwas, a decision challenged by the Batwa community but upheld by the Constitutional Court in 2010.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. However, the government did not fully implement the law, and some high-level government officials con-

tinued to engage in corrupt practices with impunity. Corruption is a very serious problem in the country.

The ministries of civil service, defense, and public security completed reviews of all civil service, military, and police positions and eliminated more than 5,000 “ghost” (deceased, retired, or dismissed) personnel who were still drawing salaries, thereby saving the government nearly 20.7 billion Burundian francs (\$15 million) during the year.

In the Burundian Tax and Customs Authority, the government fired personnel, tightened procedures, and put the authority under foreign management. As a result, tax and revenue collections increased through the end of September by 137 percent over the same period in 2010.

The state inspector general and the Anti-Corruption Brigade of the Ministry of Good Governance and Privatization are responsible for investigating government corruption. Within the judiciary there is a designated anticorruption general prosecutor and an anticorruption court. The Anti-Corruption Brigade has the authority to investigate, arrest, and refer offenders to the anticorruption general prosecutor.

During the year the Anti-Corruption Brigade investigated 226 cases. Between October 2010 and September 2011, the Anti-Corruption General Prosecutor’s Office investigated 386 cases: 290 of these were scheduled for trial at the Anti-Corruption Court, 42 cases were referred to other courts, and 54 were dismissed.

In view of the lengthy backlog of cases in the court and the difficulty of obtaining convictions, the Anti-Corruption Brigade resorted in many instances to enforcing the law through settlements in which the government agreed not to prosecute and the official agreed to reimburse the money stolen. The government exercised its power to freeze and seize property and bank assets of officials to compel reimbursement. In most cases, however, the official was permitted to retain his position.

Early in the year Melchior Wagara, the former chief of civilian staff in the Office of the President, reportedly was required to reimburse the government approximately 5.5 billion Burundian francs (\$4.4 million) embezzled from the 2010 presidential inauguration fund. On April 8, he was named to a vice president’s position at the Central Bank of Burundi, a position the government claimed provided no access to or influence over monetary transactions. In another case, the president of a government-owned bank reimbursed embezzled money to the government; he remained in his position at year’s end.

In 2007 the government charged three senior government officials with fraud involving 48.3 billion Burundian francs (\$38.6 million) in a government procurement contract with a private company, INTERPETROL. In early 2010 the prosecutor general dismissed the case for lack of evidence, but the new government reopened the case in December 2010. In April the government began prosecuting the owners of INTERPETROL, Munir and Tariq Bashir, on charges of embezzlement, corruption, and collusion. No new charges were brought against the government officials associated with the case. Certain CNDD-FDD party and government officials, including the director of the SNR, Adolphe Nshimirimana, and the deputy director of the National Police, Gervais Ndirakobuca, directly threatened the chief justice of the Supreme Court to force him to drop the case. Nonetheless, with the support of senior government and CNDD-FDD party officials, the chief justice and the public prosecutor continued to prosecute the case at year’s end.

In May a court official took a bribe to alter or forge a court release order, and prison administration officials thus unwittingly released four high-profile prisoners serving sentences for organizing and carrying out a series of politically motivated grenade attacks during the 2010 elections. According to police sources, the prisoners remained at large at year’s end.

The law requires financial disclosure by elected officials and senior appointed officials once every five years, but not public disclosure. Information on financial disclosures was difficult to obtain. There is no freedom of information law.

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 somewhat cooperative and responsive to their views.

International and national human rights observers generally were allowed to visit prisons and detention centers, including those run by the SNR. Human rights groups continued to operate and publish newsletters documenting human rights abuses and to participate in meetings sponsored by the government and international organizations.

No major local human rights NGOs were closely aligned with the government or political parties. Some national human rights NGOs reported being subjected to intimidation and harassment by government officials.

Following its May 2010 expulsion of the resident Human Rights Watch (HRW) researcher, the government agreed to permit—and HRW assigned—a new researcher in the country, who began work in early 2011.

U.N. and Other International Bodies.—The government cooperated with international governmental organizations and permitted visits by U.N. representatives and other organizations, such as the ICRC and the U.N. Independent Expert on Human Rights in Burundi. In June the mandate of the U.N. Independent Expert expired and was not renewed.

The UNOHCHR was very effective and thorough. It regularly conveyed its concerns to the appropriate government agencies, and had regular follow up mechanisms. The ICRC also acted effectively in the country.

Government Human Rights Bodies.—During its first year of operation the Office of the Ombudsman was widely perceived by both Burundians and international partners to be impartial and effective.

In January parliament created the CNIDH; the authorities and mandate of the commission are consistent with the Paris Principles on National Institutions for the Promotion and Protection of Human Rights. During the year the CNIDH exercised its power to call in senior officials, demand information, and order corrective action; it also monitored the government's follow-up. Local and international partners widely perceived the commission as independent and effective.

Human rights committees exist in the national assembly and the senate. They were instrumental in passing the law creating the CNIDH.

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

The constitution provides for equal status and protection for all citizens, without distinction based on race, language, religion, sex, or ethnic origin. The government did not enforce it in many cases.

Women—Rape and Domestic Violence.—The law prohibits rape, including spousal rape, with penalties of up to 30 years' imprisonment. The law prohibits domestic abuse of a spouse, with punishment ranging from fines to three- to five-years' imprisonment. The government did not enforce the law uniformly, and rape and other domestic and sexual violence continued to be serious problems.

According to reports compiled from family development centers throughout the country, there were 3,781 reported cases of gender-based violence in 2010, the last year that funding was available to compile statistics. The local human rights organization, the Association for the Protection of Human Rights and Prisoners in Burundi, recorded 61 alleged rapists arrested as of September. Centre Seruka, a clinic for rape victims, estimated that 60 percent of alleged rapists were arrested, and perhaps 30 percent of all arrested rapists were prosecuted. During the year Centre Seruka averaged 116 new cases per month; 65 percent of the victims were under the age of 18, 46 percent were under the age of 13, and 15 percent were under the age of five.

The National Police's Women and Children's Brigade was responsible for investigating cases of sexual violence and rape, as well as of trafficking of girls and women.

Many women were reluctant to report rape for cultural reasons, fear of reprisal, and the lack of medical care. Men often abandoned their wives following acts of rape, and rape victims were ostracized by their families and communities. Police and magistrates regularly required that victims provide food for and pay the costs of incarceration of those they accused of rape.

The government, with financial support from international NGOs and the U.N., completed civic awareness training on domestic and gender-based violence as well as the role of police assistance throughout the country. The audience for the training included the police, local administrators, and grassroots community organizations.

Civil society organizations worked to overcome the cultural stigma of rape to help victims reintegrate into families that had rejected them and encouraged rape victims to press charges and to seek medical care. Centre Seruka provided shelter and counseling to victims of rape and domestic violence. Several international NGOs provided free medical care, mostly in urban areas.

Sexual Harassment.—The law 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. The government did not actively enforce this law. There were reports that sexual harassment occurred, but no data was available on its frequency or extent.

Reproductive Rights.—The government recognized the 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. For cultural reasons husbands often made the final decisions about family planning. Health clinics and local health NGOs were permitted to disseminate freely information on family planning under the guidance of the Ministry of Public Health. The government provided free childbirth services, but the lack of 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. According to the 2010 demographic and health survey, 60 percent of all births took place with skilled attendants. The 2008 census reported that maternal mortality rate at 866 deaths per 100,000 live births. The main causes of maternal mortality were hemorrhaging, postpartum infections, obstetric complications, and hypertension. Health facilities were not equipped to deal with these health problems in a timely manner.

There were no restrictions on access to contraceptives. The contraceptive prevalence rate was 18 percent. According to a knowledge, attitudes, and practices survey done in 2009, this low rate was due to weak involvement and/or opposition of men in family planning, lack of dialogue on family planning within the couple, weak powers of decision making of women on problems related to reproductive health, inaccessibility of services because highly regarded health clinics affiliated with certain religious groups did not provide modern contraceptive methods, persistent rumors and beliefs against family planning and modern contraceptive methods. Men and women had 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. Only 16 percent of health facilities provided services to prevent mother-to-child transmission of HIV/AIDS.

Discrimination.—Despite constitutional protections, women continued to face legal, economic, and societal discrimination and often were victims of discriminatory practices with regard to inheritance and marital property laws. The Ministry of National Solidarity, Human Rights, and Gender is responsible for combating discrimination against women.

By law women must receive the same pay as men for the same work, but in practice they did not. Some employers suspended the salaries of women while they were on what should be paid maternity leave, and others refused medical coverage to married female employees. Women were less likely to hold mid- or high-level positions in the workforce. However, women owned many businesses, particularly in Bujumbura.

Children.—Birth registration.—Although the constitution states that citizenship can be derived from the mother or father, in practice and according to the law on nationality, citizenship is derived from the father only. 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. The government registered without charge the births of all children up to the age of five.

Child Abuse.—The law prohibits violence against or abuse of children, with punishment ranging from fines to three- to five-years' imprisonment; the problem was not widespread.

Harmful Traditional Practices.—Female genital mutilation is not practiced, but the traditional practice of removing a newborn child's uvula (the piece of flesh that hangs down at the rear of the mouth) continued to cause numerous infections and deaths of infants.

Sexual Exploitation of Children.—The penalty for rape of a minor is 10 to 30 years' imprisonment, and 18 is the minimum age for consensual sex. Local hospitals, NGOs, and human rights associations highlighted a particularly high number of rape and sexual abuse cases against children in Rumonge, Burambi, and Buyengero communes of Bururi Province during the year; there were also several reported cases from Ngozi, Muyinga, Bujumbura, and Bujumbura Rurale provinces, although exact statistics were unavailable. According to UNICEF, approximately 60 percent of reported rapes were of children under age 18, and 20 percent of whom were under age 12. Centre Seruka reported that 95 percent of the rape victims who visited its facility during the year were female; the average age of victims assisted by Centre

Seruka was 14.5 years of age. The U.N. Development Fund for Women reported that many rapes of minors were motivated by the rapist's belief that the rape would prevent or cure sexually transmitted diseases, including HIV/AIDS.

The law punishes child pornography by fines and three to five years' imprisonment. While child pornography was not prevalent, the rape of minors was a widespread problem.

Displaced Children.—According to the latest (2009) report compiled by the Ministry of National Solidarity, Human Rights, and Gender and the Institute of Statistics and Economic Studies of Burundi, more than 3,253 street children lived in the country's three largest cities of Bujumbura, Gitega, and Ngozi; statistics on their numbers in other communities were not available. The Ministry of National Solidarity, Human Rights, and Gender stated that many of these children were HIV/AIDS orphans. The government provided street children with minimal educational support and relied on NGOs for basic services such as medical services or economic support.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The constitution prohibits discrimination against persons with physical, mental, sensory, or intellectual disabilities; however, the government was unable to promote or protect the rights of persons with disabilities with regard to employment, education, or access to health care. Although persons with disabilities were eligible for free health-care services through social programs targeting vulnerable groups, the benefits were not widely publicized or provided.

The employment practice of requiring health certification from the Ministry of Public Health sometimes led to discrimination against persons with disabilities.

The Ministry of National Solidarity, Human Rights, and Gender coordinates assistance and protects the rights of persons with disabilities. The government did not enact legislation or otherwise mandate access to buildings, information, or government services for persons with disabilities. The government supported a center for physical therapy in Gitega and a center for social and professional reinsertion in Ngozi to assist individuals with physical disabilities.

Indigenous People.—The Batwa, the original hunter-gatherer inhabitants who number approximately 80,000 persons, less than 1 percent of the population, generally remained economically, politically, and socially marginalized. Lack of education, employment, and access to land were cited as the major problems. Local administrations must provide free schoolbooks and health care for all Batwa children and two acres of land per family (comparable with the nationwide average size of a farmstead). Local administrations largely fulfilled these requirements. The constitution provides three appointed seats for Batwa in each of the houses of parliament. Following the 2010 election, however, one of these three Senate seats was awarded to a non-Batwa. The local NGO, Union for the Promotion of Batwa, claimed that on October 23 three Batwa were killed and 32 Batwa houses were systematically burned in Gahombo Commune, Kayanza Province. Five suspects were arrested and held for two weeks. The local prosecutor dismissed the case for lack of evidence.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law criminalizes same-sex sexual acts with penalties ranging from a fine to imprisonment of three months to two years, with or without a fine. During the year no one was arrested or prosecuted under this law.

On May 17, the Remuruka Center, which offers urgent services to the lesbian, gay, bisexual and transgender (LGBT) community, began operations in Bujumbura. The government neither supported nor hindered local LGBT organizations or the center.

Other Societal Violence or Discrimination.—The constitution specifically outlaws discrimination against persons with HIV/AIDS or other "incurable" illnesses; there were no reports of societal violence or discrimination against persons with HIV/AIDS.

During the year criminals who trafficked in body parts of persons with albinism kidnapped a five-month-old girl with albinism and hacked off the arm of a young boy with albinism to sell to traditional healers in Tanzania for use in magic charms.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The constitution and the law protect the right of workers to form and join unions without pre-

vious authorization or excessive requirements. A union must have at least 50 members. Most civil servants may unionize, but they must be registered with the Ministry of Civil Service, Labor, and Social Security. Police, the armed forces, public sector employees, foreigners working in the public sector, and magistrates may not form or join a union. The law also prevents workers under the age of 18 from joining unions without the consent of their parents or guardians. Virtually no private sector jobs were unionized.

The constitution and the law provide workers with a conditional right to strike but set strict conditions under which a strike may occur and ban solidarity strikes. All peaceful means of resolution must be exhausted prior to the strike; negotiations must continue during the action and be mediated by a mutually agreed party or by the government; and six days' notice must be given to the employer and the labor ministry. Before a strike is allowed, the ministry must determine whether strike conditions have been met. The law permits requisition orders in the event of strike action. The ministry has a de facto veto power over all strikes. The law prohibits retribution against workers participating in a legal strike. The law also recognizes the right to collective bargaining. Wages, however, are excluded from the scope of collective bargaining in the public sector; instead, wages were set according to fixed scales following consultation with unions. The law allows unions to conduct their activities without interference. The law prohibits antiunion discrimination. The law does not specifically provide for reinstatement of workers dismissed for union activity.

Most workers worked in the unregulated informal economy and largely were unprotected by labor law with the exception of laws regarding minimum wage.

The Confederation Burundian Labor Unions (COSYBU) stated that virtually no informal sector workers had written employment contracts; according to government statistics, only 5 percent had written employment contracts.

Freedom of association and the right to collective bargaining were respected in practice. However, the government sometimes interfered in union activities. The government did not effectively enforce applicable laws and procedures were subject to lengthy delays and appeals.

In October the government suspended salaries of magistrates striking for higher salaries. Soon thereafter the magistrates terminated the strike, and their salary payments resumed. At the end of 2010 Juvenal Rududura, vice-president of the non-magistrates' union of the justice ministry (SPMJB), an affiliate of the COSYBU, had not been reinstated. His criminal record was not expunged. He was imprisoned for 10 months in 2008-09 for criticizing on television antiunion repression and corruption in the recruitment process. At the end of the year he was still prohibited from leaving the city of Bujumbura and had to report to the prosecutor's office once a month. His case was under submission since 2009, and therefore he has yet to be readmitted to the SPMJB.

The two principal trade union centers, the COSYBU and the Confederation of Free Trade Unions of Burundi (CSB), criticized authorities' constant interference in trade union affairs. Between 2007 and 2010 trade unions with close ties to the ruling party were created in the health and education sectors. Workers were harassed by their employers to join the ruling party, quit any union they were already a member of, and join the government-controlled union. However, during the year the COSYBU reported that the government-controlled unions lost momentum and were less active. The government did not use hiring practices to avoid hiring workers with bargaining rights.

Since most salaried workers were civil servants, government entities were involved in almost every phase of labor negotiations. Both the COSYBU and the CSB represented labor interests in collective bargaining negotiations, in cooperation with individual labor unions.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits most forms of forced or compulsory labor, including by children. Most reports involving adult men and women concerned cases of domestic servitude. Forced labor by children involved domestic servitude and agriculture. Children working in domestic service often were isolated from the public, and some received other remuneration, such as food and shelter, in lieu of wages for their work. Children in domestic service could also be vulnerable to long working hours and physical and sexual exploitation by their employers, conditions indicative of forced labor. Children were trafficked internally for work in domestic service. Girls were trafficked for commercial sexual exploitation to East Africa. There were no credible reported cases of forced child labor in the production of goods. The government has made an effort to stem child trafficking. The police caught one ring trafficking three 16-year-old girls en route to the Democratic Republic of Congo destined for the sex trade. They caught a second ring traf-

ficking 11 children between the ages of six and 11 from one province to another destined for domestic servitude. In both cases the perpetrators were prosecuted.

The government encouraged citizens to participate in community work each Saturday morning and imposed travel restrictions on citizens during the hours of 8:30-10:30 a.m.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law states that enterprises may not employ children under the age of 16, barring exceptions permitted by the labor ministry. These exceptions include light work or apprenticeships that do not damage children's health, interfere with their normal development, or prejudice their schooling. In accordance with the law, the minister of labor may permit children aged 12 and up to be employed in "light labor," such as selling newspapers, herding cattle, or preparing food. Under the law the legal age for most types of "nondangerous" labor varies from 16 to 18. Children are legally prohibited from working at night and are legally limited to 40 hours per week. The law makes no distinction between the formal and informal sector. The labor ministry is responsible for enforcing child labor laws and had multiple enforcement tools, including criminal penalties, civil fines, and court orders.

The government did not effectively enforce these laws. Due to a lack of inspectors and resources including fuel for vehicles, the ministry enforced the law only when a complaint was filed. During the year the government acknowledged no cases of child labor in the formal sector of the economy and conducted no child labor investigations.

Because of extreme poverty, child labor was an economic necessity for many families and remained a problem. Children younger than 16 in rural areas regularly performed heavy manual labor in the daytime during the school year, primarily in the agricultural sector. Children working in agriculture could be subject to using potentially dangerous machinery and tools, carrying heavy loads, and applying harmful pesticides. They also herded cattle and goats, which could expose them to the elements and force them to work with large or dangerous animals. Many children worked in the informal sectors. Children were obliged by custom and economic necessity to participate in subsistence farming, family businesses, and other informal sector activity such as street vending. Children also worked in small, local brick-making enterprises. In urban areas children worked as domestic servants.

The commercial sexual exploitation of children also occurred. Older females offered vulnerable younger girls room and board within their homes under the guise of being benevolent, and in some cases pushed them into prostitution to pay for living expenses; these brothels were located in poorer areas of Bujumbura, as well as along the lake and trucking routes. Extended family members sometimes also financially profited from the prostitution of young relatives residing with them. Business people recruited local girls for prostitution in Bujumbura and nearby countries.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The informal daily minimum wage in Bujumbura for unskilled laborers was 2,500 Burundian francs (\$2.00). In the past the minimum wage was set by the government, but the government has stopped setting it, and during the year the minimum wage was set by market forces. In the interior of the country, the daily minimum wage was 1,000 Burundian francs (\$0.80), with a lunch provided. The government estimated that 60 percent of the population lived below the poverty line which the World Bank defined for Burundi as being the equivalent of \$0.50 in urban areas and \$0.38 in rural areas. More than 90 percent of the population participated in the informal economy. The wages in the informal sector average between 2,500 and 3,000 Burundian francs (\$2.00 to \$2.40) in Bujumbura and 211,500 Burundian francs (\$1.20) in the interior of the country. There were no reports of enforcement of minimum wage laws in recent years.

The labor code stipulates an eight-hour workday and a 40-hour workweek, except for workers involved in national security activities. Supplements must be paid for overtime work: 35 percent for the first two hours and 60 percent thereafter. The weekends and holiday premium pay is 200 percent. There is no statute concerning compulsory overtime. Rest periods include 30 minutes for lunch. There is no differentiation made between foreign or migrant workers and citizen workers.

The labor code establishes occupational safety and health (OSH) standards that require safe workplaces. Enforcement responsibility for acting upon complaints rests with the labor ministry. Workers did not have the right to remove themselves from situations that endangered health and safety without jeopardizing their employment.

The Department of Inspection within the Labor Ministry is charged with enforcing the law regarding minimum wage and work hours and the OSH standards. These regulations apply to the entire workforce and make no distinction between domestic and foreign workers or between the informal and formal sectors.

The government did not effectively enforce these laws. Due to a lack of inspectors and resources including fuel for vehicles, the ministry enforced the law only when a complaint was filed. Employees generally did not complain so as not to jeopardize their employment.

There were no known examples of employer violations of OSH standards, nor were there reports of OSH complaints filed with the ministry during the year despite the fact that workplace environments often did not meet OSH standards. There was no data on workplace fatalities. Country Reports on Human Rights Practices for 2011

CAMEROON

EXECUTIVE SUMMARY

Cameroon 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. It has unfettered control of all government branches. The president retains the power to control legislation and rule by decree. On October 9, CPDM leader Paul Biya won reelection as president, a position he has held since 1982. The election was flawed by irregularities, including the failure to properly distribute all voter cards, late opening of polling stations, multiple voting, ballot-box stuffing, the absence of indelible ink, and intimidation of voters. There were instances in which elements of the security forces acted independently of civilian control.

The most important human rights problems in the country were security force abuses—particularly of detainees and prisoners; denial of fair and speedy public trial; and restrictions on freedom of assembly.

Other major human rights abuses included arbitrary arrest and detention, prolonged and sometimes incommunicado pretrial detention, life-threatening prison conditions, and infringement on privacy rights. The government harassed and imprisoned journalists, restricted freedoms of speech, press, and association, and impeded freedom of movement. Corruption was pervasive at all levels of government. Societal violence and discrimination against women and girls, including female genital mutilation (FGM), was a problem. Trafficking in persons, particularly children, and discrimination against pygmies, gays, and lesbians occurred. There was occasional discrimination against persons with albinism, although such incidents continued to decrease. The government restricted worker rights and the activities of independent labor organizations. Hereditary servitude, forced labor, including by children, and child labor were problems.

Although the government took some steps to punish and prosecute officials who committed abuses in the security forces and in the public service, impunity remained a problem.

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 persons during the year. The government generally investigated and sometimes disciplined those responsible for such killings.

On July 29, soldiers from the army regiment based in Nkongsamba shot and killed Stephane Ewane, a high school student. Ewane and three friends were returning from a party when they saw a military patrol and fled, fearing arbitrary arrest, a common occurrence (see section 1.d.). One of the soldiers shot without warning and hit Ewane. An investigation continued at year's end.

Government officials confirmed that no action had been taken against security force members accused of human rights violations in 2008 in association with the February protests, according to the 2011 Amnesty International annual report. In 2008 as many as 100 persons were killed during protests against price increases and a constitutional amendment that removed presidential term limits.

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, but there were continued reports

that security forces tortured, beat, harassed, and otherwise abused citizens, prisoners, and detainees. Security forces also reportedly subjected women, children, and elderly persons to abuse. According to the Report by the Ministry of Justice on Human Rights in Cameroon in 2010, 296 police officers and 115 soldiers and gendarmes were sanctioned or prosecuted for misconduct in 2010. Eight security force members were tried for alleged torture in 2010. Of the eight, two were convicted, two were acquitted, and four cases were pending at the end of 2010.

On January 1, in Tignere, the assistant prosecutor of Tignere, Faro, and Deo Division, Adamawa Region, intervened to stop soldiers from a Rapid Intervention Battalion (BIR) unit from beating a citizen. In response, the soldiers severely beat the prosecutor. No further information was available at year's end.

In January the chief of the Douala BIR dismissed a soldier who in August 2010 shot at a bus, which he reportedly assumed was being driven by bandits. One passenger was injured seriously.

On December 24, according to press reports, six BIR members indiscriminately entered homes in Bafut, Mezam Division, and beat the owners. They also looted homes and cars in the neighborhood. The incident occurred after Bafut youths, who were having drinks in a bar on December 23, refused to share their drinks with the BIR members when asked. An investigation was underway at year's end.

Security forces reportedly detained and tortured persons at specific sites, including temporary holding cells within police or gendarme facilities and cells located at the Directorate General for External Intelligence (DGRE).

Security forces beat journalists and gay men during the year (see sections 2.a. and 6).

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Numerous international human rights organizations and some prison personnel reported that torture was widespread. In Douala's New Bell Prison and other minimum security detention centers, prison guards inflicted beatings, and prisoners reportedly were chained or at times flogged in their cells.

During a February visit, a delegation of the African Commission on Human and People's Rights criticized prison conditions, which it described as being below required standards. In June 2010 the penitentiary administration confirmed harsh prison conditions in a document presented to diplomatic missions. The document noted overcrowding, poorly maintained and unsound facilities with leaking roofs, insufficient toilets and beds, lack of water and electricity, scarcity of pharmaceuticals, lack of appropriate kitchens, absence of drainage, and lack of disinfectants.

During a 2009 visit to New Bell Prison in Douala, foreign government officials found that prison guards chained disobedient and violent prisoners in a tiny disciplinary cell, where they were reportedly beaten and denied access to food. Security forces reportedly stripped prisoners and detainees, confined them in severely overcrowded cells, denied them access to toilets or other sanitation facilities, and beat them to extract confessions or information about alleged criminals.

Guards and local nongovernmental organizations (NGOs) reported rapes among inmates. Individuals incarcerated in New Bell Prison for homosexual acts suffered discrimination by and violence from other inmates.

According to statistics released by Catholic Relief Services in its Protecting the Rights of Inmates and Detainees (PRIDE) project, as of November there were 23,916 prisoners and detainees, including 255 juveniles (180 in the Yaounde's Kondengui Prison and 75 in New Bell Prison) and 92 women (60 in Kondengui Prison and 32 in New Bell Prison).

Prisoners were kept in dilapidated, colonial-era prisons, where the number of inmates was as much as four to five times intended capacity. According to the PRIDE project, the Yaounde Kondengui Prison, originally built for approximately 1,000 inmates, held 2,928 in November. In November the country's 74 prisons, with a capacity of 16,995 inmates, housed 23,196 prisoners and detainees. Overcrowding was exacerbated by the large number of pretrial detainees.

Deficiencies in health care and sanitation, which were common in all prisons, remained a significant problem. According to an August report published by an NGO working in prisons, the penitentiary administration provided New Bell Prison with an annual healthcare budget of 4,000,000 CFA francs (\$8,000) for its more than 2,000 detainees.

Potable water was inadequate, and prisoners' families were expected to provide food for their imprisoned family members. For example, New Bell Prison contained seven water taps for approximately 2,000 prisoners, contributing to poor hygiene, illness, and death. The daily food allocation per prisoner was less than 100 CFA francs (20 cents). Corruption among prison personnel was widespread. Pretrial detainees reported that prison guards sometimes required them, under threat of

abuse, to pay “cell fees,” money paid to prevent further abuse. Prisoners bribed wardens for special favors or treatment, including temporary freedom.

Some prisoners were kept in prison after completing their sentences or receiving court orders of release due to inability to pay their fines.

There were two separate prisons for women and 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 if the children were very young or if they had no other child care option. Conditions for male and female inmates were equally poor. Juvenile prisoners were often incarcerated with adults, occasionally in the same cells or wards. There were credible reports that adult inmates sexually abused juvenile prisoners. 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.

In temporary holding cells within police or gendarme facilities, adult men, juveniles, and women were held together. Detainees usually received no food, water, or medical care. Detainees whose families had been informed of their incarceration relied on their relatives for food and medicine. 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.

Many citizens in the North and Far North regions turned to traditional chiefs, or lamibe, for dispute resolution, and the government continued to permit lamibe to temporarily detain persons until they transferred them to the police or gendarmerie and the judicial system. Such detentions could last several weeks or months, depending on the gravity of the offense, the distance to the nearest security office, and the availability of lamibe, security officers, complainants, and transportation. Within the palaces of the traditional chiefdoms of Rey Bouba, Gashiga, Bibemi, and Tcheboa, there were allegations of 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. During an April 2010 visit in the North and Far North regions, lamibe claimed to foreign diplomats that such detention facilities no longer existed, although incriminated subjects were often held under the veranda of a hut and could be seen by passersby.

Prisoners were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship. During a 2009 visit to the Buea Prison, diplomatic mission employees observed prisoners talking to the prosecutor and complaining about their conditions. The secretary of state for penitentiary administration and the inspector general in charge of penitentiary administration investigated credible allegations of inhumane conditions and acknowledged the existence of such conditions publicly; however, no action was taken during the year. The National Commission on Human Rights and Freedoms (NCHRF) also conducted investigations during the year and publicly denounced poor detention conditions. The NCHRF acted on behalf of prisoners or detainees to alleviate overcrowding, address the status of juvenile offenders, improve pretrial detention conditions, and other matters.

The country had no prison ombudsman.

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, and ICRC visits were conducted during the year in accordance with standard modalities.

The government continued its efforts to improve prison conditions. In March the penitentiary administration presented an assessment of the modernization of prisons that the government launched in 2008. According to the report, the government's initiative resulted in the total renovation of 47 prisons, the construction of 27 wells, and the purchase of 10 vehicles to transport prisoners, two pick-ups, one minibus, and two trucks. The administration also acquired more beds and mattresses.

As part of the PRIDE Project, Catholic Relief Services during the year implemented the first phase of a project to improve recordkeeping in prisons.

d. Arbitrary Arrest or Detention.—Although the constitution and law prohibit arbitrary arrest and detention, security forces continued to arrest and detain citizens arbitrarily.

Role of the Police and Security Apparatus.—The national police, DGRE, Ministry of Defense, Ministry of Territorial Administration, and, to a lesser extent 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, reports to an office of the presidency, resulting in strong presidential control of security forces. The national police and the gendarmerie have primary responsibility for law enforcement, although the gendarmerie alone has responsibility in rural areas. The national police, which includes the public security force, judicial police, territorial security forces, and frontier police, report to the General Delegation for National Security (DGSN), which is under the direct authority of the presidency.

Police were ineffective, poorly trained, and corrupt (see section 4). Impunity was a problem. Citizens often resorted to vigilante violence rather than calling police (see section 6).

The DGSN investigates reports of abuse and forwards cases that merit prosecution and trial to the courts. Lesser sanctions are handled internally. During the year DGSN authorities sanctioned at least 49 security officers, including 32 soldiers and gendarmes and 17 police officers. Offenses included harassment of citizens, corruption, extortion, disregard of orders, forgery, and dangerous use of firearms.

The national gendarmerie and the army also have special offices to investigate abuse. The secretary of state for defense and the minister-delegate at the presidency in charge of defense subsequently sanction abusers. However, the minister-delegate of defense refers cases involving aggravated theft, criminal complicity, murder, and other major offenses to the military courts for trial.

The BIR, an elite unit earning twice the pay of the regular army, reportedly dismissed from its ranks officers implicated in violence against civilians. Those dismissed were demoted to the regular army with a 50 percent cut in pay.

According to the Report by the Ministry of Justice on Human Rights in Cameroon in 2010, 296 police officers were sanctioned or tried for misconduct in 2010. Infractions included extortion, aiding a suspect to escape, and abusive use of a service weapon causing bodily harm. Penalties ranged from warnings to the three-month suspension of 96 officers without pay.

The report also noted that military tribunals in 2010 tried 57 cases involving a total of 115 soldiers and gendarmes for offenses ranging from corruption to manslaughter; 37 soldiers and gendarmes were convicted for offenses including manslaughter, torture, violation of instructions, false arrest, oppression, and attempted manslaughter. A captain and a lieutenant were among those disciplined. Preliminary administrative punishments—actions taken soon after the perpetration of the offense—ranged from written warnings to suspensions of up to six months and imprisonment for 10 to 12 days. More serious cases were transferred to the judiciary for prosecution and sentencing, which could take months or even years. The report also noted that an additional 21 proceedings were ongoing.

During the year foreign military personnel provided training to security forces on civil-military relations and the role of security forces during elections, including rules of engagement and escalation of force.

Arrest Procedures and Treatment While in Detention.—The law requires that police obtain a warrant for an arrest, except when a person is caught in the act of committing a crime; however, police often did not respect this requirement. The law provides that detainees be brought promptly before a magistrate, although this frequently did not occur. Police may legally detain a person in connection with a common crime for up to 48 hours, renewable once. This period may, with the written approval of the state counsel, be exceptionally extended twice before bringing charges. Nevertheless, police occasionally exceeded these detention periods. The law permits detention without charge—for renewable periods of 15 days—by administrative authorities such as governors and civilian government officials serving in territorial command. The law also provides for access to legal counsel and family members, although detainees were frequently denied access to both. The law permits bail, allows citizens the right to appeal, and provides the right to sue for unlawful arrest, but these rights were seldom respected.

Arbitrary Arrest.—Police and gendarmes frequently arrested persons on Friday afternoons, although the number of such cases decreased during the year, according to NGOs and legal practitioners. Although 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. According to some reports, police and gendarmes occasionally made such “Friday arrests” on spurious charges after accepting bribes from persons who had private grievances. Security forces and government authorities reportedly continued to arbitrarily arrest and detain persons, often holding them for prolonged periods without charge or trial and, at times, incommunicado.

Police arbitrarily arrested persons without warrant during neighborhood sweeps for criminals and stolen goods. Citizens and foreigners, including undocumented immigrants were required to carry identification with them at all times, and police fre-

quently arrested persons without identification during sweeps. In July and September, such sweeps took place in the Yaounde neighborhoods of Mimboman, Etoudi, and Tongolo. While security forces subsequently released some detainees, others were transferred to the Prosecutor's Office and remained in detention at year's end on various charges, including theft, aggression, and evasion.

The DGSN claimed a policy of zero tolerance for police harassment, but police and gendarmes subjected undocumented immigrants—primarily 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 valid receipts for store merchandise. Some members of the country's large community of Nigerian immigrants complained of discrimination and abuse by government officials.

The government arrested Southern Cameroons National Council (SCNC) activists for participating in SCNC activities (see section 3).

Security forces also arrested journalists and a human rights activist during the year (see sections 2.a. and 5).

Unlike in the previous year, police did not arbitrarily arrest women on the street suspected of prostitution.

In the North and Far North regions, the government continued to permit traditional chiefs, or lamibe, to detain temporarily persons outside the government penitentiary system, in effect creating private prisons, until they transferred them to the police or gendarmerie and the judicial system (see section 1.c.).

Pretrial Detention.—The law provides for a maximum of 18 months' detention before trial, but many detainees waited up to 10 years before trial. According to the PRIDE project, more than 60 percent of inmates were pretrial detainees. The law precludes holding juvenile detainees more than three months after the conclusion of an investigation, but juveniles were sometimes held for more than a year without trial. Judicial inefficiency, a shortage of lawyers, corruption, and lost files due to an inadequate tracking system contributed to lengthy pretrial detention.

On his November 3 inauguration, President Biya granted amnesty to hundreds of prisoners sentenced to one year of imprisonment or less. Death sentences were commuted to life imprisonment, sentences of life imprisonment were commuted to 20 years' imprisonment, and 10-year sentences were reduced by eight years.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, but the judiciary remained corrupt, inefficient, and subject to political influence. 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, although the president has not played this role publicly. 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.

Despite such executive influence, the judiciary occasionally demonstrated independence. In September, for example, the Supreme Court confirmed its previous ruling that the minister of culture's decision to dissolve the Cameroon Music Corporation (CMC) was a violation of the law. The court ordered the ministry to reinstate the CMC to its previous status.

The legal system includes both national and customary law, and many criminal and civil cases can be tried using either one. Criminal cases generally were tried in statutory courts.

Customary courts served as a primary means for settling domestic cases, such as 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.

Customary court convictions involving witchcraft are automatically transferred to the statutory courts, which act as the court of first instance. The law provides for sentences of between two and ten years' imprisonment and fines of between 5,000 CFA francs (\$10) and 100,000 CFA francs (\$200) to "whoever commits any act of witchcraft, magic, or divination liable to disturb public order or tranquility, or to harm another in his person, property, or substance, whether by the taking of a reward or otherwise." In adjudicating such cases, courts relied on the testimony of witnesses and sorcerers, as well as confessions from the accused. Trials for alleged witchcraft occurred infrequently.

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 they must abide by customary laws. Customary law ostensibly provides for equal rights and status, although men

may limit women's rights regarding inheritance and employment. Some traditional legal systems regard wives as the legal property of their husbands. Customary law practiced in rural areas is based upon the traditions of the ethnic group predominant in the region and adjudicated by traditional authorities of that group.

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 if such crimes are committed with firearms.

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, and the government generally respected this right. 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 a conviction. Because appointed attorneys received little compensation, the quality of legal representation for indigent clients often was poor. The bar association and some voluntary organizations such as the Cameroonian Association of Female Jurists offered free assistance in some cases. A program funded by the European Union to improve the human rights of detainees and their conditions of detention facilitated the provision of free legal assistance to 3,000 detainees.

Despite a 2009 legal aid bill to facilitate judicial access for all citizens, indigent defendants were not provided attorneys at public expense, primarily due to resistance from attorneys who claimed they were inadequately compensated for such work.

Political Prisoners and Detainees.—There were reports of political detainees, but all were charged with other crimes.

During the year the Yaounde High Court repeatedly postponed the trial of two detainees 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 the 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 2009, the prosecutor filed new charges against both men for embezzlement, and hearings started a few weeks later. In February the government denied a visa to Atangana's French lawyer, which resulted in one of the trial postponements during the year.

Civil Judicial Procedures and Remedies.—Citizens have the right to seek redress for alleged wrongs through administrative procedures or through the legal system, although both options involved lengthy delays. There were problems enforcing civil court orders due to bureaucratic inefficiency.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—Although the constitution and law prohibit such actions, these rights were subject to restriction for 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 suspect. A police officer may enter a private home at any time in pursuit of a person observed committing a crime.

In late September and early October, police put the houses of SCNC officials and activists under surveillance to monitor preparations for protests on October 1, Unification Day. 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 other legally recognized organization.

An administrative authority, including a governor or prefect, 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 arbitrarily, and seized suspicious or illegal articles (see section 1.d.). Citizens without identification cards were detained until their identity could be established and were then released. There were several complaints that police arbitrarily confiscated electronic devices including cell phones.

In the Far North Region, human rights organizations reported that the traditional ruler of Meskine, Diamare Division, arbitrarily evicted some of his subjects from their land during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—Although the law provides for freedom of speech and press, it also criminalizes media offenses, and the government restricted freedoms of speech and press during the year. Government officials threatened, harassed, arrested, and denied equal treatment to individuals or organizations that criticized government policies or expressed views at odds with government policy.

Freedom of Speech.—Individuals who criticized the government publicly or privately sometimes faced reprisals. The government attempted to impede criticism by monitoring political meetings.

On January 26, the vice chancellor of the University of Buea in the Southwest Region suspended Stanley Eyongetta Njieassam, a student leader, for criticizing the vice chancellor and challenging government policies. The suspension was lifted on February 26.

On April 29, author Bertrand Teyou, who was arrested twice in 2010 for publicly criticizing the president, was released from prison after paying a fine. In March 2010 gendarmes arrested and detained Teyou for talking about the president in “insidious terms” during the dedication ceremony of his book *The Antecode Biya*. Teyou subsequently was charged with conspiracy, incitement to rebellion, attempt to disturb public order, and perilous activity. Teyou, who was detained for eight days, was again arrested and detained in November 2010 in connection with the release of another book. The Douala Court of First Instance found Teyou guilty of defamation, insult, and illegal protest, and sentenced him to pay a fine of two million CFA francs (\$4,000). Teyou, who could not pay the fine, remained in jail until his April release.

Freedom of Press.—Approximately 400 privately owned newspapers published during the year, but only an estimated 25 had sufficient funds to publish regularly. The government enforced media regulations irregularly, often implementing arduous requirements selectively for regime critics. The government continued to disburse official funds to support private press outlets, although it disbursed funds selectively to outlets that were less critical of the government and with instructions to provide reporting favorable to the regime. Government officials used expansive libel laws to arraign journalists who criticized them and to suspend newspapers. Privately owned media were not accredited with the president’s or prime minister’s offices and were not invited to accompany the president on official trips.

After its September 26 to October 2 visit to the country, Reporters Without Borders noted that the law confuses media offenses with common crimes, gives too much power to political and administrative officials, and does not provide enough protection for access to information and the confidentiality of sources.

Violence and Harassment.—Security forces detained, arrested, and abused journalists during the year. In a statement published on March 31, the National Syndicate of Cameroon Journalists (SNJC) denounced the sustained harassment and moral pressure of which journalists had been the victims since the beginning of the year. SNJC called on the government to respect the public liberties of citizens provided for in the constitution. On March 9, the Committee to Protect Journalists (CPJ) wrote a letter to President Biya expressing concern about ongoing abuses against press freedom. The CPJ called on the president to hold members of his administration accountable for using security forces and criminal laws to settle scores with the media and urged the president to initiate reforms that would refer matters of defamation to civil courts.

On January 20, in Ebolowa, Mvila Division, South Region, Police Commissioner Evina assaulted and beat Rodrigue Tongue, a journalist working for *Le Messenger* newspaper. Reasons for the assault were unclear. No action was undertaken against the commissioner.

On September 16, police from the Special Group for Operations seriously beat and injured Ulrich Fabien Ateba Biwole, a journalist of *Le Jour* newspaper, in the Yaounde neighborhood of Anguissa. Ateba Biwole was inquiring about a group of citizens escorted in the street by armed men in civilian attire. The armed men, who Ateba Biwole later learned were police officers, attacked him when they learned he was a journalist.

Journalists also were arrested and detained.

On March 30, security officers arrested and detained incommunicado Lamissia Aldorarc, the Adamoua Region correspondent of the Yaounde-based daily *Le Jour*.

Aldorarc, who was investigating an alleged armed rebellion attempt, was held for several days in the DGRE Adamaoua Region office.

On September 5, police arrested Francois Fogno Fotso, editor of the private bi-monthly *Generation Libre*, which in October 2010 had published an article detailing alleged corruption by a tax official. From September 5 to 9, Fotso was interrogated without the presence of a lawyer and pressured to identify the sources for the article. On September 9, Fotso was taken to court but not charged, and subsequently returned to the custody of military police in Yaounde. Fotso had been summoned four times by military police since the October 2010 article, but refused to comply with their demands. In a public statement, the Association of Patriot Journalists of Cameroon criticized what it called an “arbitrary arrest of a journalist who dared do his job.”

Security forces also arrested and detained Cameroonian journalists representing foreign media outlets.

For example, on February 23, gendarmes of the Mboppi gendarmerie brigade in Douala arrested and detained incommunicado for 24 hours Reinnier Kaze, the correspondent of *Agence France Press*. Kaze was reporting on an anti-Biya march in Douala. The gendarmes also arrested several other journalists on the same occasion, including the reporting team of *Vox Africa*, a pan-African television service.

Radio remained the most important medium and reached most citizens. There were approximately 375 privately owned radio stations operating in the country, three-fourths of them in Yaounde and Douala. The government required nonprofit rural radio stations to submit applications to broadcast, but they were exempt from licensing fees. Commercial radio and television broadcasters must submit a licensing application and pay an application fee with the application. After a license is issued, stations must 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.

Several rural community radio stations functioned with funding from the U.N. Educational, Scientific, and Cultural Organization and foreign countries. The government prohibited these stations from discussing politics.

Television had lower levels of penetration than print media but was more influential in shaping public opinion in urban areas. There was one private cable television network. The 19 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. The state-owned Cameroon Radio and Television (CRTV) broadcast on both television and radio. The government levied taxes to finance CRTV programming, which gave the station a distinct advantage over independent broadcasters.

The government was the largest advertiser in the country. Some private media enterprises reported government officials used the promise of advertising (or the threat of withholding it) to influence reporting of the government’s activities.

Censorship or Content Restrictions.—Journalists and media outlets practiced self-censorship.

Libel Laws.—Press freedom is constrained by strict libel laws that 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.

For example, on March 24, the Douala-Ndokoti first instance court sentenced Jean Marie Tchatchouang, publisher of *Parole* newspaper, to a suspended six-month prison term and damages of one million CFA francs (\$2,000) to be paid to Ernest Ngalle, the general manager of Socatur, a Douala-based bus company, for alleged libel against the general manager. From September to December 2010, Tchatchouang published a number of articles that accused Ngalle of embezzlement. The court also suspended the newspaper for an undetermined period of time.

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.

On March 8, MTN-Cameroon informed its Internet service customers that the government required the suspension of Twitter SMS on its network. The Ministry of Posts and Telecommunications officially denied having initiated the measure, al-

though some government officials alleged that intelligence services had made the suspension decision. The suspension was brief.

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 criticism of the government could affect their professional opportunities.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—Although the law provides for freedom of assembly, the government restricted this right in practice. The law requires organizers of public meetings, demonstrations, and 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 refused to 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. The government also prevented civil society organizations and political parties from holding press conferences, where criticism of the presidential election, corruption, and abuse of power were expected.

In February the prefect of Wouri Division banned Martyrs' Week marches and rallies in Douala to commemorate the February 2008 riots. The prefect alleged that the planned events, organized by political and civil society organizations, were likely to disturb public order.

On September 10, Garoua gendarmes disrupted a meeting of the Association Citoyenne de Defense des Interets Collectifs. The organization sought to brief the public on its proposed agricultural policy for presidential candidates.

Authorities refused to grant the SCNC permission to hold rallies and meetings, and security forces arrested and detained SCNC activists (see section 3).

Security forces forcibly disrupted demonstrations, meetings, and rallies of citizens, trade unions, and political activists throughout the year. The use of excessive force by security forces resulted in numerous injuries to demonstrators.

For example, on February 23, the Douala anti-riot police used water-cannon trucks and tear gas to disrupt a demonstration organized by opposition parties and human rights organizations and activists to commemorate the victims of the February 2008 riots.

On May 31, police detained 37 members of the Cameroon Coalition for Food Self-Sufficiency and prevented more than 200 members from demonstrating for increased government support for farms and a curb on imports.

Freedom of Association.—The law provides for freedom of association, but the government limited this right in practice. The law prohibits organizations that advocate any type of secession, resulting in the disruption of SCNC meetings on the grounds that the purpose of the organization rendered any meetings illegal (see section 3).

The conditions for government recognition of political parties, NGOs, or associations were arduous, interminable, and unevenly enforced. The process forced most associations to operate in uncertainty, in which their activities were tolerated but not formally approved.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/g/drl/irf/rpt>.

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 impeded domestic and international travel during the year.

The government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, and asylum seekers.

In-country Movement.—Security forces at roadblocks and checkpoints in cities and on most highways extorted bribes and harassed travelers. 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 (see section 1.d.).

During the two-week presidential campaign, the government closed the country's airspace to all but the president on the day he traveled to Maroua to launch his campaign and on the day he returned. Opposition candidates charged that the closure was intended to limit their campaign activities.

Foreign Travel.—The government also closed the borders and canceled all flights from the evening before the election until after the polls had closed.

Exile.—The law prohibits forced exile, and the government did not use it; however, some human rights monitors and political opponents remained in self-imposed exile because they felt threatened by the government.

Internally Displaced Persons (IDPs).—In 2005 between 10,000 and 15,000 refugees and residents in and around the Adamawa Region villages of Djohong and Ngaoui were displaced following attacks and looting by unidentified armed groups from the Central African Republic (CAR). Officials in the Adamawa Region reported that most of the refugees have been assimilated and that only a few hundred IDPs remained. IDP children attended local schools, and the government provided refugees with medical care. During the year the government worked with UNHCR to protect and assist remaining IDPs, who the UNHCR reported were too few in number to incorporate in their statistics.

Protection of Refugees.—The country's laws provide for the granting of asylum or refugee status, and the government has established a system of providing protection to refugees.

The country continued to host approximately 100,000 refugees, the vast majority of whom were from CAR. Refugees were given the same rights to basic services as the host population. Refugee access to legal remedies—as with the general population—remained limited.

Temporary Protection.—The government also provided temporary protection to individuals who may not qualify as refugees and provided it to more than 124,000 persons, including 110,000 from CAR, 7,500 from Chad, and 4,000 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 CPDM members controlled key aspects of the political process, including the judiciary.

Elections and Political Participation.—Recent Elections.—On October 9, CPDM leader Paul Biya, who garnered more than 77 percent of the vote, won reelection as president, a position he has held since 1982. The election was peaceful but marred by irregularities, including polls that opened late, a voter list that contained numerous duplicate entries, insufficient time to distribute registration cards, inadequate training of polling officials, and the absence of indelible ink. These shortcomings effectively disfranchised an unknown number of voters and created opportunities for multiple voting and ballot box stuffing. Domestic and international observers concluded that the irregularities did not significantly affect the election outcome. Citizens residing overseas registered and voted.

The opposition's failure to unite behind a single candidate divided the opposition vote 22 ways and contributed to voter apathy and cynicism. According to the Centre for Human Rights and Peace Advocacy (CHRAPA), an organization with special consultative status at the U.N., less than 30 percent of the population voted. The government claimed that 66 percent of the population cast ballots.

The election was administered by Elections Cameroon (ELECAM), which was established in 2006 and whose members were appointed by the president. ELECAM's original 12 Electoral Council members were formerly active CPDM members, resulting in public skepticism of ELECAM's credibility and objectivity. In May the government amended electoral legislation to increase the number of council members from 12 to 18. In July the president appointed six new members, who included prominent figures from civil society. On October 7, one of the new appointees was dismissed for allegedly receiving money from the CPDM to manage part of its public relations campaign.

After the election the Supreme Court received 20 complaints from political parties, 10 of which demanded either the partial or complete annulment of results as a result of irregularities. On October 19, the court dismissed all the cases for lack of evidence or late submission.

According to CHRAPA, coverage of campaign activities by the state media was biased, providing extensive coverage of the campaign activities of the incumbent but not of opposition parties.

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 auton-

omy was limited, since elected local governments relied on the central government for most of their revenue and administrative personnel.

Political Parties.—There were more than 253 registered political parties. Fewer than 10, however, had significant levels of support, and only five had seats in the National Assembly. The CPDM held an absolute majority in the National Assembly. Opposition parties included the Social Democratic Front (SDF), based in the Anglophone regions and some major cities, the National Union for Democracy and Progress, the Cameroon Democratic Union, and the Union of the Peoples of Cameroon.

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 who also serve as CPDM officials. 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.

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 its elected representatives had an opportunity to affect the outcome of the constitutional exercise.

Residents of the Anglophone Northwest and Southwest regions tended to support the opposition SDF party and consequently claimed to suffer disproportionately from human rights abuses committed by the government and its security forces. The Anglophone community complained of being underrepresented in the public sector. Although citizens in certain Francophone areas—the East, Far North, North, and Adamawa regions—voiced similar complaints about under-representation and government neglect, Anglophones claimed they had not received a fair share of public sector goods and services within their two regions. Many residents of the Anglophone regions 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.

Authorities sometimes refused to grant opposition parties permission to hold rallies and meetings and arrested SCNC activists for participating in SCNC activities. The government considered the SCNC illegal because it advocates secession and has never registered as a political party or organization.

On February 9, gendarmes from Bali subdivision, Mezam Division, Northwest Region, arrested and detained for five days Chief Ayamba Ette Otun and two other SCNC members for circulating tracts calling for the independence of Southern Cameroon and warning the government against the mistreatment of Southern Cameroonians.

On October 1, the anniversary of the unification of Anglophone and Francophone regions of Cameroon, security forces disrupted SCNC meetings and protest rallies in Limbe, Tiko, Buea, Bamenda, and Kumbo. Security forces also sealed off the residences of several SCNC leaders and arrested and detained SCNC activists in Limbe, Buea, and Tiko.

Participation of Women and Minorities.—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 CPDM.

Pygmies were not represented in the National Assembly or in 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 corruption was pervasive at all levels of government. Officials frequently engaged in corrupt practices with impunity, and the World Bank's most recent Worldwide Governance 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. In June the National Institute of Statistics published a study, indicating that 87 percent of Cameroonian households considered corruption a major issue in the country.

During the year the government sanctioned hundreds of government employees for corruption, embezzlement, and mismanagement.

According to the Report by the Ministry of Justice on Human Rights in Cameroon in 2010, authorities investigated 20 cases of corruption and 235 cases of embezzle-

ment of public funds in 2010; the courts heard 16 cases of corruption and 231 cases of embezzlement of public funds.

The National Anticorruption Commission (CONAC) is the country's principal independent anticorruption agency; however, it was subservient to the president and lacked autonomy. Between January 2008 and December 2010, CONAC received 723 petitions regarding corruption, of which 132 involved embezzlement and 41 involved tender violations. CONAC recommended prosecution for all cases received.

In 2010 the National Financial Investigations Unit (ANIF), a separate financial intelligence unit that tracks money laundering, referred to judicial authorities 35 of the 124 reports received of suspicious transactions. Between its creation in May 2005 and 2010, the ANIF referred to judicial authorities 139 of 450 reports received of suspicious transactions. The ANIF has been informed of no trials or hearings addressing any of the 139 reports it has referred.

Police were corrupt. 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 sanctioned for corruption during the year. Some officers convicted of corruption were relieved of their duties but retained their jobs.

For example, in March the DGSN relieved of their functions Victor Hugo Mbarga Mbarga, the inspector general of the DGSN, and Ayafor Bernard Tangye, the DGSN west regional delegate, for aggravated corruption.

On October 13, the secretary of state in charge of the gendarmerie ordered the arrest of 13 gendarmes caught extorting money from truck drivers on the Ebolowa-Ambam-Kye-Ossi highway. The 13 remained in detention awaiting trial at year's end.

Judicial corruption was a problem. According to several press reports, judicial authorities accepted illegal payments from detainees' families in exchange for a reduced sentence or the outright release of their relatives. Judges were susceptible to executive influence and often stopped or delayed judicial proceedings in response to governmental pressure. Many powerful political or business interests had virtual immunity from prosecution, and politically sensitive cases sometimes were settled through bribes.

There were no developments in the 2010 transfer to the judiciary of 47 corruption cases involving agriculture officials.

In October 2010 the Wouri High Court opened hearings in the trial of Paul Ngamo Hamani, former general manager of Cameroon Airlines, who was arrested in March 2009 for embezzlement. The trial continued at year's end.

On March 21 and April 25, the Douala High Court held hearings in the 2009 arrest and detention of Jean-Baptiste Nguini Effa, former general manager of the government-owned National Petroleum Distribution Company, and six of his close collaborators, all of whom were charged with embezzlement. The trial continued at year's end.

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 to implement the law by year's end.

There are no laws providing citizens with access to government information, and such access was difficult. 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

Although a number of domestic and international human rights groups investigated and published findings on human rights cases, government officials repeatedly impeded the effectiveness of many local human rights NGOs during the year by harassing their members, limiting access to prisoners, refusing to share information, and threatening and using violence against NGO personnel.

Despite these restrictions, numerous independent domestic human rights NGOs operated, 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.

The government arrested human rights activists during the year.

For example, on February 11, in Douala, gendarmes of the Littoral gendarmerie legion in the Bonanjo neighborhood arrested and detained Mboua Massock, a polit-

ical and human rights activist who was distributing tracts calling for popular resistance against the Biya government. Massock, who was arrested in 2009 and 2010 for similar activities, was interrogated and released 10 hours later.

Since February 2010 authorities have harassed and conducted surveillance on Maximilienne Ngo Mbe, secretary general of Solidarity for the Promotion of Human Rights and Peoples and executive director of the Network of Human Rights Defenders of Central Africa. In February 2010 Ngo Mbe presented a report on the human rights situation in the country at the fifth platform for human rights defenders in Dublin, Ireland. She subsequently received a threat letter for “tarnishing the image of the president of the republic” and was the victim of repeated thefts. During the year Ngo Mbe was followed by a car with no registration plates, her telephone was tapped, and her computer, mobile phone, and wallet were stolen.

Although the NCHRF remained hampered by a shortage of funds, during the year it conducted a number of investigations into human rights abuses, visited prisons, sought to obtain medical attention for jailed suspects, and organized several human rights seminars for judicial officials, security personnel, and other government officials. 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 commission hosted a seminar on lessons learned during the presidential election.

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). On January 26, the NCHRF published a report in which it characterized administrative detentions as a “lethal weapon” in the hands of some administrative authorities.

In June, in Yaounde, the NCHRF participated with other sub-regional national human rights institutions in a workshop organized by the U.N. Center for Human Rights and Democracy in Central Africa.

U.N. and Other International Bodies.—Although it impeded the efforts of local NGOs, the government cooperated with international governmental organizations and permitted visits by U.N. representatives and other organizations, including the ICRC.

In February the government facilitated the visit of a delegation from the African Union’s Commission on Human and Peoples’ Rights, which was investigating conditions of detention and other issues.

Government Human Rights Bodies.—The National Assembly’s Constitutional Laws, Human Rights and Freedoms, Justice, Legislation, Regulations, and Administration Committee reviews human rights legislation submitted by the government and was instrumental in the National Assembly’s November 29 passage of a law criminalizing the trafficking of adults.

On December 6, the government released the Report by the Ministry of Justice on Human Rights in Cameroon in 2010, which focused primarily on government actions to address human rights issues, such as judicial and disciplinary action taken against officials accused of corruption or other inappropriate conduct. The report documented hundreds of investigations, disciplinary actions, and prosecutions in 2010 (see sections 1.c., 1.d., and 4).

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 did not enforce these provisions effectively, and violence and discrimination against women, trafficked persons, ethnic minorities, gays and lesbians, and suspected witches were problems. The law prohibits homosexual acts.

Women.—Rape and Domestic Violence.—Although the law criminalizes rape and provides penalties of between five and ten years’ imprisonment for convicted rapists, police and the courts rarely investigated or prosecuted rape cases. The law does not address spousal rape. A study conducted in 2009 reported the rapes of hundreds of thousands of girls and women between 1970 and 2008 (see section 6, Children). Due to social taboos associated with sexual violence, the great majority of rapes went unreported. For example, the media reported on only four rape cases during the year—one in Buea, Southwest Region and three in Yaounde. Although the investigation did not result in an arrest in the Buea case, police arrested the three suspected Yaounde perpetrators, who were charged with rape and remained in detention awaiting trial at year’s end.

The German Agency for International Cooperation, in collaboration with local NGOs, continued its campaign to raise awareness of rape and educate citizens on

penal provisions against rape. Campaign activities included the distribution of leaflets and T-shirts bearing messages, conferences in schools and women's associations, and radio broadcasts.

The law does not specifically prohibit domestic violence, although assault is prohibited and punishable by imprisonment and fines. In 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. Women's rights advocates asserted that penalties for domestic violence were insufficient. Spousal abuse is not a legal ground for divorce.

Female Genital Mutilation (FGM).—Women over 18 were subjected to FGM in isolated areas of Far North, East, and Southwest regions; however, most FGM victims were children (see section 6, Children).

Sexual Harassment.—The law does not prohibit sexual harassment. The government did not conduct any public education campaigns on the subject, and there were no statistics available on its occurrence, although it was thought to be widespread.

Reproductive Rights.—Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of children, but societal pressures continued to reinforce taboos on discussing contraception and all other sex-related issues, particularly in northern rural areas. Prenatal care, skilled attendance during childbirth, and postpartum care were not available to many women, particularly to those living in rural areas. According to 2008 statistics, the maternal mortality rate was estimated at 1,000 per 100,000 births. In cooperation with NGOs, the government conducted programs to educate couples, especially men, on responsible spacing between childbirths. The Ministry of Public Health produced radio and televised information programs on responsible parenthood and encouraged 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 pregnant women at health clinics. Women were equally diagnosed and treated for sexually transmitted infections, and all government and civil society campaigns against the disease targeted both men and women.

Discrimination.—Despite constitutional provisions recognizing women's rights, women did not enjoy the same rights and privileges as men, and some provisions of civil law were prejudicial to women. For example, the law allows a husband to deny his wife's right to work, and a husband may also end his wife's right to engage in commercial activity by notifying the clerk of the commerce tribunal. Customary law imposes further strictures on women since in many regions a woman was regarded as the property of her husband. Because of the importance of custom and tradition, civil laws protecting women often were not respected. For example, in some ethnic groups women were precluded from inheriting from their husbands. The Ministry of Women's Empowerment and the Family worked with other government agencies to promote the legal rights of women.

Children.—Birth Registration.—Citizenship is derived from the parents, and it is the parents' 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. Because many children were not born in formal health facilities, and many parents were unable to reach local government offices, many births were unregistered. Statistics on unregistered births were unavailable. In recent years the government created special civil status centers in remote areas to enable rural residents to register their children. Citizens unable to avail themselves of these resources often turned to a thriving industry for fabricated birth certificates, which were required to register children for school or obtain a national identification card. The government continued its program begun in 2005 to issue birth certificates to Baka (Pygmies), most of whom did not have birth certificates (see section 6, Indigenous People). The program also assisted Baka in registering for school.

Education.—Schooling is mandatory through the age of 14, but parents had to pay uniform and book fees for primary school students and tuition and other fees for secondary school students, rendering education unaffordable for many children. The government continued its three-year program to improve school access by building new classrooms, recruiting new teachers, and providing water fountains.

According to Jeune Afrique's September report on Investing in Cameroon, 47.7 percent of girls and 56.7 percent of boys attended primary school. The low school enrollment rate was attributed to cost, with girls' participation further reduced by early marriage, sexual harassment, unwanted pregnancy, prejudice, and domestic responsibilities.

Child Abuse.—Child abuse was a major problem, although no statistics were available. Newspaper reports often cited children as victims of kidnapping, mutilation, and even infanticide. There were credible stories of mothers (usually young, unemployed, and unmarried) abandoning their newborns in streets, garbage cans, and pit toilets.

On February 2, the minister of social affairs in partnership with UNICEF launched a nationwide campaign to sensitize the public on child abuse, including sexual abuse, child labor, and child trafficking.

A 2009 study conducted by the German development organization GTZ reported that an estimated 432,000 women and girls have been raped in the past 20 years: 20 percent of rapes were perpetrated by family members, and the average age of victims was 15 years. According to Flavien Ndonko, the head of GTZ's HIV/AIDS program, rape has steadily increased, and only about one in 20 rapists was convicted.

Child Marriage.—While the minimum legal age for a woman to marry is 15, many families tried to marry their female children before they turned 12 years old. Early marriage was prevalent in the northern regions of Adamaoua, North, and particularly the remote Far North, where many girls as young as nine faced severe health risks from pregnancies. There were no statistics on the prevalence of child marriage, but the courts heard one forced marriage case in 2010.

Harmful Traditional Practices.—The law does not prohibit FGM, which was practiced in isolated areas of the Far North, East, and Southwest regions. Statistics on its prevalence were unavailable. Internal migration contributed to the spread of FGM to different areas. The majority of FGM procedures were clitorectomies. The severest form of FGM, infibulation, was performed in the Kajifu area 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. According to the Association to Fight Violence against Women, FGM practitioners frequently conducted secret, rather than open, ceremonies following the subjection of a girl to FGM.

In February the government disclosed an action plan to prevent FGM and to draft legislation to end the practice. Until legislation has passed, the plan provides for government collaboration with civil society organizations to care for victims and prevent new cases. In February, in the Briqueterie neighborhood of Yaounde, the minister of women's empowerment and the family held meetings with Muslim civil society organizations to assess the FGM zero-tolerance program in which they had been involved in previous years. Similar assessment meetings were held in Kousseri, Logone and Chari Division, Far North Region, where the Ministry of Social Affairs cooperated with two NGOs to eliminate FGM.

Breast ironing, a procedure to flatten a young girl's growing breasts with hot stones, was perpetrated on many girls, according to press reports. The procedure was considered a way to delay a girl's physical development, thus limiting the risk of sexual assault and teenage pregnancy. Girls as young as nine were subjected to the practice, which resulted in burns, deformities, and psychological problems.

Sexual Exploitation of Children.—The penalties for the sexual exploitation of children include imprisonment from 15 to 20 years and a fine of from 100,000 CFA francs (\$200) to ten million CFA francs (\$20,000). The law does not specifically provide a minimum age for consensual sex. The law prohibits the use of children for the production of pornography and provides for prison terms of from five to ten years and fines of from five million CFA francs (\$10,000) to 10 million CFA francs (\$20,000) for perpetrators who use any electronic system to forward child pornography or any document that could harm the dignity of a child. Children under the age of 18 were engaged in prostitution, and the problem was believed to be pervasive, although no statistics were available.

Displaced Children.—Approximately 2,000 children lived on the streets of the major urban centers. The Project to Fight the Phenomenon of Street Children, a governmental project in partnership with NGOs, gathered information on street children and offered healthcare, education, and psychosocial care. The project also bolstered the intake capacities of specialized centers. In 2010 the Ministry of Social Affairs reunited five street children with their families and placed 82 in institutions.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community was very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—Due in part to the scarcity of facilities for persons with disabilities and lack of public assistance, the president in April 2010 promulgated a law to protect and promote the rights of persons with disabilities. The law requires that both new and existing government and private buildings be designed to facilitate access by persons with disabilities; secondary public education be tuition-free for persons with disabilities and children born of parents with disabilities; and initial vocational training, medical treatment, employment be provided “when possible,” and public assistance be provided “when needed.” During the year the government implemented the educational provisions of the law.

Societal discrimination continued against persons with albinism. Such discrimination occurred less frequently than in previous years, but employment opportunities for persons with albinism remained limited, although at least one such individual occupied a senior position in the government. In early August the Cameroon-based World Association for the Defense of the Interests and Solidarity of Albinos held its 13th National Week of Albinos. The organization called on the government to provide reduced healthcare costs, better access to education, and equal employment opportunities for persons with albinism.

Society largely treated 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 250 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 areas held key positions and were disproportionately represented in the government, state-owned businesses, security forces, and the ruling CPDM party.

Northern areas continued to suffer from ethnic tensions between the Fulani (or Peuhl) and the Kirdi, who 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, who often included Kirdi, and sometimes subjected them to tithing and forced labor. Isolated cases of hereditary servitude were alleged, largely Fulani enslavement of Kirdi. Many Fulani hired Kirdi at exploitive wage levels to perform tasks that the Fulani considered menial and beneath them.

Vigilante violence against persons suspected of theft resulted in at least two deaths during the year. Public frustration over police ineffectiveness and the release without charge of many individuals arrested for serious crimes contributed to vigilante violence.

For example, on March 4, inhabitants of the Makepe neighborhood of Douala burned to death two thieves, who allegedly stole the motorbike of an elderly inhabitant of the neighborhood. An investigation was ongoing at year’s end.

Indigenous People.—An estimated 50,000 to 100,000 Baka, including Bakola and Bagyeli (Pygmies), resided primarily (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. The government did not effectively protect their civil and political rights. 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.

Local Baka along the path of the Chad-Cameroon pipeline continued to complain that they were not compensated fairly for their land and had been cheated by persons posing as Baka representatives. In July the NGO Réseau Africain pour les Droits Environnementaux echoed Baka allegations, which three other local NGOs had reported in 2010. At its inception in 2000, the Cameroon Oil Transportation Company (COTCO), which manages the Chad-Cameroon pipeline, established a system for adjudicating compensation and any other claims, using a committee with representatives from COTCO, local communities, NGOs, and the government. The committee paid almost \$12 million in claims in Cameroon since the project’s inception, including \$12,000 in the 12-month period ending in July 2011. The committee held thousands of meetings with local citizens over the years, including more than 400 during the year in Cameroon. The committee finished adjudicating active compensation claims during the year and began shifting resources toward eradicating malaria and conducting other corporate social responsibility projects affecting populations along the pipeline. Some local Baka continued to claim that they were not fairly compensated.

The Ministry of Social Affairs continued efforts begun in 2005 to provide birth certificates and national identity cards to Baka; however, 95 percent of Baka did not have identity cards at year's end. Ministry teams reported that efforts to reach Baka were impeded by the difficulty in accessing their homes deep in the forest, but that slow progress was being made. During the year ministry teams located dozens of Baka to assist them with registration and voting.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Consensual same-sex sexual 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 francs (\$40 to \$400). During the year 10 persons were arrested for suspected homosexual activity, although most were not engaged in homosexual acts at the time of arrest.

Gay men and lesbians generally kept a low profile because of the pervasive societal stigma, discrimination, and harassment as well as the possibility of imprisonment. Gay men and lesbians suffered from harassment and extortion by law enforcement officials. According to one human rights NGO, government officials and private citizens sometimes conspired to make false allegations of homosexuality to harass enemies or extort money.

In March Jean-Claude Roger Mbende was sentenced to three years in jail by the Yaounde lower court for homosexual activity.

On July 25, police detained three men returning from a bar in Yaounde because two of the men appeared effeminate, according to the Association for the Defense of Homosexuality and Human Rights Watch. The three were jailed for one week before being charged, and the two who appeared effeminate were beaten on the soles of their feet until they confessed to being gay, according to a civil society group working on their behalf; the third man was released. After repeated postponements, a trial was held on September 26, at which the two men who confessed to being gay were sentenced to five years in prison and a fine of 200,000 CFA francs (\$400). An arrest warrant was issued for the third man, who was convicted and sentenced in absentia to the same punishment.

On January 13, following the EU decision to finance the Project to Provide Assistance and Guidance to Sexual Minorities, the then minister of external relations Henri Eyebe Ayissi convoked Raul Mateus Paula, the EU ambassador, to convey the government's opposition to the decision, noting that the law criminalizes homosexuality.

Several lesbian, gay, bisexual, and transgender organizations operated in the country. There was a pattern of discrimination against members of such groups, although no official cases were available for citation.

Other Societal Violence or Discrimination.—Persons infected with HIV/AIDS often were discriminated against and isolated from their families and society due to the societal stigma and lack of education about the disease.

Discrimination against persons suspected of practicing witchcraft was a problem in rural areas. Suspected witches were shunned and forced to travel to neighboring villages to buy food or maintain garden plots. Women whose children died at birth, for example, were suspected of selling their newborns to mystic forces in exchange for living a long life.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows workers to form and join trade unions, conduct legal strikes, and bargain collectively, but the government imposed numerous restrictions in law and in practice. 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 or even closely related sectors. The law requires that unions register with the government, permitting only groups of no fewer than 20 workers to organize a union by submitting a constitution, bylaws, and nonconviction certifications for each founding member. The law provides for prison sentences and heavy fines for workers who form a union and carry out union activities without registration. Such penalties are in breach of International Labor Organization (ILO) conventions. Trade unions or associations of public servants may not join a foreign occupational or labor organization without prior authorization from the minister responsible for "supervising public freedoms."

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. The law does not apply to the agricultural or other informal sectors, which included the majority of the workforce.

Legal strikes may be called only after mandatory arbitration. Workers who ignore procedures to conduct a legal strike can be dismissed or fined. Before striking, workers must seek mediation from the Ministry of Labor and Social Insurance

(MINLESI) at the local, regional, and ministerial levels. Only if mediation fails at all three levels can workers formally issue a strike notice and subsequently go on strike. 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, including police, gendarmerie, and army personnel. Instead of strikes, civil servants were required to negotiate grievances directly with the minister of the appropriate department in addition to the minister of MINLESI.

The constitution and law prohibit antiunion discrimination, and employers guilty of such discrimination were subject to fines of up to approximately one million CFA francs (\$2,000). However, employers found guilty were not required to compensate workers for discrimination or to reinstate fired workers.

Industrial free zones are subject to labor law, except for the following provisions: the employers' right to determine salaries according to productivity, the free negotiation of work contracts, and the automatic issuance of work permits for expatriate workers.

Freedom of association and the right to collective bargaining were not always respected in practice, and the government interfered with union activities. The government applied the law inconsistently, and some sections of labor law had no force or effect because the presidency had not issued implementing decrees. Government interference reportedly took various forms, including selectively recognizing certain trade unions and inconsistently applying the laws. 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. Some independent unions accused the government of creating small non-representative unions amenable to government positions and with which it could negotiate more easily. The government also bribed union leaders to call off strikes. For example, transportation union strikes scheduled for early October were allegedly called off after union leaders received personal compensation from the government. Arbitration decisions are legally binding but were often unenforceable when the parties refused to cooperate. It was not uncommon for such decisions to be overturned or simply ignored by the government or employers.

There were a couple of collective bargaining agreements signed during the year. Once agreements were negotiated, however, there was no mechanism to enforce implementation, and the government ignored some of its agreements with labor unions.

Security forces arrested union leaders. In March gendarmes of Bamenda, Mezam Division, Northwest Region, arrested and detained for several hours union leaders who conducted a legal strike at the Ayaba Hotel to demand that hotel workers be paid several months of salary arrears. The union leaders were charged with disturbing public order.

Information surfaced during the year that in November 2010 police in Yaounde dispersed a rally organized by members of the Public Sector Central Trade Union (CSP) to demand improved working conditions. Although the CSP had notified authorities in advance of the rally, the deputy prefect (who had no authority to ban demonstrations) banned the rally on the grounds that "public demonstrations of a vindictive and/or protest nature are and shall remain prohibited throughout the entire department of Mfoundi." Police subsequently arrested CSP president Jean-Marc Bikoko, CSP accountant Eric Nla'a, Maurice Angelo Phouet Foe (secretary general of the Autonomous National Education and Training Trade Union), Joseph Ze (secretary general of the Unitary National Union of Teachers and Professors—SNUIPEN), Theodore Mbassi Ondo (executive secretary of the Federation of Education Trade Unions of Cameroon), and two SNUIPEN members. Accused of holding an "illegal demonstration" and "disturbing public order," the trade unionists were brought before the public prosecutor without having an opportunity to consult a lawyer. The public prosecutor ordered their provisional release the same day, and they remained awaiting trial at year's end.

Antiunion discrimination occurred. The blacklisting of union members, unfair dismissal, creating employer-controlled unions, and threats against workers trying to unionize were common practices. The government has often created or used fake trade unions to counter strikes, especially in the transportation sector.

Information surfaced during the year that in January 2010, management at Orange Telecom suspended five workers in retaliation for a strike.

b. Prohibition of Forced or Compulsory Labor.—The constitution and law prohibit forced labor. On December 14, the president signed the Law Project Relating to the Fight Against Trafficking in Persons and Slavery, which repeals the 2005 law against child trafficking but extends its antitrafficking provisions to all persons regardless of age or gender. The new law also prohibits slavery, exploitation, and debt bondage and voids any agreement in which violence was used to obtain consent. Vio-

lations of the law are punishable by prison terms of five to 20 years and fines ranging from 10,000 CFA francs (\$20) to 10,000,000 CFA francs (\$20,000). In cases of debt bondage, penalties are doubled if the offender is also the guardian or custodian of the victim. The law also extends culpability for all crimes to accomplices and corporate entities.

There were credible reports of hereditary servitude imposed on former slaves in some chiefdoms in the North Region. Many Kirdi people, whose tribe had been enslaved to the Fulani people in years past, continued to work for traditional Fulani rulers for some compensation, while their children were free to pursue schooling and work of their choosing. Fulani often hired Kirdi at exploitive wage levels to perform tasks that the Fulani considered menial and beneath them. Kirdi were also required to pay local chiefdom taxes to the Fulani, as were all other subjects. The combination of low wages and high taxes, although legal, effectively constituted forced labor. While technically free to leave, many Kirdi remained in the hierarchical and authoritarian system because of a lack of other options.

The new law does not cover the use of prison labor, which occurred and is permitted by prison regulation. Prison authorities continued to arrange for prison inmates to be contracted out to private employers or used as communal labor for municipal public works without the informed or formal consent of the prisoner. Money generated from these activities was usually pocketed by prison administrators and not given to detainees.

In the South and East regions, some Baka, including children, continued to be subjected to unfair labor practices by Bantu farmers, who hired the Baka at exploitive wages to work on their cocoa farms during the harvest seasons.

The government made efforts to prevent and eliminate forced labor and collaborated with the regional office of Interpol. According to the Report by the Ministry of Justice on Human Rights in Cameroon in 2010, MINLESI removed approximately 1,500 children from cocoa farms and plantations. The report also noted the removal of one adult victim of forced labor in 2010. During the year authorities arrested four traffickers, two of whom were convicted, and two of whom remained in pretrial detention at year's end.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. 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. The law sets a minimum age of 14 for child employment, prohibits children from working at night or longer than eight hours a day, and enumerates tasks that children under the age of 18 cannot legally perform, including moving heavy objects, dangerous and unhealthy tasks, working in confined areas, and prostitution. Employers were required to train children between the ages of 14 and 18, and work contracts must contain a training provision for minors. These provisions of the law were not adequately enforced.

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, whose responsibilities included investigating child labor.

The use of child labor, particularly in informal sectors, remained rampant. According to ILO's 2008 survey, 51 percent of children between the ages of 10 and 14 years were engaged in work; 41 percent of children between five and 17 years old also worked.

According to 2008 government statistics on child labor, 85.2 percent of working children were employed in the agriculture sector, either on family subsistence plots or on cocoa, tea, banana, and palm oil plantations, and fisheries. In the urban informal sector, children worked as street vendors, car washers, and domestic workers. 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, which normally went to the child's family.

There were reports that some parents gave their children to "marabouts" (traditional religious figures) in Maroua in the Extreme North, to learn the Qur'an 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 sel-

dom allowed time for the children to attend school. In rural areas, many children began work at an early age on family farms. The cocoa industry also employed child laborers. These children originated, for the most part, from the three northern and the Northwest regions.

The ILO continued to work with various ministries and agencies involved in antitrafficking activities. It also conducted nationwide investigations and cooperated with local organizations.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The minimum wage in all sectors was 28,246 CFA francs (\$56) per month. 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), and household and restaurant staff (54 hours). 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.

The government sets health and safety standards. MINLESI inspectors and occupational health physicians were responsible for monitoring these standards. The National Commission on Health and Safety in the Workplace established the list of occupational diseases. The law does not provide workers with the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment.

These laws did not apply to the informal sector or to some domestic workers. The MINLESI lacked the resources for a comprehensive inspection program.

Despite the minimum wage law, employers often negotiated with workers for lower salaries, in part due to the high rate of unemployment in the country. Salaries lower than the minimum wage were prevalent in the public works sector, where many positions required unskilled labor.

During the year the minister of MINLESI traveled to help settle employer-employee disputes on violations of collective bargaining conventions, including in the naval industries and ports. On December 14, the president ratified ILO's Convention 144 on International Labor Norms and ILO's Convention 155 on Workers' Security and Health.

CAPE VERDE

EXECUTIVE SUMMARY

Cape Verde is a multiparty parliamentary democracy in which constitutional powers are shared between the newly elected (in August) head of state, President Jorge Carlos Fonseca, and Prime Minister Jose Maria Neves, who is serving a third term after his party won the parliamentary elections in February. President Fonseca was elected to a five-year term in generally free and fair elections. The Supreme Court and the National Electoral Commission also declared the 2011 nationwide legislative elections generally free and fair. There continue to be isolated instances in which elements of the security forces acted independently of civilian control.

There were reports of human rights problems in the following areas: allegations of police violence towards prisoners and detainees, lengthy pretrial detention, and violence and discrimination against women.

Other human rights issues concerned child abuse and some instances of child labor.

The government took steps to prosecute and punish officials who committed abuses. A tendency to downplay or disregard police abuses sometimes characterized the attitude of local governments.

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, but physical violence committed

against persons arrested and detained by police continued to be raised by the media. In most cases authorities took action against abusers.

Prison and Detention Center Conditions.—Conditions in prisons and jails in general met international standards, and during the year the government continued to allow visits by independent human rights observers.

Prisoners had access to potable water. There were no reported cases of food shortages or of inadequate sanitation, ventilation, temperature control, lighting, or medical care in prisons and detention centers.

During the year there were three deaths reported in prisons, all linked to health issues. There are seven prisons—the largest, Cadeia Central da Praia (CCP), is designed to hold up to 850 prisoners.

Prisons that exceeded their maximum capacity (indicated in parentheses) were the Central Prison of Sao Vicente with 311 inmates (200), the Regional Prison of Fogowith with 83 (54), and the Regional Prison of Sao Antao with 55 prisoners (36).

The Regional Prison of Sal held 16 prisoners, the Sub Regional Prison of Sao Nicolauro 12, and the Sub Regional Prison of Boa Vista five prisoners.

There were 1,226 prisoners and detainees in total registered in the seven prisons at the end of 2010. Of this number, 1,153 were men and 73 were women.

There were 323 prisoners in prisons and jails in pretrial detention (“preventive detention”): 306 men and 17 women. The prison system continues to struggle with overcrowding, especially in older prisons. To deal with this, the government sent some prisoners to the Central Prison on Santiago Island; this was done also to separate prisoners based on trial status, gender, and age.

There was no credible evidence that conditions for women prisoners were worse than those for men.

There were no prison ombudsmen. There were no steps taken to improve record-keeping.

The law allows for the suspension of prison sentences that do not exceed two years in nonviolent cases if: a judge agrees; it accompanies a program to reintroduce the offender to society; and the offender completes works “beneficial to the community.”

At CCP, prisoners were separated by gender, age, and type of crime committed, with distinction made between convicted prisoners and those awaiting trial. There were 18 disciplinary cells and two rooms for spousal visits. The facility has spaces for guards, lawyers, and educational and social reinsertion trainers. There is a classroom equipped with television, DVD player, and computers; a space for adult education; medical facilities; canteens for guards and prisoners; a library; and a space for professional training on social reintegration.

Conditions in prisons other than CCP were inadequate for inmates with mental illness and substance addictions. The number of corrections personnel to deal with the growing number of such prisoners was insufficient.

Prisoners and detainees had access to visitors, and authorities allowed freedom of religious practice. There were no reports of impediments to the direct submission of complaints to judicial authorities concerning prison abuses. Prisoners’ relatives reported some complaints; corrections officials claimed all had been investigated and disproven.

The government permitted formal visits by international human rights monitors to the prisons and to individual prisoners. Local nongovernmental organizations (NGOs) and members of the press made frequent visits to prisons to record conditions.

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

Role of the Police and Security Apparatus.—The Public Order Police are under the control of the Ministry of Internal Administration and are responsible for law enforcement. The Judicial Police are under the control of the Ministry of Justice and are responsible for major investigations. Logistical constraints—including lack of vehicles, limited communications equipment, and poor forensic capacity—continued to limit police effectiveness.

Police abuses were investigated, and some cases resulted in legal action against those responsible. In 2010, the National Police Council received 11 reports of police violence. Most of these concerned physical abuse; there were also two cases of kidnapping. The proposed punishments included suspension, dismissal, and rebuke. In the 11 cases, only one suspension was confirmed; the remaining cases were pending resolution.

During the year, the National Police Council received eight reports of police violence; most cases concerned physical abuse. Three police officers were dismissed in accordance with the findings of the Disciplinary Board of National Police.

The government provided professional training to increase police effectiveness. In late 2011, the National Police conducted a training course on conflict mediation, attended by 50 police personnel.

The government took steps to address police impunity, which historically has been a problem. However, the internal justice system of the National Police continued to move quite slowly. The majority of cases reported during the year were still under investigation.

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 the detention, and the authorities respected this right in practice.

Attorneys inform detainees of the charges against them. There is a functioning bail system. Authorities allowed detainees prompt access to family members and to a lawyer of the detainee's choice and, if the detainee or family is unable to pay, to have one appointed by the government.

The judicial system was overburdened and understaffed, and criminal cases frequently ended when charges were dropped before a determination of guilt or innocence was made.

Excessive length of pretrial detention remained a problem.

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.

In addition to civil courts, there is also a military court; it cannot try civilians. The military court provides the same protections as civil criminal courts.

Trial Procedures.—Defendants enjoy a presumption of innocence. 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 impoverished. Defendants have the right to confront or question witnesses against them and have the right to present witnesses and evidence in their defense. Defendants and their attorneys have access to government-held evidence relevant to their cases and can appeal regional court decisions to the Supreme Court of Justice (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.—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.

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.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press, and the government generally respected these rights in practice. The independent press was active and expressed a variety of views without direct restriction. Specific legislation provides for radio, television, written press, and other media freedom.

Freedom of Press.—There were three newspapers that tended to reflect different political parties' views, and one public and two private television channels.

In July, during the presidential elections, the weekly program *Visao Global* (Global Vision)—the only political debate program in the country—was suspended after alleged actions by the commentators that violated electoral law. Article 105 of the electoral law prohibits media organizations from making any kind of pronouncements, favorable or unfavorable, about stakeholders in the electoral process after a certain date of a campaign.

Internet Freedom.—There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Citizens in the cities had regular access to the Internet at abundant 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 freedoms of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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 in practice. The government cooperated with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Protection of Refugees.—Access to Asylum: The law allows for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. 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.

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.—Recent Elections: In the 2011 legislative elections, individuals and parties were free to declare their candidates. The ruling African Party for the Independence of Cape Verde (PAICV) won 38 seats in the National Assembly with approximately 52 percent of the vote; the main opposition party, Movement for Democracy (MpD), won 32 seats with 42 percent; and the Union for a Democratic and Independent Cape Verde won the remaining two seats with 4 percent. International observers characterized these elections as generally free and fair.

The presidential election also was held in 2011.

Economic Community of West African States and African Union election observers characterized these elections as free, transparent, and credible. However, they noted some irregularities, including cases of pressuring voters near polling stations and also of vote buying.

Jorge Carlos Fonseca, the candidate supported by the opposition MpD, won the election with approximately 54 percent of the vote, while Manuel Inocencio Sousa, the candidate supported by the PAICV, received 46 percent of votes.

Political Parties.—Political parties acted without restriction or external interference. Individuals could declare their candidacies and parties could select their candidates without interference.

Participation of Women and Minorities.—Of the 72 National Assembly seats, women held 19, and there were eight women working in cabinet-level positions in government ministries out of 21 such positions. Women filled three of eight seats on the SCJ.

Section 4. Official Corruption and Government Transparency

The law provides penalties of up to 15 years' imprisonment for corruption by government officials. There were no new reports of government corruption during the year.

The law provides for freedom of access to governmental information without restriction, provided that privacy rights are respected. In practice, the government 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.

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. The constitution stipulates that the govern-

ment should create conditions for the gradual removal of all obstacles to the full exercise of human rights and equality before the law.

The law also prohibits racism, xenophobia, and other forms of discrimination.

However, violence and discrimination against women and children remained significant problems.

Women.—Rape and Domestic Violence: Rape is a crime with a penalty of from eight to 16 years in prison. Until 2010, domestic violence was framed in the Criminal Code as a crime of abuse of a spouse, applying only in situations of common law and formal marriages, with penalties of from two to 13 years in prison.

A “Special Law Project on Gender Based Violence” became law in March. This law was prepared jointly by the Cape Verdean Institute of Gender Equality, a government agency, with the support of the Women Parliamentarians and diplomatic representatives. The new law calls for a network of civil society organizations called “Rede Sol,” made up of NGOs, the National Police, health centers, hospitals, and community law centers.

Rede Sol is present in five municipalities and covers five islands: Santiago, Sao Vicente, Sal, Fogo, and Santo Antao. The new law focuses on three objectives: increasing protection of victims, strengthening penalties for offenders, and raising awareness about gender-based violence. In 2010, there were an estimated 3,203 reports of gender-based violence made to Rede Sol, compared with 1,703 complaints in 2009. In 2010, the government and civil society organizations in the Rede Sol network reinforced the network with several training programs for professionals who worked directly with these issues.

Sexual Harassment.—Various laws in the criminal code criminalize sexual harassment. Penalties include up to one year in prison and a fine of up to two years’ salary.

Reproductive Rights.—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 freely to the public.

These centers provide skilled assistance and counseling both before and after childbirth and in cases of sexually transmitted infections, including HIV. Prenatal services include ultrasound screening, tetanus vaccines, and blood tests, including HIV screening. Postnatal services include family planning and free oral/injection contraceptives.

The reported incidence of maternal mortality was 53.7 per 100,000 live births, according to the 2009 Ministry of Health Statistical Report. Women were equally diagnosed and treated for sexually transmitted diseases.

Discrimination.—The law provides equal rights to men and women. However, society imposes cultural obstacles and gender stereotypes that hinder the eradication of gender-based discrimination. Women generally have lower economic status and less access to management positions in public and private sector organizations.

Children.—Birth Registration: Citizenship can be derived by birth within the country or from one’s parents. The government has created a network of services, such as notary and civil identification records, offices in all municipalities, and the Birth Registration Project, which is implemented in hospitals and health centers to report births. Failure to register births did not result in denial of public services. However, nonregistration of births remained a problem, attributed by the government to uncertainty as to the identity of fathers, parental neglect, and a lack of information on registration in the poorest communities. In 2010, 12,373 children were registered. However, the 2010 census indicated approximately 5,117 other children had not been registered.

Education.—The government provided tuition-free and universal education for all children between the ages of six and 12 years. Education remained compulsory until the age of 11. Secondary education was free only to children whose families had an annual income below 147,000 escudos (\$1,871).

Child Abuse.—Child abuse including sexual abuse and violence against children remained problems. Local governments have tried to combat these practices through a national network that includes the Cape Verdean Institute of Child and Adolescent (ICCA), various police forces, the attorney general, hospitals, and health centers. Pedophilia is prohibited by law.

The government attempted to reduce sexual abuse and violence against children through several programs such as Disque Denuncia, the Children’s Emergency Program, the project Nos Kaza, Centros de Acolhimento de Crianças de / na Rua,

Project Espaco Seguro, Project Familia Substituta, and the creation during the year of five ICCA offices.

Children continued to work in fishing, agriculture, street vending, car washing, and garbage collection, among other areas.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There is no Jewish community in Cape Verde, and there were no reported anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or in the provision of other state services. The government effectively enforced these provisions.

Persons with disabilities still faced daily obstacles that hindered their integration. Physical accessibility, communication means, and public transport appropriate for persons with disabilities often were lacking.

There were no reported cases in 2011 of abuse towards people with intellectual disabilities or mental health problems in prisons or psychiatric hospitals. Lack of physical accessibility in prisons for handicapped persons and prison facilities designed for the mentally ill were problems.

The government did not restrict the right of persons with disabilities to vote or participate in civil affairs and public life.

The government has created a quota system for the granting of scholarships and tax benefits to companies who employ individuals with disabilities. NGOs recognized these measures as partially effective in better integrating these citizens in society but also noted nonenforcement and inadequate regulation continued to be obstacles.

Several NGOs worked to protect the interests of the disabled. In February, the government adopted a Law of Mobility that sets technical standards for accessibility for persons with disabilities to a variety of public facilities and services.

The Ministry of Youth, Employment, and Human Resources (MERHJ) is the government organization responsible for protecting the rights of people with disabilities. The National Council on the Status of Disabled Persons works in partnership with the MERHJ as a consultative body responsible for proposing, coordinating, and monitoring the implementation of a national policy.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—No laws explicitly provide a basis for discrimination based on sexual orientation or gender identity.

There were no lesbian, gay, bisexual, or transgender organizations.

Other Societal Violence or Discrimination.—During the year there were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows workers to form or join unions of their choice without previous authorization or excessive requirements. The law protects the right to engage in collective bargaining and to conduct legal strikes. The law allows unions to carry out their activities without interference, and the government protected this right. The labor code provides for the protection of the freedom of association and the reinstatement of workers.

All workers except for agricultural and road construction workers (FAIMO) are covered by these legal protections. However, observers noted that workers in the informal sector, fishing, construction, and domestic work did not in practice enjoy many of these protections. No studies or hard data on the topic were available.

Although government enforcement is effective, cases can continue for years and can be appealed with the passage of more years before resolution.

Freedom of association and the right to collective bargaining were respected in practice.

Worker organizations were independent of the government and political parties. There were no reports of violence, threats, or other abuses during the year by the government against union members or leaders.

Labor unions complained the government unduly restricted the right to strike for certain critical job categories. A "Civil Need" law states the government can force the end of a strike when there is an emergency, or "to ensure the smooth operation of businesses or essential services of public interest." However, the government refrained from using this authority when dealing with a potentially crippling customs strike late in the year. The government has used this authority in the past, with

prison guards and air traffic controllers. The air traffic controllers claimed the government's use was an abuse of authority since it was put in place before they started to strike. Observers stated the government cooperates with the unions and does not discriminate against certain job categories.

According to labor unions, workers in some sectors, such as farmers and FAIMO road construction workers, may remain unprotected by domestic regulations. FAIMO was a government program developed in the 1980s and 1990s to provide employment in rural areas through road construction projects. These workers are not explicitly limited in their rights under domestic labor law, but according to labor unions, the workers may not receive all the benefits they are entitled to receive.

There was no reported evidence of anti-union discrimination.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, including by children. The government effectively enforced such laws. There were no reports that such practices occurred during the year.

c. Prohibition of Child Labor and Minimum Age for Employment.—The legal minimum age for work is 15 years, and the minimum age for hazardous work is 18. According to the labor code, children ages 15 to 18 are not allowed to work more than 38 hours a week or more than seven hours a day. Children under 15, according to the constitution, can work only in agriculture; as part of an apprenticeship or training program; or to help support the family. Children 16 to 18 are allowed to work overtime in an emergency. However, in these cases the children cannot work more than two hours a day, and these extra hours cannot exceed 30 hours a year.

Several laws prohibit child labor, but enforcement was not consistent.

The ICCA, Directorate General of Labor (DGT), and the Labor Inspectorate (IGT) worked on matters pertaining to child labor. ICCA works on the promotion and defense of the rights of children and adolescents. DGT creates labor market policy and drafts labor legislation to ensure the promotion of social dialogue and reconciliation between social partners. IGT has the responsibility to monitor and enforce labor laws and enforces rules relating to labor relations.

Those agencies stated the resources provided were adequate, and they carried out 1,447 inspections.

Barriers, mostly cultural, remained to the effective implementation of these laws. For example, not all citizens see children working to help support their families as a negative thing, especially in small, remote communities.

The government (through the DGT, IGT, and ICCA) began to lead training activities for local staff to combat child labor, particularly in its worst forms, and began consultations with local businesses.

There is no official data on child labor. Child labor occurred mainly in the informal sector. Children engaged in street work, including in water and food sales, car washing, and begging.

The worst forms of child labor included street work; domestic service; agriculture, fishing, and animal husbandry; trash picking and garbage and human waste transport; and peddling drugs for adults.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The law does not stipulate a minimum wage. The government defines the poverty income level as 105 escudos (\$1.25) a day. The law stipulates a maximum of eight hours per day and 44 hours work per week. The law requires rest periods, the length depending on sector, and that the minimum rest period be 12 hours between workdays. The law also provides for daily and annual overtime hours granted in exceptional circumstances. The law states that a worker is entitled to 22 days of paid vacation.

Overtime must be compensated with at least time and a half. Work done on holidays must be compensated with double pay.

In general, it is the responsibility of the employer to ensure the workplace is healthy and hygienic. The employer must also develop a training program for workers. In specific high-risk sectors, such as fishing or construction, the government, in consultation with the unions and employers, can provide specific health and safety rules.

Although the labor code covers employees in the formal and informal sectors, agricultural workers and FAIMO employees are not covered by labor laws.

The DGT and IGT are charged with implementing labor laws. There were eight technicians working for DGT and 14 technicians working for IGT, covering three islands (Santiago, Sao Vicente, and Sal). Both agencies agreed with trade unions that these numbers were inadequate, and there was a need for tighter enforcement of

labor standards, especially on many islands where difficulty of travel limited monitoring.

Although companies tended to respect laws on working hours, many employees such as domestic workers, health professionals, farmers, fishermen, and commercial workers commonly worked for longer periods of time than the law allows.

Some sources stated it was “likely” foreign migrant workers were more often exploited than others.

There was no official data on the number of work place deaths and accidents during the year.

CENTRAL AFRICAN REPUBLIC

EXECUTIVE SUMMARY

Central African Republic (CAR) is a constitutional republic 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. In January citizens reelected Bozize president in what was considered by national and international observers to be a flawed election. There were instances in which elements of the security forces acted independently of civilian control.

Incidents of serious human rights abuse occurred during the year; the most significant reportedly were torture, beatings, and rape of suspects and prisoners; harsh and rudimentary conditions in prisons and detention centers; and arbitrary arrest and detention.

Other human rights problems included prolonged pretrial detention, denial of fair trial, occasional intimidation of the press, restrictions on freedom of movement and assembly, and limited ability of citizens to change their government. Sporadic fighting between armed groups continued to displace people internally and externally, although the net number decreased from the prior year. Regional conflict modestly increased the number of refugees in CAR. Corruption was widespread. Mob violence resulted in deaths and injuries. Societal discrimination and violence against women, including female genital mutilation, occurred. Violence and discrimination against Pygmies and persons alleged to be witches or sorcerers; trafficking in persons; and forced labor and child labor, including forced child labor, also were problems.

Civilians were often killed, abducted, raped, or displaced from their homes as a result of internal conflicts. Some armed groups included children among their ranks.

The government took some steps to punish officials who committed abuses; however, most official abuses were committed with impunity.

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

a. Arbitrary or Unlawful Deprivation of Life.—1There were no reports that the government or its agents killed members of opposing political groups, but soldiers, particularly members of the presidential guard, killed civilians they suspected of being bandits or supporting armed groups. Both government security forces and armed groups killed civilians in the course of conflict in the northeast (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 presidential guard personnel for extrajudicial killings (see section 1.g.).

Security forces continued to commit extrajudicial killings (see section 1.g.). For example, on January 14, Lieutenant Elan Yapelogo, a member of the presidential guard, killed 18-year-old Marcial Gondje in Bangui. Gondje, who was collecting termites with other youths in his neighborhood, was accused by a neighbor of attempting to break into his bar. The neighbor alerted Yapelogo, who shot and killed Gondje. Yapelogo was detained for three weeks at presidential guard headquarters but subsequently resumed his position in the force after moving his family to another area of Bangui.

On June 19, members of the FACA fourth infantry battalion in Bouar killed a man by beating him with an iron bar and killed two others when firing shots to disperse the ensuing demonstration by local residents. The army chief of staff was dispatched to the region to calm tensions and promised the perpetrators would be prosecuted. However, by year's end there were no further developments.

There were no reports of politically motivated killings by opposition groups, political parties or guerilla/rebel/insurgent/terrorist groups. However, civilians were sometimes killed as a result of indiscriminate violence resulting from internal conflicts (see section 1.g.).

Civilians reportedly continued to kill persons suspected of being sorcerers or witches (see section 6).

A member of the presidential guard who had killed a 13-year-old boy in November 2010 in Bangui was released several months after the crime and returned to his position.

There were no further developments in the following 2010 killings: the May killing of two Mbororo men and the October killing of a suspected thief in Bozoum.

b. Disappearance.—1In June the Popular Front for Reconstruction (FPR), a rebel group based in the north, abducted 18 members of the nonstate armed entity, the People's Army for the Restoration of Democracy (APRD), and held them until their release was negotiated through the intervention of government mediators and international organizations.

The Lord's Resistance Army (LRA) continued to abduct men, women, and children in the southeast.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—1Although the law and the constitution prohibit torture and specify punishment for those found guilty of physical abuse, police and other security services continued to torture, beat, and otherwise abuse criminal suspects, detainees, and prisoners, according to local human rights groups such as the Central African Association Against Torture (ACAT) and the Central African Human Rights League (LCDH).

The government did not punish police who reportedly tortured suspects, and impunity remained a serious problem. Family members of victims and human rights groups, including the Central African Monitoring Group on Human Rights (OCDH), filed complaints with the courts, but authorities took no action. Members of security forces raped, robbed, and abused civilians in both conflict and nonconflict areas. Human rights lawyers reported that victims of abuse by authorities were often pressured by relatives not to pursue their cases due to fear of reprisal.

According to ACAT torture and beating of detainees occurred frequently in detention centers run by the Research and Investigation Division (SRI), under the minister of defense, and the Central Office for the Repression of Banditry (OCRB), under the director general of police. ACAT reported police employed several forms of torture, including "le cafe," which entails repeated beating of the soles of the 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, continued beating the individual.

Civilians continued to suffer mistreatment in territories controlled by nonstate armed entities (see section 1.g.).

On August 2, a worker in a Bangui supermarket was accused of theft by his employer. Elements of the OCRB were called to investigate and reportedly stripped and beat the accused worker, breaking his arm. No action was taken against the alleged perpetrators, and supermarket management eventually paid financial restitution to the victim.

Members of security forces reportedly raped civilians. Sexual assaults, although frequent, rarely were reported to authorities. Security personnel rarely were punished.

On August 24, Michel Agazounede, an officer assigned to the OCRB, reportedly raped at gunpoint a 14-year-old girl who was in detention. The OCRB director ordered the arrest of the officer, who was subsequently convicted and incarcerated at Ngaragba Prison.

Abuse of those accused of witchcraft was commonplace (see section 6).

Prison and Detention Center Conditions.—1Prison conditions were rudimentary, harsh, and substantially below international standards. Prison conditions outside Bangui generally were 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. Most prisons lacked basic sanitation and ventilation, electric lighting, basic and emergency medical care, and sufficient access to potable water.

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 international observers and prison officials, prison detainees outside Bangui received a meal only every two to three days 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 occasional deaths in prison due to adverse conditions and negligence, including lack of medical treatment for those afflicted by tuberculosis. Two deaths were reported during the year by prison authorities; however, many detainees were medically released to hospitals if illnesses become life threatening or grave.

As of November there were 845 prisoners, of whom 69 were female. Poor record-keeping and incomplete access for observers prevented an accurate count of the prison population. 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, and pretrial detainees were not held separately from convicted prisoners.

In some cases prisoners deemed a security threat were detained for extended periods without trial at Camp de Roux, a military facility in Bangui not designed as a prison. Access to visitors at Camp de Roux was substantially more difficult than access to the general prison population.

In most cases prisoners and detainees had reasonable access to visitors and were permitted religious observance. The Attorney General's Office granted visitation privileges, but those wishing to visit prisoners often had to bribe prison guards and officials.

There was no ombudsman system in the country.

According to several human rights lawyers, while prison detainees have the right to submit complaints in the case of mistreatment, it was generally the detainees' lawyers, if a detainee had one, who alerted judicial authorities to the mistreatment of their clients. Victims of mistreatment hesitated to lodge formal complaints due to fear of reprisal from prison officials.

Authorities rarely initiated investigations of abuses in the prison system.

Prison recordkeeping was inadequate and largely nonexistent. Authorities took no steps to improve recordkeeping but were responsive to requests for data. In some cases juvenile or nonviolent offenders were released following trial rather than being incarcerated. Conditions for women prisoners in Bimbo Central Prison were deemed by a U.N. team to be substantially better than those in other prisons and in conformance with international standards.

Prison administrators submitted reports describing the poor detention conditions, but these reports did not result in any action.

Pretrial detainees were not held separately from convicted prisoners. As of November there were 366 pretrial detainees in Ngaragba Prison and 18 in Bimbo Central Prison. In some cases pretrial detainees were kept for short periods to ensure their personal security against mob violence, but in others detainees had been held without trial for years.

There were two prisons in Bangui, Ngaragba Prison for men and Bimbo Central Prison for women. Inmates with infectious diseases were not segregated from other inmates but often were medically released to a hospital if illnesses were severe. A nurse was available at the two 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. Families were allowed to bring food. Inmates slept on the floor or on thin matting provided by families or charities. Authorities at Ngaragba Prison permitted detainees' families to make weekly visits. As of November Bimbo Central Prison held 30 female inmates. Several had been detained for months and had not appeared before a judge; few had lawyers.

Overcrowding was reportedly not a problem, and children younger than five years old were allowed to stay with their mothers at the prison.

As of November there were 517 inmates in Ngaragba Prison. Several were detainees who had been held for months without appearing before a judge. Twelve prisoners were detained on accusations of sorcery and five others had been convicted of the crime. The more crowded cells each held approximately 30 to 40 inmates. Prisoners 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.

There were no further developments in the 2010 attempted rape of a female prisoner by a prison guard in Bimbo Central Prison and the sexual assault of another prisoner by a military guard in Boda Prison.

Conditions in detention centers were worse than those in prisons. 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 de-

pend on family, friends, religious groups, and nongovernmental organizations (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 200-300 CFA francs (approximately \$0.40-\$0.60) 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 jails and temporary 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. Arrestees without birth documentation were often treated as adults if they were not clearly minors. One U.N. inspection team in Bouar was approached by detainees who claimed to be as young as 14 years old.

According to a June report by the U.N. Secretary-General to the U.N. Security Council, escapes by detainees, including incarcerated members of the armed forces, had become prevalent, critically affecting the fight against impunity. In many prisons cells had no doors and detainees had little oversight.

The government on occasion restricted prison visits by human rights observers. Although international observers were not entirely denied visits, the government sometimes 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. During the year the Ministries of Justice, Public Security, and Defense signed a joint agreement with the ICRC to allow routine access to prisons throughout the country.

Authorities granted the Human Rights Unit of the U.N.'s Integrated Office in the Central African Republic (BINUCA) and humanitarian NGOs limited access to prisoners and detainees, although bureaucratic requirements for visits and delays significantly restricted the frequency of access during the year.

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 problems.

On April 10, elements of the presidential guard searched the home of Minister of Water and Forests Emmanuel Bizot and arrested and detained him at the SRI on suspicion of harboring weapons and plotting a coup. The minister was ordered released the same day by President Bozize.

On September 16, environmental researcher Jan Cappelle and five other NGO workers were arrested en route to a sanctioned environmental survey in the uranium mining area of Bakouma. They were returned to Bangui and detained for five days until being expelled from the country.

In September four supporters of legislative candidate Desire Kolingba were arrested while protesting the results of the country's third round of elections. The group was subsequently charged with two counts of endangering public safety and sentenced to three years in prison.

The 11 persons arrested in July 2010 during the burning of the Rayan supermarket in Bangui remained in custody without a trial date at year's end.

Role of the Police and Security Apparatus.—1The Ministry of Immigration/Emigration 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, national gendarmerie, and SRI. The police and military forces share responsibility for internal security.

Police were ineffective; they 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.

During a visit to the country in February 2010, U.N. High Commissioner for Human Rights Navi Pillay identified impunity for human rights abuses as one of the most daunting challenges facing the country. "Summary executions, enforced disappearances, illegal arrests, and detention are all issues that have surfaced in connection with state security and defense institutions," she said, "and strenuous efforts need to be made to put an end to these extremely serious abuses of power."

Mechanisms existed for redress of 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. Impunity remained a severe problem. Although the public prosecutor had 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.

The Permanent Military Tribunal, which adjudicates crimes committed by military personnel, met in October and reviewed 36 cases. The tribunal normally holds two sessions per year.

In cooperation with the government, BINUCA continued to collect complaints of human rights abuses committed by members of the security forces, including FACA soldiers, and nonstate actors. It continued to investigate abuses and share information with the public prosecutor to facilitate the fight against impunity. In addition BINUCA provided more than 788 members of the security forces, including police officers and gendarmes, with international humanitarian law and human rights training.

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 northwest. The operations were conducted by several hundred regional armed forces peacekeepers from the Multinational Force in Central Africa (FOMAC) based in Bangui, Kaga Bandoro, Ndele, and Paoua.

In some cases security forces failed to prevent or respond to societal violence. For example, in June Bangui was plagued by weeks of riots resulting in the deaths of at least 11 mostly Muslim residents who were attacked by the local population in retaliation for the alleged murder of two children by a Muslim man. Security forces intervened but were at times unable to prevent significant damage to property and loss of life.

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 72 hours. This period is renewable once, for a total of 144 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 and SRI detention centers, detainees were held for more than three days and often for weeks before authorities brought their cases before a magistrate.

The law allows all detainees, including those held on national security grounds, to have access to their families and legal counsel. Indigent detainees may request a lawyer provided by the government for criminal cases, 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 indefinitely and were often held at locations separate from other prisoners.

In August a foreign citizen was arrested on drug charges and detained at Camp de Roux. The prisoner was held for months without charges or trial, and all visitor access was prohibited without authorization from the minister of justice, which was not granted. The detainee's attorney was also denied access. At year's end the prisoner remained in detention without charges.

Under the 2009 revised penal and criminal procedure codes, detainees have the right to an attorney immediately after arrest, but this right was not routinely extended.

Arbitrary Arrest.—According to BINUCA arbitrary arrest was a serious problem and was the most common human rights abuse committed by security forces during the year.

Authorities continued to arrest individuals, particularly women, and charge 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 November prison authorities stated that six of the 30 women in Bimbo Central Prison were incarcerated for purported witchcraft. In Ngaragba Prison there were 17 detainees held on witchcraft-related charges.

Pretrial Detention: Prolonged pretrial detention was a serious problem. For example, in November pretrial detainees constituted approximately 70 percent of Ngaragba Prison's population and an estimated 60 percent of Bimbo Central Prison's population. Detainees usually were informed of the charges against them; how-

ever, 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.—1The constitution provides for an independent judiciary; however, the judiciary remained subject to the influence of the executive branch, and, despite government efforts to improve its capacity, the judiciary was unable to fulfill its responsibilities.

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. There were approximately 124 magistrates working in the country's legal system. Many citizens 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 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 U.N. agencies and the EU.

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.—1According to the penal code, defendants are presumed innocent until proven guilty. Trials are public, and defendants have the right to be present and consult a public defender. Criminal trials use juries. 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, present witnesses and evidence on their own behalf, and have access to government-held evidence. Defendants have the right to appeal. The law extends these rights to any citizen, including women. 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.

Authorities occasionally tried cases of purported witchcraft in the regular courts. Alleged witchcraft is punishable by execution, although the state imposed no death sentences during the year. Most individuals convicted of witchcraft received sentences of one to five years in prison; they could also be fined up to 815,000 CFA francs (\$1,610). Police and gendarmes conducted investigations into alleged witchcraft. During a typical witchcraft trial, authorities called practitioners of traditional medicine to give their opinion of a suspect's ties to sorcery, and neighbors occasionally served as witnesses. The law does not define the elements of witchcraft, and the determination lies solely with the magistrate.

Political Prisoners and Detainees.—1There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies.—1The 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.—1The 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.

Government authorities routinely discriminated on the basis of ethnicity or political affiliation in recruitment of personnel for the armed forces or distribution of scholarship funds to public university students.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Although government forces and armed groups maintained a cease-fire for much of the year, civil-

ians often were killed, abducted, displaced from their homes, or generally restricted in their movements as a result of ongoing internal conflicts.

In September the Convention of Patriots for Justice and Peace (CPJP) and Union of Democratic Forces for Unity (UFDR) engaged in armed conflict, primarily in the town of Bria, which resulted in 50 deaths, the destruction of more than 700 homes, and displacement of approximately 4,500 people. Both groups were complicit in the killing and burning of homes.

In addition, attacks on civilians by the LRA prolonged the humanitarian crisis in the southeast, contributing to the continued presence of internally displaced persons in LRA-affected areas.

Killings.—In March elements of the CPJP attacked an ethnic Goula village in Bamingi-Bangoran Province, killing eight and burning approximately 150 homes. More than 500 civilians were displaced to the nearby town of Ndele.

The LRA continued to commit numerous killings of civilians. In June suspected LRA combatants stopped a vehicle driven by the chief medical officer of Haut Mbomou Province and killed him and his driver while they were distributing polio vaccine to towns and villages in the southwest.

There were no further developments or actions taken in any of the 2010 conflict-related killings by FACA or nonstate armed entities.

Abductions.—On May 3, a humanitarian convoy organized by International Medical Corps, heading to Ndifa village in Vakaga Prefecture, was stopped by suspected members of the UFDR. They hijacked the vehicle and five occupants and drove them around for most of the day. At dusk the hijackers released the passengers 14 miles from the nearest village and drove away with the vehicle, a satellite phone, and approximately 150,000 CFA francs (\$295) in cash.

The LRA continued to commit numerous abductions throughout the southeast. For example, in June suspected LRA combatants abducted 13 civilians, including three children, near Zemio. Twelve of these abductees were later released.

Physical Abuse, Punishment, and Torture.—Government forces and armed groups mistreated civilians, including reportedly through torture, beatings, and rape, in the course of the conflicts.

In December approximately 10 soldiers of the presidential guard and Teddy Bozize, a son of President Bozize, brought two men to a cemetery where they robbed and severely beat them. No action had been taken as of year's end.

Abdoulaye Amat, a presidential guard member who cut off the ear of Price Telo in June 2010, remained free at year's end.

In April near Kaga Bandoro, the APRD arrested and reportedly tortured a man for allegedly practicing witchcraft. APRD members tied the man to a tree, beat him and cut off two of his toes to force a confession. After confessing, the man escaped, and the APRD responded by arresting his mother and reportedly torturing her. No further information was available at year's end.

In May near Kaga Bandoro the APRD arrested a man for alleged shape shifting, a form of witchcraft. When he managed to flee, the APRD arrested his mother, stripped her naked, beat her, and forced her to pay a fine of 100,000 CFA francs (\$200) before releasing her.

International and domestic observers reported that state security forces and members of nonstate armed entities, including Chadian soldiers and bandits, continued to attack cattle herders, primarily members of the Mbororo ethnic group. Many observers believed Mbororo were targeted primarily because of their perceived foreign origins, relative wealth, and the vulnerability of cattle to theft. One U.N. agency reported that, according to its NGO partners in the affected region, Mbororo cattle herders were also disproportionately subjected to kidnapping for ransom. A U.N. agency working in the area indicated the perpetrators often kidnapped women and children and held them for ransoms of between one million and two million CFA francs (\$1,975-\$3,950). Victims whose families did not pay were sometimes killed. Nonstate armed entities in the country continued to conduct frequent attacks on the Mbororo 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 nonstate armed entities to terrorize the population in the northern provinces, especially in the CPJP's zones of operation. Given the social stigma attached to rape, any report would likely underestimate the incidence of rape in the conflict zones. Several NGOs and U.N. agencies conducted gender-based violence awareness and treatment campaigns in northern provinces and Bangui.

During the year there were reports by humanitarian organizations of civilians being raped by members of the FPR in the Kaga Bandoro area. Rapes rarely were

reported or documented due to the sensitivity of the issue within the community and fear of retaliation.

Child Soldiers.—According to numerous human rights observers, some armed groups included soldiers as young as 12. They noted the UFDR and APRD stopped recruiting child soldiers as a result of disarmament, demobilization, and reinsertion activities, but in some remote areas, children were still used as lookouts and porters. In December the CPJP signed an Action Plan on Child Soldiers in the presence of U.N. Special Representative for Children and Armed Conflict Radhika Coomaraswamy in which it committed to the demobilization of child soldiers in its ranks. UNICEF and others noted that, while the child soldiers were willing to demobilize and were anxious to attend school, their home communities lacked the most basic infrastructure.

Several NGO observers reported that self-defense committees, established by towns to combat armed groups and bandits in areas where the FACA or gendarmes were not present or were incapable of providing effective security, used children as combatants, lookouts, and porters. UNICEF estimated that children constituted one third of the self-defense committees' personnel.

The LRA continued to kidnap children and force them to fight, act as porters, or function as sex slaves. Through October the LRA had killed 82 persons and abducted 360 in the country.

Displaced children were forced to work as porters, carrying stolen goods for groups of bandits.

See Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Other Conflict-related Abuses.—In numerous cases international NGOs were victims of carjackings and thefts in the Bamingui-Bangoran and Vakaga regions despite the presence of FACA and FOMAC forces.

FOMAC peacekeepers and government forces conducted joint security operations 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 internally displaced persons (IDPs) in the north.

In the northwest members of government security forces, including the FACA and presidential guard, continued to garrison in the larger towns and occasionally engaged in combat with armed groups and bandits. While the cease-fire between government forces and armed groups allowed some displaced persons to return home, approximately 350,000 persons remained displaced in the bush or in refugee camps near the Chadian or Cameroonian borders.

Internal movement was severely impeded, particularly in northern and northwestern 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 armed groups, attacks on civilians by armed groups, armed banditry, and occasional abuse by government soldiers kept many IDPs from their homes. The Office of the U.N. High Commissioner for Refugees (UNHCR) estimated the number of IDPs during the year was approximately 170,000.

The overwhelming majority of IDPs were in the northwestern provinces of Ouham and Ouham Pende, where civilians remained displaced from their villages due to fear and lived in the bush for much of the year, returning occasionally to their fields to plant or scavenge. NGOs and U.N. agencies observed civilians returning in the northwest provinces; however, violence in Haute-Kotto during the year created newly displaced populations. Thousands of individuals remained homeless due to fighting in the north-central provinces of Haute-Kotto and Bamingui-Bangoran, and due to instability in the northeastern province of Vakaga, where there was ongoing fighting from an ethnic conflict between the Goula, Kara, and Rounga 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 were hampered by frequently changing security situations and sporadic fighting.

The number of IDPs in Kabo doubled from 3,000 to 6,000 as the result of clashes between APRD and Chadian groups in March.

In the north and northeast, the increasingly interethnic conflict between the UFDR and the CPJP resulted in the burning of several villages and the displacement of civilians.

The government did not attack or target IDPs, although some IDPs were caught in the fighting between armed groups. The government provided little humanitarian assistance, but it allowed U.N. agencies and NGOs access to these groups to provide relief.

Refugees continued to flee the country during the year (see section 2.d.).

There were credible reports that the following armed groups perpetrated serious human rights abuses in the Central African Republic during the year: APRD, CPJP, FPR, LRA, and UFDR.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—Although the constitution and law provide for freedom of speech and press, authorities occasionally arrested journalists critical of the government.

Freedom of Speech.—While individuals enjoy the right to free speech, in some cases this right was impeded by the government. During the year the government sometimes prevented opposition groups from meeting by refusing permits for gatherings or by failing to secure public order in meeting places.

Freedom of Press.—Throughout the year a number of newspapers routinely criticized the president, the government's economic policies, and official corruption without reprisal. 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.

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, privately owned Radio Ndeke Luka continued to provide independent broadcasts, including national and international news and political commentary. 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 granted a license to Voice of America, which commenced broadcasting 24-hour programming.

The government continued to monopolize domestic television broadcasting (although this was available only in the capital and for limited hours), and television news coverage generally supported government positions.

The High Council for Communications, 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 officials 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.

There were also reports of government ministers and other senior officials threatening journalists who were critical of the government. However, according to the Central African Journalists' Union, arrests by the government were rare.

Violence and Harassment.—In May two newspaper journalists, Cyrus Sandy and Faustin Bambou, were arrested and imprisoned following a series of editorials that accused Deputy Minister of Defense and presidential son Francis Bozize of misappropriating funds intended for the pensions of military retirees. Authorities claimed the editorials had sparked a number of protests by military retirees and charged Sandy and Bambou with the criminal offense of inciting hatred and violence. After nearly two months in prison and following protests by both diplomats and humanitarian organizations, the two were convicted by a court of a lesser civil offense of defamation and were released with an order to each pay a fine of 300,000 CFA francs (\$590).

Security forces often harassed and threatened journalists. For example, in August 2010 unidentified armed men in military uniforms attacked Television Centrafrique camerawoman Virginie Mokonzi. The assailants reportedly beat, robbed, and raped her in front of her children and husband. The Journalist's Union organized a march to protest the attack and delivered a memorandum to the prime minister. By year's end there were no reports of arrests.

Censorship or Content Restrictions.—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 (\$200 to \$15,800).

The law provides for imprisonment and fines of as much as one million CFA francs (\$1,975) 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.”

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

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.—1The constitution provides for the right of assembly; however, the government restricted this right on a few occasions and prevented political opposition groups from conducting meetings. Any association intending to hold a political meeting was required to obtain the Ministry of Interior’s approval; however, some meetings were disrupted or prevented despite having this approval.

In August and September opposition political parties attempted to peacefully assemble in Bangui and received advance approval from appropriate government authorities. Security forces first blocked access to the meeting site and, after eventually allowing the meeting to take place, refused to intervene when youths vandalized vehicles and threatened attendees. In September security forces blocked access to a site that had been previously approved for a peaceful public meeting of the Movement for the Liberation of the Central African People.

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.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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.

In-country Movement.—Police and military personnel, 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 the number of these roadblocks continued to decrease.

Merchants and traders traveling the more than 350-mile 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 to \$20) at each checkpoint to continue their journeys.

Rebels and armed groups routinely restricted movement by setting roadblocks or otherwise closing transit routes. In July the UFDR took effective control of the northern town of Sam Ouandja by closing the air strip, blocking access by road, and disabling cellular communications. In October suspected elements of the FPR stopped a commercial vehicle between Sibut and Grimari, killing two passengers and wounding several others.

On multiple occasions during the year, police, gendarmes, and the FACA impeded the travel of members of the opposition parties, delaying their travel in some cases for months.

Foreign Travel.—On February 5, government authorities confiscated the passport and airline ticket of Guy Simplicie Kodegue, spokesman for former president Ange-Felix Patasse.

On March 22, a private plane sent to Bangui to medically evacuate former president Patasse was denied landing privileges. On March 30, Patasse and several other members of opposition parties attempted to board a Kenya Airways flight and were physically prevented from reaching the airport by government security officials.

Internally Displaced Persons (IDPs).—Sporadic fighting between government forces and armed groups, attacks on civilians by armed groups including the LRA, and armed banditry prevented the country’s IDPs, most of whom were displaced in 2006, from returning to their homes. At year’s end there were approximately 170,000 IDPs, 66,545 of whom were returnees who were considered displaced. While

returns started in 2009, these returnees were still in the process of reintegration and therefore still considered displaced. More than 22,000 were newly displaced during the year as a result of internal conflict and banditry. The number of individuals who had fled the country totaled 164,905 and were largely located in neighboring countries.

In July 2010 the government reopened the roads north of Ndele to humanitarian access after a prolonged closure due to government efforts to fight the CPJP.

The government did not provide protection or assistance to IDPs, citing a lack of means, but allowed humanitarian organizations to provide services such as assistance with seeds and agricultural materials or provision of identity documents.

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.

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.—Access to Asylum: 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 continued to cooperate with the UNHCR and other humanitarian organizations in assisting approximately 17,750 refugees in the country.

Nonrefoulement.—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.

Refugee Abuse.—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 complained of having to pay higher fees and bribes at road checkpoints than CAR citizens.

Access to Basic Services.—Refugees' access to courts, public education, and basic public health care was limited by the same factors that limited citizens' access to these services.

Stateless Persons.—Citizenship is derived by birth within the country's territory; however, birth documentation and recordkeeping were poor. For much of the year, basic identity documents such as passports were unavailable to the public due to a lack of supply. During the year the UNHCR determined approximately 50,000 of the estimated 170,000 total IDPs and returnees were at risk of stateless status. Laws provide for the opportunity to gain nationality.

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; citizens exercised this right in presidential and legislative elections during the year. However, election observers considered the elections to be flawed.

Elections and Political Participation.—Recent Elections: During the year the country held three rounds of multiparty presidential and legislative elections that resulted in the reelection of Francois Bozize as president. Bozize had seized power in a 2003 military coup, declared himself president, and headed a transitional government until winning election in 2005. Domestic and international election observers judged the 2011 elections to be flawed, citing fraud, intimidation, and lack of ballot secrecy, among other problems. Observers also reported irregularities, including an unexplained increase of 40 percent in registered voters between 2005 and 2010, and high levels of "par derogation" votes indicating voters casting ballots outside their home districts.

Political Parties.—Political parties were not prevented from participating in the elections, and 861 candidates from 41 parties competed for 105 legislative seats. Membership within the president's Kwa Na Kwa party generally conferred special advantages, including access to government resources to conduct political campaigns.

Political parties continued to be subject to close scrutiny and restrictions by the government. Members of political parties were not always able to move about the country without restriction; many had to obtain authorization from the government before traveling.

Participation of Women and Minorities.—Women and minority citizens are not prevented by law from voting or participating in political life on the same basis as men or nonminority citizens. The new government, chosen in April, included a number of female ministers, including the minister of commerce, minister for primary and secondary education, minister of international cooperation, minister of tourism, and minister of social affairs. During the year there were eight female deputies in the 105-member legislature.

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

In August two former ministers of telecommunications, Theirry Maleyombo and Fidele Gouandjika, were implicated in a corruption scandal during an audit of the ministry that revealed improper payments. Maleyombo was briefly arrested, while Gouandjika had his passport confiscated, was called as a witness in the case, and removed from his position as government spokesman. At year's end Gouandjika remained in his post as minister of agriculture.

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 chosen in April 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

A variety of domestic and international human rights groups generally operated freely within the country, despite several cases of harassment and threats by government officials or security force members against domestic NGOs who investigated and published their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

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 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 former minister of state and ethnic kinsman of the president.

A few NGOs were active and had a significant impact on the promotion of human rights. Some local NGOs, including the LCDH, OCDH, ACAT, and Association of Women Jurists (AFJC), a Bangui-based NGO specializing in the defense of women's and children's rights, 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. Domestic human rights NGOs reported that its members located outside the capital remained afraid to investigate alleged abuses because security force members threatened NGO activists suspected of passing information about abuses by security forces to international NGOs for publication. Several human rights lawyers reported that the families of victims of abuse by officials, or those close to officials, often urged the victims not to pursue legally their attackers due to fear of reprisal.

U.N. and Other International Bodies.—International human rights NGOs and international organizations operated in the country mostly without interference from the government. Several humanitarian NGOs complained of difficulties in re-

newing their charters and of substantial revisions to their operating requirements by the government. A newly proposed law aimed to impose additional burdens on international NGOs including taxation of expatriate staff salaries, mandates to partner with and support local NGOs, and more frequent reporting requirements to government agencies.

Due in part to the government's inability to address persistent insecurity in parts of the country effectively, some international human rights and humanitarian groups working in conflict zones either closed suboffices or left the country. For example, international NGOs working in the Vakaga and Haute Kotto provinces did not send international staff to the region and maintained only limited nationally staffed programs.

The government cooperated with the International Criminal Court (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 2008 Bemba was arrested in Brussels. In November 2010 Bemba's trial opened in The Hague at the ICC. At year's end the prosecution was still presenting its witnesses, and thousands had applied to the court as victims.

Government Human Rights Bodies.—The Office of the High Commissioner for Human Rights and Good Governance, attached to the presidency, investigated citizen complaints of human rights violations by members of the government. The commission was ineffective and, after working briefly on three cases of violations, did not take any substantive follow-up steps. With a reported budget of five million CFA francs (\$9,870), the office did not have adequate staffing or financial resources and lacked the means to train its investigators properly. The limited funding for the commission also meant that it functioned only in Bangui. Some human rights observers noted that it acted more as a spokesperson for the government than an office promoting human rights.

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, language, or gender. However, the government did not enforce these provisions effectively, and significant discrimination existed.

Women.—Rape and Domestic Violence.—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 prosecutions and convictions during the year were not available. The fear of social stigma and retaliation inhibited many families from bringing suits.

During a visit to the country in February 2010, the U.N. High Commissioner for Human Rights voiced deep concern over—and called for urgent action on—the widespread sexual violence that women faced, noting that crimes were being committed by both state and nonstate actors.

Few countrywide assessments were conducted on the prevalence of rape. However, according to a baseline study conducted in 2009 by an international NGO in four nonconflict areas (Bangui, Bouar, Bambari, and Bangassou), sexual violence against women was pervasive. One in seven women reported having been raped in the previous year, and the study concluded that the true prevalence of rape may be even higher. A University of California at Berkeley survey conducted in late 2009 found that in four western provinces, approximately 6 percent of women reported being a victim of sexual violence since 2001. In addition, from January through August 2011, an international NGO reported 34 cases of gender-based violence brought to its attention in the Ouham Pende area. Of these cases, 50 percent were against minors and included male and female rape. According to the NGO, only two of the cases were reported to local gendarmes and most went unreported because family members preferred a traditionally mediated solution. One of the cases reported to the gendarmes involved the rape of a young child; however, a traditionally mediated solution stopped the case from reaching the courts.

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 an international NGO study had experienced violence committed by their partner in 2009. Of those surveyed, 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 AFJC, 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.

Female Genital Mutilation (FGM).—The practice of FGM was prohibited by law, although it occurred in some rural areas (see also Children below).

Other Harmful Traditional Practices: Women, especially the very old and those without family, continued to be targets of witchcraft accusations (see section 6).

Sexual Harassment.—The law prohibits sexual harassment; however, the government did not effectively enforce the law, and sexual harassment was a common problem. The law describes no specific penalties for the crime.

Reproductive Rights.—The government respected couples' rights to decide freely and responsibly the number, spacing, and timing of children. Most couples lacked access to contraception and skilled attendance during childbirth. According to UNICEF data collected between 2000 and 2006, approximately 19 percent of women between the ages of 15 and 49 who were married or in union were using contraception, and only 44 percent of births were attended by skilled personnel. According to the U.N. Population Fund, the maternal mortality rate remained extremely high: 850 of every 100,000 live births. Infant mortality was 106 deaths per 1,000 live births in 2008. U.N. sources estimated that a woman's lifetime risk of maternal death was one in 27. The government continued working with U.N. agencies to increase the use of contraception, including by women, and to assist in other prevention activities targeting sexually transmitted infections.

Discrimination.—The formal 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.

Women were treated as inferior to men economically and socially. Single, divorced, or widowed women, including those with children, were not considered heads of households. One of every three women surveyed by an international NGO stated they were excluded from financial decisions in their households. By law men and women were entitled to family subsidies from the government, but several women groups complained about lack of access to these payments for women. 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. However, there were no reports of discrimination in pay equity or owning or managing a business. Divorce is legal and can be initiated by either partner.

The AFJC 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.—Birth Registration.—Citizenship is derived by birth in the national territory or from one or both parents. The registration of births was spotty, and Muslims reported consistent problems in establishing their citizenship. Unregistered children faced limitations in access to education and other social services. According to a 2006 UNICEF study (the most recent available), total birth registration was 49 percent, with 36 percent of children registered in rural areas. Registration of births in conflict zones was likely lower than in other areas.

Education.—Education is compulsory for six years until the age of 15; tuition is free, but students had to pay for their books, supplies, transportation, and insurance. Girls did not have equal access to primary education; 65 percent of 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 the age of 14 or 15 due to societal pressure to marry and bear children.

Few Ba'aka attended primary school. Some local and international NGOs made efforts (with little success) to increase Ba'aka enrollment in schools; there was no significant government assistance to these efforts.

Child Abuse.—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.

In July the government convened the National Council for the Protection of Children to address topics related to child abuse, exploitation, and trafficking. The membership was appointed by the prime minister and includes representatives from concerned ministries, international organizations, and NGOs.

Child Marriage.—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 2000 and 2009, and the 2006 Multiple Indicators Country Survey reported that nearly 20 percent of women had married before reaching the age of 15. The Ministry of Family and 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.

Harmful Traditional Practices.—The law prohibits FGM, which is punishable by two to five years' imprisonment and a fine of 100,000 to one million CFA francs (\$200 to \$1,975), depending on the severity of the case; nevertheless, girls were subjected to this traditional practice in certain rural areas, especially in the northeast and, to a lesser degree, in Bangui. According to the AFJC, anecdotal evidence suggested FGM rates declined in recent years as a result of efforts by UNICEF, AFJC, and the Ministries of Family and Social Affairs, and Public Health to familiarize women and girls with the dangers of the practice.

According to UNICEF data collected between 2002 and 2007, the overall percentage of girls and women between the ages of 15 and 49 who had undergone FGM was approximately 27 percent.

Sexual Exploitation of Children.—There were no statutory rape or child pornography laws protecting adolescent minors or children.

Child Soldiers.—Child labor was widespread; forced child labor, including the use of children as soldiers, occurred (see sections 1.g., 7.c., and 7.d.).

Displaced Children.—There were more than 6,000 street children between the ages of five and 18, including 3,000 in Bangui, according to data collected by 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 with 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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no significant Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://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 25 persons or more, 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 Family and 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 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-of-a-kind government and NGO-initiated programs designed to assist persons with physical disabilities, including handicraft training for persons with visual disabilities 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 physical disabilities.

National/Racial/Ethnic Minorities.—Violence by unidentified persons, bandits, and other nonstate armed entities against the Mbororo was a problem, as they continued to suffer disproportionately from the civil disorder in the north. Their cattle wealth made them attractive targets to the bandits and other nonstate armed entities. Additionally, since many citizens viewed the Mbororo as inherently foreign due to their transnational migratory patterns, they faced occasional discrimination with regard to government services and protections.

In July gendarmes captured four armed Mbororo herders and detained them in Zemio on suspicion of colluding with the LRA. Approximately 100 persons from the local community stormed the holding facility, overpowered the gendarmes, and killed three of the accused men. Mbororo in LRA-affected areas were often accused of complicity with the LRA and discriminated against or targeted on those grounds.

Indigenous People.—Despite constitutional protections and the ratification of the International Labor Organization (ILO's) Convention on Indigenous and Tribal Peoples, there was societal discrimination against Ba'aka (Pygmies), the earliest known inhabitants of the rain forest in the south. Ba'aka constitute approximately 1 to 2 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 were considered to be the slaves of members 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.

Refugees International reported that Ba'aka were effectively "second-class citizens," and the popular prejudice that they were barbaric and subhuman further caused them to be excluded from mainstream society.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—1The penal code criminalizes consensual same-sex sexual activity. 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 (\$295 and \$1,185). When one of the participants is a child, the adult may be sentenced to two to five years' imprisonment or a fine of 100,000 to 800,000 CFA francs (\$200 and \$1,600); however, there were no reports that police arrested or detained persons under these provisions.

While there is official discrimination based on sexual orientation, there were no reports of the government targeting gay men and lesbians. However, societal discrimination against lesbian, gay, bisexual and transgender persons was entrenched, and many citizens attributed the existence of homosexuality 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 U.N. 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.

Mob violence was widespread, and cases were underreported.

Civilians reportedly continued to injure and torture persons suspected of being sorcerers or witches.

On May 27, a woman in Bangui was threatened with death by her neighbors, who accused her of attempting to initiate seven young girls into the practice of sorcery. Police detained the woman for her own safety; as of November she remained in custody.

Detentions, arrests, and abuse of those accused of witchcraft were commonplace. Many of those accused were women, and they were often subjected to mob violence, imprisonment, or death.

In November five women accused of sorcery were beaten and tortured by members of the APRD in the village of Boyimadja 2. One woman eventually died of her injuries, and another remained in APRD custody, to be turned over later to local gendarmes.

There were no further developments in the October 2010 case of four persons accused of witchcraft in Mbereguli village. The four were reportedly tortured by members of the APRD.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—1The law allows all workers, except for senior-level state employees and security forces, including the armed forces and gendarmes, to form or join unions without prior authorization. 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. Although the labor code no longer bars a person who loses the status of worker from belonging to a trade union or participating in its administration, the law requires that union officials be full-time, wage-earning employees in their occupation and allows them to conduct union business only during working hours as long as the employer is informed 48 hours in advance and provides authorization. In addition the law requires that foreign workers must meet a residency requirement of at least two years before they may organize. There continued to be substantial restrictions that made it difficult for citizens to hold a leadership position within a union, despite some amendments to the labor code.

Workers have the right to strike in both the public and private sectors; however, security forces, including the armed forces 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 Ministry of Labor has the authority to determine a list of enterprises that are required by law to maintain a "compulsory minimum service" in the event of a strike. The government has the power of requisition or the authority to end strikes by invoking the public interest. The code makes no other provisions regarding sanctions on employers for acting against strikers.

The law expressly forbids antiunion discrimination. The labor code provides that unions may bargain collectively in the public and private sectors and also provides workers protection from employer interference in the administration of a union. In June 2010 the ILO recommended that the government amend a provision of the labor code, which in effect hinders the public sector workers' right to bargain collectively by providing for the negotiation of collective agreements in the public sector by professional groupings even when trade unions exist. During the year the government took no action on the ILO recommendation.

Employees can have their cases heard in the labor court. The law does not state whether employers found guilty of antiunion discrimination are 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.

Several union strikes were encountered during the year, including by taxi drivers and university professors, and the government respected the laws concerning labor actions. Workers exercised some of these rights in practice. However, only a relatively small part of the workforce, primarily civil servants, exercised the right to join a union. While worker organizations are officially outside government or political parties, the government exerted some influence over the leadership of some organizations.

Labor unions did not report any underlying patterns of discrimination or abuse. The president of the labor court said the court did not hear any cases involving antiunion discrimination during the year.

Collective bargaining occurred in the private sector during the year, although the total number of collective agreements concluded was unknown. The government generally was not involved if the two parties were able to reach an agreement. Information was limited on effectiveness of collective bargaining in the private sector.

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 and pension arrears continued to be a problem for armed forces personnel and the 24,000 civil servants, although the government continued to reduce the arrears.

b. Prohibition of Forced or Compulsory Labor.—1The labor code specifically prohibits all forms of forced or compulsory labor and prescribes a penalty of five to 10

years' imprisonment. The labor code's prohibition of forced or compulsory labor also applies to children, although they are not mentioned specifically. However, the government did not enforce the prohibition effectively, and there were reports that such practices occurred. Women and children were subject to forced domestic labor, agricultural labor, 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. There were no known victims removed from forced labor during the year.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The labor code forbids the employment of children younger than 14 years of age without specific authorization from the Ministry of Labor and Civil Service, but the law also provides that the minimum age for employment could be as young as 12 years of age 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. Although the law defines hazardous work as any employment that endangers children's physical and mental health, it does not define the worst forms of child labor. The mining code specifically prohibits child or underage labor.

The government did not enforce these provisions. Child labor was common in many sectors of the economy, especially in rural areas. There were no reports that children were employed on public works projects or at the residences of government officials. However, children continued to perform hazardous work during the year.

Throughout the country children as young as seven years old frequently performed agricultural work. Children often worked as domestic workers, fishermen, and in mines, often in dangerous conditions. Children also worked in the diamond fields alongside adult relatives, transporting and washing gravel, as well as mining gold, digging holes, and carrying heavy loads. Despite the law prohibiting child labor in mining, many children were seen working in and around diamond mining fields.

In Bangui many of the city's estimated 3,000 street children worked as street vendors.

During the year nonstate armed entities 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.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. 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 kind of work. For example, the monthly minimum wage was 8,500 CFA francs (\$17) for agricultural workers and 26,000 CFA francs (\$51) for government workers.

The minimum wage applies only to the formal sector, leaving most of the economy unregulated in terms of wages. The monthly minimum wage increased 12 percent during the year from 25,000 CFA (\$50) to 28,000 CFA (\$55). 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 was 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 did not precisely define 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.

The government did not enforce labor standards, and violations were common through all sectors of the economy.

CHAD

EXECUTIVE SUMMARY

Chad is a centralized republic in which the executive branch dominates the legislature and judiciary. Legislative and presidential elections were held during the year. In April President Idriss Deby Itno, leader of the Patriotic Salvation Movement (MPS), was elected to a fourth term with 83.6 percent of valid votes. However, major opposition figures chose to boycott the presidential election, which was marked by low voter turnout. Deby has ruled the country since taking power in a 1990 coup. In February's legislative elections, the ruling MPS won 118 of the National Assembly's 188 seats. International observers deemed these elections to be legitimate and credible. Despite logistical issues, both the legislative and presidential elections occurred without violence. There were instances in which elements of the security forces acted independently of civilian control.

The most significant human rights problems reported were abuses by security forces, including beatings; harsh and life-threatening prison conditions, which resulted in inmate deaths; and discrimination and violence against women and children, including female genital mutilation (FGM), as well as child abuse and child marriage.

Other human rights abuses included reports of rape committed by men wearing uniforms; arbitrary arrest and detention; lengthy pretrial detention; denial of fair public trial; and executive influence on the judiciary. In addition, there were some limitations on freedom of speech and press. Refugee abuse continued, and corruption was widespread. Trafficking in persons, particularly related to child herders and domestic servants, reportedly occurred, as did sexual exploitation. Ethnic-based discrimination, forced labor, including of children, and exploitive child labor were problems.

The government took steps to prosecute or punish some officials who committed abuses; however, accountability was limited due to a lack of checks and balances; inadequate institutional capacity, including in the judiciary; a culture of impunity; and widespread corruption.

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 allegations, but no confirmed reports, of politically motivated killings. There were reports that the government or its agents committed arbitrary or unlawful killings.

On March 9, Djepatarlemgoto Benjamin, a close relative of the prime minister, was killed by unidentified persons at his house. Human rights groups alleged that the murder was politically motivated. No investigation was conducted, and the government treated the case as a purely criminal matter.

On September 16, in Lere in Mayo-Kebbi West, intercommunal conflict related to kidnapping of children for ransom resulted in the deaths of four persons. Security forces arrested and jailed 47 alleged perpetrators. While in security force custody, nine of the arrestees died, with one additional detainee dying while being transferred to N'Djamena. Local nongovernmental organizations (NGOs) and some National Assembly members criticized the government for not taking any action against those responsible.

The 10 alleged perpetrators of the killings of nine persons during the 2009 inter-ethnic conflict between herders and farmers in Kana District were released without being charged in June.

b. Disappearance.—There were no reports of new politically motivated disappearances or of people being held in secret detention or of disappearing after detention during the year. However, the whereabouts of persons arrested for political reasons in previous years remained unknown, and persons were held incommunicado during the year.

In May a presidential decree announced that a previously established inter-ministerial committee formed to address the pending case of disappeared opposition

leader Ibni Oumar Saleh would be augmented by two international criminal prosecutors, one from the EU and another from the Organisation Internationale de la Francophonie. A total of 1,150 persons disappeared in the course of the 2008 fighting, 58 of whom (including Ibni) were believed to have been the victims of criminal acts. The remaining 1,092 reportedly were considered to be casualties of war. A number of witnesses have since been called to testify about Ibni's arrest and jailing, and according to the government, investigative efforts have increased on the cases of some of the 57 others.

Although in decline, cross-border kidnapping of children in the Mayo-Kebbi Region along the border with Cameroon continued, despite the deployment early in the year of a mixed police/army border force. Armed persons, both local and from neighboring countries, reportedly kidnapped children, especially Fulani children, due to a perception that their families were wealthier than those of other ethnic groups. At mid-year, the force ceased operation due to an interruption in funding.

According to the NGO Human Rights without Borders, there were allegations that local officials and military force members were complicit in kidnappings for ransom. In February one woman and two children were kidnapped for ransom from two villages in Lere, Mayo-Kebbi West, by a cross-border gang comprised of Cameroonian and Chadian members. The victims were taken to Cameroon and returned after payment of ransom. The NGO reported that village chiefs and local government and military officials received payoffs in connection with their release. It also alleged that, due to corruption among other government and military officials, the local head of the gendarmerie no longer arrested gang members, but instead had them summarily shot.

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 provisions in practice. For example, a local human rights group reported that on February 7, Noh Djibrine Abdelbanat was abducted and tortured by two gendarmes in Salamat Region. The alleged torture resulted in serious injuries, including an infected limb that required amputation. The case was referred to the public prosecutor's office, and the victim was awarded monetary damages.

There were reports of torture by individual members of the security forces, although these were neither politically motivated nor directed by the government.

No effective action was taken against security forces involved in the alleged torture of Berangoto, Djibrine Noh, and Madjadoumbe Ngom Halle in 2010.

There were reports during the year of cases in which men wearing uniforms, presumed but not confirmed by the authorities to be either police, gendarmes, or Chadian National Army (ANT) personnel, raped women and girls. For example, on March 4, three men wearing military uniforms attacked the house of a local worker of an international NGO based in the town of Goz Beida. After the attack, the men abducted a 15-year-old girl, who stated that the three men raped her several times and that she was beaten. She was later found abandoned by the roadside. A doctor at a local hospital confirmed that she had been raped.

An international NGO reported that rape of refugee women was common, especially of those who ventured outside their camps. Victims were reluctant to come forward for a variety of reasons, including cultural, and a lack of confidence in the judicial system.

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. Regional detention centers, which were crumbling, overcrowded, and without adequate protection for women and youth, had no budget for and did not provide meals for inmates. Prison guards were not regularly paid and sometimes "released" prisoners who offered compensation in return. Provisions for ventilation, temperature, lighting, and access to potable water were inadequate or nonexistent. The law provides that a doctor must visit each prison three times a week, but this provision was not respected. Forced labor in prisons occurred.

As a result of inadequate recordkeeping and management, many individuals remained in prison after completing their sentences or after courts had ordered their release.

No follow-up action was taken on the 2010 survey ordered by Justice Minister Mbailao Naimbaye Lossimian to assess prison conditions, prisoner rights awareness, and the timely disposition of cases. The survey revealed that there were prisoners without case files who had been detained more than three years with no follow-up by judges or lawyers.

As in prior years, local human rights organizations stated that they were denied access to military prisons, but the International Committee of the Red Cross (ICRC)

was given access during the year. Local human rights organizations reported on the existence of secret prisons run by the National Security Agency and the General Directorate of Security Services for National Institutions (DGSSIE) in 2010. Human rights organizations also alleged that both military members and civilians were detained at military bases and held incommunicado.

Estimates of deaths due to poor prison conditions varied. A local human rights group reported nine prisoner deaths during the first half of the year in three districts of N'Djamena alone. No countrywide estimates were available.

The government did not keep statistics on the number of prisoners and detainees, and no information from other sources was available. Male juveniles were not always separated from adult male prisoners, and children sometimes were held with their inmate mothers. Male and female prisoners were separated, and conditions for women were no different than those for men. A July 2010 Justice Ministry visit to five eastern towns revealed that children as young as eight years old were incarcerated for petty thievery. Pretrial detainees were held with convicted prisoners. Prisoners generally had access to visitors and were permitted religious observance according to their preference. There was no regular mechanism by which prisoners could submit complaints about prison conditions, limiting judicial authorities' ability to receive such complaints. Authorities did not use alternatives to sentencing for nonviolent offenders.

The government honored a permanent authorization provided to the Chadian Association for the Promotion and Defense of Human Rights, allowing the organization to visit civilian prisons at any time without advance notice. Other local NGOs, including human rights groups, were required to obtain authorization from a court or from the director of prisons, which depended largely on the personal inclinations of those with authority to grant permission. Local NGOs were not allowed access to military prisons.

The government permitted the ICRC to visit civilian prisons under the control of the Ministry of Justice, and during the year the ICRC conducted such visits.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, security forces violated these provisions.

For example, on January 2, intelligence agents arrested General Oumar Bourkou, who was then arbitrarily jailed at a police camp for 15 days. No charges were filed against him.

On March 18, intelligence agents arbitrarily arrested General Ahmat Yahya and placed him in custody at the National Intelligence Prison. He was transferred 15 days later to the Narcotics Police Camp of N'Djamena. At year's end, he remained in detention and his case was pending.

Role of the Police and Security Apparatus.—The ANT, gendarmerie, national police, nomadic guard (GNNT), DGSSIE, and counterintelligence service (ANS) are responsible for internal security. The Integrated Security Detachment (DIS), which reports to the National Coordination of Support to Humanitarian Activities and to the Integrated Security Detachment (CONSAHDIS), is responsible for reducing insecurity in refugee camps and for protecting refugees, internally displaced persons (IDPs), and humanitarian workers. The ANT, gendarmerie, and GNNT report to the Ministry of Defense; the National Police report to the Ministry of Public Security and Immigration; and the DGSSIE and ANS report to the president.

Police were corrupt and involved in banditry, arms proliferation, and extortion. Security force impunity was widespread (see section 4). The government continued to make some progress in modernization and professionalization of the military, including a significant reduction in the size of the armed forces which was initiated during the year. The reform process continued at year's end. The minister of defense's effort to achieve a full accounting of those in the military was impeded by discharged soldiers who continued to collect salaries and to wear military uniforms. The failure to enforce the cessation of pay to and the wearing of uniforms by discharged soldiers largely was explained by the refusal of military officers responsible for enforcement because of ethnic and clan links to the discharged soldiers. There were isolated reports of former soldiers who posed as active duty military, committing crimes with government-issued weapons.

Arrest Procedures and Treatment While in Detention.—Although the constitution and law require a judicial official to sign arrest warrants, detainees were not always promptly informed of charges, and judicial determinations were not made promptly. The law requires access to bail and counsel, but there were cases when neither was regularly provided.

Incommunicado detention was a problem. The constitution and law state provide for legal counsel for indigent defendants and prompt access to family members; how-

ever, in practice, this usually did not occur. Family members often were required to provide food and water for prisoners.

Arbitrary Arrest.—The absence of rebel activity during the year resulted in a reduced number of cases of arbitrary arrest, but the problem continued.

In March 2010 intelligence agents arrested without charge fellow agent Mahamat Abrass Moussa, who remained in detention at year's end.

Two university students arrested on May 8, who reportedly prepared antigovernment tracts intended to incite insurrection among southern Chadians, were held incommunicado until June 8, when they appeared in court to face charges. The NGO Human Rights Without Borders stated that because the arresting officers did not appear in court, no charges were filed. The students, who claimed they were victims of a sting operation in which they were paid by government agents to prepare the tracts, were released over the summer.

Pretrial Detention: 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. Lengthy pretrial detention resulted from a weak judiciary, which functioned poorly in urban areas and generally was ignored outside of the capital.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the judiciary was ineffective, underfunded, overburdened, and subject to executive interference. Intimidation and violence against judicial branch members were also problems, and members of the judiciary sometimes received death threats or were demoted or removed from their positions for not acquiescing to pressure from officials. Courts generally were weak and in some areas nonexistent or nonfunctional. There were only 150 judges in the country, for example, and most had to hand write court documents.

The Superior Council of Magistrates recommends judicial nominees and sanctions judges who commit improprieties; however, the government prevented any sanctions from being considered or carried out. A judicial oversight commission has the power to conduct investigations of judicial decisions and address suspected miscarriages of justice; however, the president appointed commission members, which increased executive control over the judiciary and diminished the council's authority. Some members of the Supreme Court, Constitutional Court, and Court of Appeals were appointed by the government rather than popularly elected as required by law, which further weakened judicial independence.

Government officials, particularly members of the military, often were able to avoid prosecution.

Chad's legal system is based on French civil law. However, the constitution recognizes customary and traditional law in locales where it is long-established if it does not interfere with public order or constitutional guarantees of equality for all citizens. 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 or in Arabic. In many minor civil cases, the population relied on traditional courts presided over by village chiefs, canton chiefs, or sultans. Penalties in traditional courts varied and sometimes depended on the clan affiliations of the victim and perpetrator. Decisions of traditional courts can be appealed to a formal court.

The law provides that crimes committed by military members be tried by a military court; however, no such courts have been established.

Trial Procedures.—The law provides for a presumption of innocence; however, many judges assumed a suspect's guilt, sometimes as a means to extort money from the defendant. For example, in some rape cases that reached the courts, defendants were fined rather than tried. 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, detained persons were not always given access to counsel. The law states that indigents should be provided promptly with legal counsel in all cases, but this seldom occurred, although human rights groups sometimes provided free counsel to indigent clients. Defendants, their lawyers, and judges have the right to question witnesses and 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.

In some cases, local leaders may decide whether to apply the Muslim concept of *dia*, which involves a payment to the family of a crime victim. The practice was com-

mon in 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.

Political Prisoners and Detainees.—In 2010 an opposition Web site released a list of 750 prisoners, not all of whom were alleged to be political prisoners, detained at Koro Toro prison, which was closed to new prisoners in February. According to the ICRC, its caseload of political prisoners decreased markedly during the year following several waves of prisoner releases from Koro Toro and other detention facilities. Most of those released were suspected of supporting armed opposition leaders responsible for attacks on N'Djamena in 2008. Among those released were seven alleged United Front for Democratic Change rebels held incommunicado since 2007. Some political detainees were transferred to the Central Prison in N'Djamena. According to local human rights organizations, not all prisoners were transferred or released from Koro Toro and some remained incarcerated; the absence of statistics and records made it difficult to ascertain how many remained incarcerated in Koro Toro.

Civil Judicial Procedures and Remedies.—The judiciary was not always independent or impartial in civil matters. There are administrative and judicial remedies available such as mediation for alleged wrongs. Suits for human rights violations may be brought before the penal tribunal or the penal court; compensation is addressed in the civil court.

Property Restitution.—Using its power of eminent domain, the government continued to confiscate private property and demolish homes, businesses, and NGO headquarters during the year as part of ongoing urban renewal efforts in N'Djamena. Numerous persons were deprived of shelter and their means of livelihood. Citizens and NGOs alike alleged that the government failed to give proper advance notification or to otherwise follow the legal requirements for proper compensation. The government claimed that it provided compensation to those with deeds; however, critics charged that the compensation was inadequate and not available to all. N'Djamena residents established neighborhood associations to counter arbitrary seizures with the support of Amnesty International and local human rights organizations.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitution provides for the right to privacy and inviolability of the home; however, the government conducted illegal searches and continued home demolitions in N'Djamena. Unlike in the previous year, there were no reports that the government conducted wiretaps or monitored private mail and e-mail. Security forces regularly stopped citizens and extorted money or confiscated belongings.

The Ministry of Public Security and Immigration did not lift a ban on both the possession and use of satellite telephones. Military and police personnel searched for and confiscated satellite telephones.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of opinion, expression, and press, with restrictions if public order, good morals, or the rights of others are affected; the government generally respected this right in practice.

Freedom of Speech.—Unlike in the previous year, newspapers were free to criticize the government and did so regularly, although some self-monitored in terms of the limits of such criticism.

Freedom of Press.—There were no reports of press restrictions during the year. However, a requirement agreed to by the ruling and opposition parties providing for equal coverage by radio stations during the legislative and presidential campaigns had the effect of limiting coverage to the larger state-owned public stations because private and community stations lacked, in all cases, the capacity and, in some cases, the desire, to cover all candidates equally.

Newspapers openly criticized government policies and activities. Opposition newspapers published cartoon caricatures of government ministers and of the president. No action was taken against newspapers that published articles negatively portraying MPS activities or party members, including senior officials.

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.

A new radio station in Lere, Mayo-Kebbi West, Radio Communautaire, was inaugurated in June by a local NGO that is dedicated to addressing health, human rights, and rural development issues.

FM Radio call-in programs broadcast the views of callers that included open criticism of the government and calls for the government to be changed through the elections process.

The government owned and operated the only domestic television station but did not interfere with reception of channels originating outside the country.

Violence and Harassment.—There were no cases of violence perpetrated on any journalist. On rare occasions, journalists were warned in writing by the High Council for Communication to produce more “responsible” journalism or face fines.

Censorship or Content Restrictions.—The constitution prohibits propaganda of an ethnic, regionalist, or religious nature that affects national unity or the secular nature of the state. Some journalists and publishers practiced self-censorship.

Internet Freedom.—There were no government restrictions on access to the Internet or, unlike the previous year, credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could express their views via the Internet, including by e-mail.

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, with restrictions if the rights of others, public order, and morals are affected; the government respected this right in practice. The law requires organizers of demonstrations to notify the government five days in advance.

Freedom of Association.—The constitution and law provide for freedom of association, with restrictions if the rights of others, public order, and morals are affected, and the government generally respected this right in practice.

An ordinance requires prior authorization from the Ministry of Territorial Administration 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.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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, the government imposed limits on these rights.

The government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, and other persons of concern.

In-country Movement.—Insecurity in the east, consisting primarily of incidents of violent criminality by armed bandits, hindered the ability of humanitarian organizations to provide services to refugees. NGO workers traveling between camps were sometimes victims of carjackings and armed robberies by bandits.

Internally Displaced Persons (IDPs).—Approximately 130,000 IDPs, most of whom were displaced in the east in 2005 as a result of interethnic fighting over scarce water and land resources during drought, resided in 38 camps in the country. Some 50,000 IDPs returned home during the year, some with direct assistance provided by UNHCR. Many IDPs were reluctant to return to their original homes because of fragile security conditions and because their property had been resettled by other groups and frequently provided less access to potable water and primary health care. In March government officials stated their commitment to help IDPs return home or resettle elsewhere in the country, but lacked a strategy to achieve this goal. Several areas of IDP return were only partially accessible to humanitarian organizations because of security constraints, according to a U.N. Secretary General report in April. The government continued to allow IDPs access to humanitarian organizations and permitted them to accept assistance provided by these groups. The U.N. and other humanitarian organizations operated in the country during the year and provided services to IDPs and refugees.

The departure of MINURCAT (the U.N. Mission in the Central African Republic and Chad) reduced the U.N.’s ability to monitor the safety of IDPs and other civilians, according to the U.N. Secretary General’s report. Sexual violence against displaced women and girls in eastern Chad was a problem. There were reports that men in uniform, who may have included members of the security forces, local indig-

enous groups, or unemployed male IDPs and bandits, raped female IDPs (see section 1.d.).

As in the rest of the country, perpetrators of sexual violence rarely were prosecuted, and government efforts to protect vulnerable women and girls were inadequate. However, the government conducted extensive sensitization campaigns against sexual violence and urged women to come forward without fear of reprisal. DIS personnel, for example, are trained in sexual and gender-based violence and all DIS units now have female officers.

Although there were more than 70 international humanitarian organizations in the eastern part of the country, there were gaps in their protection mechanisms as well. The mobile courts set up by the U.N. only made occasional visits to each area and rarely addressed sexual violence cases. The formal judicial system was unable to provide consistent and predictable recourse or legal protections. Traditional or customary legal systems were subject to ethnic or regional variations.

Tension between IDPs and local communities existed. IDPs were generally located near potable water and health services provided to them by international humanitarian agencies, which sometimes resulted in resentment among host communities that did not receive such services.

An indeterminate number of persons lost their homes and means of livelihood as a result of the government's ongoing urban renewal program in N'Djamena (see section 1.f.).

Protection of Refugees.—Approximately 270,000 Sudanese refugees from Darfur remained in the country; most were located in 12 camps along the eastern border with Sudan. Approximately 80,000 refugees from the Central African Republic (CAR) lived primarily in five camps in the south, and approximately 5,000 refugees of various nationalities lived in urban areas.

MINURCAT concluded operations and withdrew from the country at the end of 2010. MINURCAT's functions to protect refugee camps were assumed by the DIS comprised of Chadian military and police forces trained by MINURCAT. While DIS was generally effective in improving protection for refugee and IDP camps and for U.N. and other humanitarian operations in the eastern part of the country, many of the attacks on refugee women and girls fell outside its area of jurisdiction.

Access to Asylum.—The country's laws do not provide for the granting of asylum or refugee status; however, the government has established a system for providing protection to refugees.

Refugee Abuse.—According to UNHCR data, there were 37 rapes, 13 cases of attempted rape, and 540 cases of sexual or gender-based violence reported between November 2010 and May 2011. It was unclear whether these higher figures were due to improved reporting or increased violence. In the majority of cases, the perpetrators were either fellow refugees or unknown individuals just outside the camps. These figures likely underestimated the extent of rape since rape was often not reported due to cultural sensitivities.

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. However, the recruitment of refugees, including children, into rebel armed groups waned during the year. The U.N. had no confirmed cases of child soldiers in the ANT during the year (see section 6, Child Soldiers).

Anti-refugee sentiment among citizens living in refugee-impacted areas was high. Children who were refugees or IDPs often had better access to education and health services than those in surrounding local populations due to extensive humanitarian interventions on their behalf. Resentment between citizens and refugees also occurred 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. Similar conflicts occurred in areas hosting refugees from CAR.

Durable Solutions.—The government cooperated with UNHCR in supporting local integration of refugees from CAR in southern Chad. However, the government did not support UNHCR's efforts to promote third-country resettlement for refugees from Darfur. The government allowed refugees from CAR to be referred for resettlement in third countries.

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.—Recent Elections.—Although fraught with operational problems, international observers including the EU, African Union, and the Organisation Internationale de la Francophonie, the pan-African civil society group Coordination des Experts Electoraux Africains, and government and opposition-affiliated Chadian civil society actors deemed the February legislative elections to be legitimate and credible. No violence was associated with the elections, and there was no evidence of a systematic effort to deny voters their right to freely choose. Opposition candidates were given equal access to and treatment by national television, and security and government officials generally maintained a neutral posture during the campaigns.

The presidential vote in April occurred without violence or incident, and the election was organized in a manner sufficiently consistent with international standards and local laws that the electorate was in general permitted free expression of choice. However, local groups criticized the lack of participation by the three opposition candidates and low voter turnout.

Political Parties.—There were approximately 120 registered political parties. The main opposition coalition was well-treated, in part to provide proof that the country had a multiparty system; however, smaller opposition parties were subjected to government interference. Northerners, particularly members of the Zaghawa ethnic group, including the Bideyat subclan to which the president belongs, were over-represented in key institutions of state power, including the military officer corps, elite military units, and the presidential staff.

Opposition leaders accused the government of denying funds and equal broadcast time on state-run media.

Participation of Women and Minorities.—There were 10 women in the 188-seat National Assembly. Five of the 40 cabinet ministers were women. 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; however, the government did not implement the law effectively, and corruption was pervasive at all levels of government. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem.

The police, gendarmerie, and military forces addressed arms proliferation in prior years through a concerted effort to confiscate illicit arms. There were fewer incidents of military, police, and gendarmes extorting payments from motorists following a crackdown on ad hoc roadblocks ordered by the president and as a result of international law enforcement training initiatives.

Impunity for officials, particularly for the military and other influential persons, was common. For example, members of the Judiciary Police, which is an office within the National Police with arrest authority, often did not enforce domestic court orders against the military or members of their own ethnic groups. Judicial lack of independence and corruption also were problems.

The Ministry of Good Governance is responsible for fighting corruption. The ministry carried out several investigations of government malfeasance during the first six months of the year and reportedly recovered more than 4 billion CFA (\$8 million).

The government investigated several officials connected to various corruption scandals, including a textbook scandal involving 1.5 billion CFA (\$3 million) in false contracts. All 141 government officials associated with the textbook scandal and 34 others investigated in connection with embezzlement and misappropriation were released; in most cases charges were dropped.

In 2010 the High Court formally investigated seven ministers in connection with the textbook scandal. Charges against former minister of education Abdramane Koko, former deputy minister of finance Oumar Boukar Gana, and former minister and secretary-general of the government Limane Mahamat, who had been previously jailed on corruption allegations, were dropped on the basis of insufficient evidence. Former secretary-general of the presidency Haroun Kabadi, also implicated and jailed in connection with the scandal, was released and subsequently appointed as special advisor to President Deby and secretary general of the ruling MPS party. In June he was elected head of the National Assembly. Sixteen other government officials from the ministries of finance and education arrested in connection with the case were also freed due to insufficient evidence.

N'Djamena Mayor Marie-Therese Mbailemdada was arrested in August and held in police detention pending investigation of charges of mismanagement and inability to account for 1.2 billion CFA (\$2.4 million). She was later released. Her predecessor, Mahamat Zen Bada, was also arrested on corruption charges in 2009 and

removed from office, but released when charges against him were dropped in August 2010. Zen Bada ran President Deby's 2011 reelection campaign in the Guera Region.

The government took limited action regarding International Crisis Group charges that it did not award in a transparent fashion public works contracts financed by oil revenues; the lack of transparency increased corruption and cronyism.

In June the Ministry of Good Governance held an anticorruption seminar for security force officials and civil servants. This followed training sessions the previous year for local officials on ethics and good governance; governors from the 22 regions attended the seminars.

Public officials were subject to financial disclosure laws; however, the law was not enforced, and officials did not readily disclose details of their financial status.

The law does not provide for public access to government information, although the government provided such access to government-employed journalists. The government's budget is publicly available in printed form upon request from the Ministry of Finance and includes incomes and expenditures. However, some of the expenditures are allocated through extra budgetary spending measures. 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

Government officials generally were accessible to human rights advocates but were sometimes unresponsive or hostile to their findings. There were no reports that the government actively obstructed the work of domestic human rights organizations. Such groups were able to investigate and publish their findings on human rights cases. Human rights groups were outspoken in publicizing abuses through reports, press releases, and the print media, but only occasionally successfully intervened with authorities.

There were no reports that the government arrested or harassed NGO employees.

U.N. and Other International Bodies.—The government cooperated with international governmental organizations and permitted visits by U.N. representatives. There were no reports that the government obstructed the work of international human rights organizations.

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.

Women.—Rape and Domestic Violence.—Rape is prohibited and punishable by hard labor; however, rape, including of female refugees and IDPs, was a problem (see section 2.d.). No reliable data on the extent of the problem was available. The law does not specifically address spousal rape. Although police often arrested and detained alleged perpetrators, rape cases usually were not tried, and most suspects were released. Cultural norms sometimes forced women and girls to marry their attackers to preserve their honor.

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 in cases of abuse. Family or traditional authorities could provide assistance in such cases and often did, but police rarely intervened. During the year some women began reporting cases of violence and abuse to local human rights organizations. Information on the number of abusers who were prosecuted, convicted, or punished was unavailable.

Female Genital Mutilation (FGM).—The law prohibits FGM; however, the practice was widespread, particularly in rural areas. The U.N. Population Fund (UNFPA) reported that 44 percent of women and girls had undergone excision, with rates as high as 90 to 100 percent in some regions. The practice was prevalent especially 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 under the penal code, and charges could be brought against the parents of 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 U.N., continued to conduct public awareness campaigns to discourage the practice and highlight its dangers as part of its efforts to combat gender-based violence.

The campaign encouraged persons to speak out against FGM and other forms of abuse against women and girls.

Sexual Harassment.—The law does not prohibit sexual harassment, and such harassment was a problem.

Reproductive Rights.—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, according to UNFPA, only an estimated 3 percent of women used any form of contraception. According to UNFPA, the incidence of maternal mortality was 1,200 per 100,000 live births, and a woman's lifetime risk of maternal death was one in 14. The country had a severe shortage of healthcare providers (less than 400 physicians) and a significant shortage of nurses, midwives, hospital staff, and specialists such as pediatricians. Prenatal care was limited due to inadequate health infrastructure, particularly in rural areas. Low immunization rates and poor post-natal and child care education were other constraints.

According to U.N. estimates, only 14 percent of births were attended by skilled health personnel. Women were equally diagnosed and treated with men for sexual transmitted infections; treatment was free.

Discrimination.—Discrimination against women and exploitation of women were widespread. Although formal 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 Family 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 were discriminated against in access to employment, credit, and pay equity for substantially similar work, and in owning or managing businesses due to cultural norms.

The law states that persons of legal age (18 according to formal law and 13 to 14 in traditional practice) have the right 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.

A UNFPA-supported government awareness campaign to combat gender-based violence was expanded during the year to Pala in the south. The campaign included raising awareness regarding rape, sexual harassment, FGM, discrimination against women, and early marriage. In his August inaugural speech, President Deby called for an end to "traditional practices," particularly in rural areas, where child marriage, FGM, unwanted pregnancy, and the denial of educational opportunities to girls were most common.

Children.—Birth Registration.—Citizenship is derived by birth within the country's territory and from one's parents; however, 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, and those without birth certificates could only be enrolled in school provisionally and were required to subsequently obtain a birth certificate. Schools could call on witnesses to verify the age of the child.

Education.—By law education is universal and tuition-free, and primary education is compulsory between the ages of six and 11; however, parents were often required to pay tuition to public schools beyond the primary level. Parents also 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. According to the World Bank Development Indicators Database, only six girls for every 10 boys attended primary school. Most children did not attend secondary school, where enrollment of girls was also lower than that of boys.

Several human rights organizations reported on the problem of the mouhadjirin, migrant children who attended certain Islamic schools and were forced by their teachers to beg for food and money. Children with discipline problems were often sent to these schools by their parents, who hoped the harsh conditions would ameliorate behavioral problems. There was no reliable estimate of the number of mouhadjirin.

Child Abuse.—Child abuse remained a problem, but no data was available on its extent. The Ministry of Social Action and Family is responsible for the protection of children. The ministry undertook public awareness campaigns, although re-

sources remained limited. During the year the Ministry of Education closed several Qur'anic schools where there had been violations of child protection laws.

Armed bandits kidnapped children to obtain ransom in the Mayo-Kebbi Ouest Region (see section 1.b.).

Child Marriage.—Although the law prohibits sexual relations with a girl younger than 14, even if she is married, the ban was rarely enforced. In practice, families arranged marriages for girls as young as 12 or 13, with 11 being the minimum age for engagement. The law prohibits forced marriages of anyone younger than 18 and provides for imprisonment of six months to two years and a fine of 50,000 to 500,000 CFA (\$100 to \$1,000). Anyone older than 18 has the right to decide for themselves. Nevertheless, forced marriage of girls was a serious problem, including among refugees. According to UNICEF data collected between 2000 and 2009, approximately 72 percent of women between the ages of 20 and 24 were married before the age of 18. The custom of buying and selling child brides was widespread. Girls that objected to being forcibly married often suffered physical assaults by their family members and husbands. Many young wives were forced to work long hours for their husbands in the fields or at home.

Child Soldiers.—The law prohibits the use of child soldiers. According to UNICEF, there were no confirmed cases of conscription of child soldiers during the year. There remain a number of reported, but still unverified, cases that the U.N. continued to investigate. A 16-year-old identified as part of an ANT patrol in the Ngougour-Kawa area in July and October 2010 was found and released in March through the intervention of the local prefect and the ANT commander following confirmation by the child's parents of his age.

The demobilization of remaining children from security forces was completed in 2010. There were no confirmed reports of armed groups, either Chadian or from Sudan, recruiting children from refugee camps along the eastern border during the year (see section 2.d.).

In 2010 Chad hosted a regional conference to end recruitment and use of children in armed conflict. The conference was organized with support from UNICEF and included delegations from Cameroon, CAR, Niger, Nigeria, and Sudan. UNICEF noted that Chad's progress in addressing child soldiers had made it a regional leader on the issue. Conference participants signed the N'Djamena Declaration, pledging to eliminate the recruitment and involvement of children in armed forces, armed groups, and in all forms of hostilities. An action plan to implement the declaration was signed by the governments and international partners on June 15, and was followed by biweekly meetings of a government action committee in August and September. On June 14, the government signed a comprehensive child soldiers' action plan with the U.N. The plan included commitments on demobilization and reintegration of child soldiers; prevention, awareness raising, and capacity building; legal procedures and discipline for offenders; and access to military sites for detection and investigation on the use of child soldiers.

The government continued to transfer children associated with returning rebel groups to UNICEF for reintegration and rehabilitation. According to UNICEF, 1,031 child soldiers were returned to civilian life from February 2007 to September 2011, with more than 95 percent returned to their communities. The significant improvement of the security environment in eastern Chad since 2010 facilitated family tracing and reunification in previously inaccessible areas. The government cooperated with international efforts to provide rehabilitation services.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no known Jewish community, nor were there any reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities, and while the government made efforts to enforce this prohibition in N'Djamena, it was unable to do so throughout the country. There were no laws or programs to ensure access to buildings for persons with disabilities; however, the government operated a few education, employment, and therapy programs for such persons.

The country had numerous persons with disabilities caused by polio, and many such persons held ranking positions in the government.

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 Min-

istry 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 were 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.

Interethnic violence continued, particularly in the east and south. Clashes occurred between herders and sedentary populations and other interethnic violence that often concerned use of increasingly scarce arable lands due to desertification.

Societal discrimination was practiced routinely by members of virtually all ethnic groups and was evident in patterns of employment. 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.

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 were few reports of violence or discrimination against LGBT persons, in large part because most LGBT persons were discreet about sexual orientation due to social and cultural strictures against homosexuality. The law prohibits but does not define “unnatural acts,” and there was no evidence that the law was used against LGBT persons during the year.

Other Societal Violence or Discrimination.—The law provides for persons with HIV/AIDS to have the same rights as other persons and obligates the government to provide information, education, and access to tests and treatment for persons living with HIV/AIDS, and government officials were not always well informed on educating such persons on their rights and treatment options. Women were sometimes accused of passing HIV to their husbands and were threatened by family members with judicial action or banishment.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—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 Territorial Administration is required. The Ministry of Territorial Administration can also order the immediate administrative dissolution of a union. The law allows unions to organize and bargain collectively. 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, including civil servants and teachers, must complete a mediation process and notify the government before striking. Employees of several public entities deemed essential must continue to provide a certain level of services. The law restricts the right to strike in the public sector, prolongs the period before a strike can occur, and the definition of essential services is overly broad. The law permits imprisonment with forced labor as punishment for participation in illegal strikes. While there are no restrictions on collective bargaining, the law authorizes the government to intervene under certain circumstances. The labor code prohibits antiunion discrimination. It explicitly covers all workers, including foreign and illegal workers. However, the protections provided were not always respected in practice.

The government effectively protected the right to freedom of association and collective bargaining. However, collective bargaining and its appeal procedures were sometimes subject to delays. Delays were often caused due to bureaucracy, lack of capacity, and other factors such as difficulties in convening key players in the negotiations. There were no reports that the authorization of the Ministry of Territorial Administration required for union formation was carried out during the year. There were also no reports of restrictions on collective bargaining or punishment for participating in illegal strikes.

Unions are officially independent of both government and political parties, although some unions were unofficially linked through membership affiliation with either ruling or opposition parties. The government did not influence or interfere in a series of strikes held by two of the largest unions during the year. Unions negotiated successfully with the government for salary increases for public and private sector workers, which ended the strikes. In general, there was no antiunion discrimination in practice. In the formal sector more than 90 percent of employees belonged to unions; however, the great majority of workers were self-employed, non-

unionized, unpaid, subsistence cultivators or herders. The government, which owned enterprises that dominated many sectors of the formal economy, remained the largest employer.

b. 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. A 1991 law sets the minimum age at 18 for any citizen wanting to join the army. The law permits imprisonment with forced labor for participation in illegal strikes. The law also prohibits the use of child soldiers.

Nevertheless, forced labor, particularly forced child labor, occurred in the informal sector. Children and adults in the rural sector were involved in forced agricultural work and in urban areas in domestic servitude.

The majority of forced child laborers were subjected to domestic servitude, forced begging, forced labor in cattle herding, fishing, and street vending. Children from Chad were found in forced cattle herding in Cameroon, CAR, and Nigeria. Girls sold or forced into child marriages were forced by their husbands into domestic servitude and agricultural labor. 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.

There were no instances of forced labor involving migrant workers.

Forced labor in prisons occurred.

See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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.

Violations of safety and health standards may lead to penalties ranging from approximately 75,000 CFA to 300,000 CFA (\$150 to \$600). Penalties for second offenses may include fines of more than 500,000 CFA (\$1,000) and/or between one and 10 days of imprisonment. The Office of the General Inspectorate of the Ministry of Labor has responsibility for the enforcement of the minimum wage, work hours, and occupational health and safety standards. The Ministry of Labor has inspectors deployed throughout the country. Labor inspectors can refer cases to the Ministry of Justice for prosecution. While not specialized in the protection of children per se, the ministry has provided training to these inspectors on children's issues. In practice, however, the government did not effectively enforce these laws due to several factors, including limited financial and human resources, inadequate knowledge by the workforce of their rights provided by the law, and corruption.

The Office of Labor Inspection is responsible for enforcement of child labor laws and policies; however, the laws were not effectively enforced. No prosecutions were conducted during the year. As in previous years, the office reportedly had no funding to carry out field work and investigations. Police reportedly sometimes took extrajudicial actions against traffickers and child labor offenders, including beating them and imposing unofficial fines. Traditional leaders also sometimes meted out traditional punishments, such as ostracism.

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 continued to educate parents and civil society on the dangers of child labor, particularly for child herders, who often were sent to distant locations where they were abused.

In his August 2011 inaugural speech, President Deby again publicly admonished parents who forced their children to herd instead of sending them to schools.

Regarding the prohibition of the use of child soldiers, the government generally enforced the law in practice. UNICEF maintained that the ANT did not recruit children during the year and had earlier ceased using children in combat roles. In June the government agreed to a U.N. Action Plan to prevent future recruitment of child soldiers. In September UNICEF closed down its last rehabilitation center for child soldiers, having found no more cases (see section 6, Child Soldiers).

Child labor was a serious problem. The low legal minimum age for employment, lack of any schooling opportunities in some areas, and tribal initiation rites rendering children informally adults by the age of 14 contributed to a general perception that child labor did not constitute exploitation unless the victims were less than age 13 or 14.

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 2005 study published by Human Rights Without Borders. Children were regularly employed as herders, domestics, crop-pickers, and in panning for gold. They also were employed in the

commercial sector, particularly in the capital, as street vendors, manual laborers, and helpers in small shops. Contracts were typically entered into informally between parents and herders and generally included compensation (including a small monthly salary and generally one animal at the end of six months). Local NGOs reported that compensation was often not paid.

The country's numerous child herders working outside of traditional herding clans often lived in substandard conditions without access to school or proper nutrition. These herders were customarily given one cow as payment for one year's work, but herd managers sometimes refused to pay this salary, or the child's parents collected the payment for themselves.

Children worked as domestic servants, mainly in the capital. According to a 2005 UNICEF-government survey of child domestics in N'Djamena (the most recent data source available), 62 percent of child domestics 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.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The labor code requires the government to set minimum wages. The monthly minimum wage was raised during the year from 28,000 CFA (\$56) to 60,000 CFA (\$120); however, the minimum wage was not effectively enforced. 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 unbroken rest periods of between 24 and 48 hours. The labor code mandates occupational health and safety standards and gives inspectors the authority to enforce them. Workers had the right to remove themselves from dangerous working conditions. The labor code explicitly covers all workers, including foreign and illegal workers.

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.

Workers did not always avail themselves of their rights concerning work hour limits, largely because they preferred the additional pay.

The occupational health and safety standards were generally ignored by local private companies and in the civil service. Multinational companies generally met acceptable occupational health safety standards. However, local private companies and public offices often applied poor standards including lack of air conditioning (in part due to highly irregular electrical supply), little or no fire device protection, and little or no health and safety protection equipment. Workers had the right to remove themselves from dangerous working conditions, however, in practice, with so few jobs in the formal sector, doing so for any reason often meant jeopardizing their employment.

Public sector employees sometimes claimed wage-related violations; however, these were generally due to arrears in payment of salaries and/or bonuses or complaints over the low level of wages. The protections legally provided for foreign and illegal workers were not always respected in practice.

COMOROS

EXECUTIVE SUMMARY

The Union of the Comoros is a constitutional, multiparty republic. The country consists of three islands—Grande Comore (also called Ngazidja), Anjouan, and Moheli—and claims a fourth, Mayotte, which France governs. In November and December 2010 elections were held to choose a new union president as well as governors for each of the three islands. Serious electoral irregularities on the island of Anjouan noted by some observers were not sufficient to change the outcome of the national contests, and the constitutional court upheld the results of the elections. On May 26, former vice president Ikililou Dhoinine became president of the Comoros. Security forces reported to civilian authorities.

Official corruption, bribery in particular, was a pervasive problem in the government at all levels. Children were subject to various forms of abuse from violence to forced labor, including the worst forms of child labor, and trafficking in persons. The government did not effectively enforce laws providing protections of worker's rights.

Other human rights problems reported during the year included poor prison conditions, long pretrial detention, restrictions on press freedom, violence and societal discrimination against women, and criminalization of consensual same-sex sexual activity.

Impunity for violations of human rights existed. The government rarely took steps to prosecute, much less punish, officials anywhere in the government who committed abuses.

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

a. Arbitrary or Unlawful Deprivation of Life.—During the year there were no confirmed reports the government or its agents committed any politically motivated killings. However, in June 2010 Colonel Combo Ayoub, a senior army officer, was assassinated at his home in Moroni. At year's end an investigation continued, and the chief of staff of the Comoran Defense Forces was under house arrest for his possible role in the killing (see section 1.e).

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and laws prohibit such practices. During the year there were no reports government officials employed them.

Prison and Detention Center Conditions.—The detention facility in Moroni was known as the national prison. There were detention facilities as well on Anjouan and Moheli. The military detained security personnel in its own facilities. National or island-level authorities used these various detention facilities as deemed appropriate, and detainees could be transferred from either Anjouan or Moheli to Grande Comore depending upon the nature of the offense.

The limited available information indicated that prison conditions remained poor. Detainees and prisoners normally received a single meager meal per day. They depended on family members to supplement their diet; those with no relations in the area suffered. Common problems included nonpotable water, inadequate sanitation, overcrowding, inadequate medical facilities, and poor diet. During the year there were no reports of deaths of prison inmates.

The national prison in Moroni accommodated a maximum of 150 persons under crowded conditions. Consistent records of prison populations were not available. Authorities held pretrial detainees with convicted prisoners.

Prisoners and detainees were permitted reasonable access to visitors and Muslim religious observance. Prisoners could also bring complaints to the attention of authorities; however, investigations or follow-up actions almost never occurred.

The government permitted visits by independent human rights observers.

There were some documented improvements in conditions in the Badjo detention facility on Moheli island, where a renovation included a new cellblock, potable water and sanitation infrastructure, and beds.

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.—Six separate security forces report to four different authorities. Union government forces include the Army of National Development and the Gendarmerie, which report to the president's Cabinet Director for Defense (equivalent of minister); and the National Directorate of Territorial Safety (immigration and customs) under the Minister of Interior, Information, and Decentralization. Each of the three islands also has its own local police force under the authority of its ministry of interior.

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 permits 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. The law describes 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. Formal procedures described under the law were subject to unpredictable, inconsistent, and broad variations in actual practice.

Pretrial Detention: Pretrial detention was a problem. By law pretrial detainees can be held for only four months, but this period can be extended. Detainees routinely await trial for extended periods for reasons including administrative delays, case backlogs, and time-consuming collection of evidence. 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 inconsistency, unpredictability, lack of payment of salaries, and corruption were problems.

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. Defendants have the right to consult an attorney; indigent defendants have the right to have one provided at public expense. Defendants may be present, access government-held evidence, question witnesses, and present witnesses and evidence on their own behalf. There is an appeal process. The formal procedures described in the law were subject to unpredictable, inconsistent, and broad variations in actual practice. Defendants rarely received legal counsel at public expense.

Political Prisoners and Detainees.—In August 2010 the government put General Mohamed Amiri Salimou, chief of staff of the Comoran Defense Forces, under house arrest for his possible role in the killing of Colonel Combo Ayouba (see section 1.a.). In April the Court of First Instance acquitted Salimou and all but four of the 30 persons arrested with him of the charge of rebellion without pronouncing on the charge of murder. The four were sentenced to one year in prison; three have been held in solitary confinement. The investigation into the charge of killing Combo continued, and Salimou remained under house arrest, with no date set for his trial by year's end.

Civil Judicial Procedures and Remedies.—There is an independent but not impartial judiciary for civil matters. Officers of formal courts frequently asked for payment from parties before the court in the course of exercising their functions. 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.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press.

Freedom of Press: The union government partially limited press freedom by publicly criticizing journalists who wrote controversial articles, and journalists on all three islands practiced self-censorship. According to the Comoran Federation of Human Rights, in March the outgoing administration of President Mohamed Sambi pressured the state-run newspaper *Al Watan* and the independent newspaper *Al Balad* to suspend their editor in chief and director, respectively, for articles critical of the long transition period and delays in inaugurating President Ikililou.

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 expression of views via the Internet, including by e-mail.

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.—See the Department of State's International Religious Freedom Report at <http://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 and foreign travel, and the government generally respected these rights in practice. No specific constitutional or legal provisions deal with emigration and repatriation.

The government cooperated with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in providing protection to internally

displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees.—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. 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 government presidency in which every four years each island takes a turn at holding a primary for three presidential candidates. The constitution thus restricts, by island, those eligible to run for the presidency. However, aside from the rotation principle, anyone is free to run for election.

Recent Elections.—In November and December 2010, elections were held to choose a new union government president, as well as governors for each of the three islands. The turn passed to Moheli. From the original 10 candidates (all natives of Moheli), Mohelian voters selected three to run in the national election. Although some observers noted serious irregularities on the island of Anjouan in the national election, these were not sufficient to change the outcome, and the constitutional court upheld the final election results. Former vice president Ikililou Dhoinine became the union president in May.

In December 2009 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.

Participation of Women and Minorities: There was one woman in the 33-member National Assembly and three women in the 10-member cabinet. No minorities held National Assembly seats or ministerial posts in the union or island governments.

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 with impunity in corrupt practices, such as taking money for performing routine administrative services or doing favors. Resident diplomatic, U.N., and humanitarian agency workers reported petty corruption was commonplace at all levels of the civil service despite the government's anticorruption campaign. Businessmen reported corruption and a lack of transparency, and the World Bank indicators reflected that corruption was a significant problem.

Corruption continued in the security forces. Citizens paid bribes to evade customs regulations, avoid arrest, and have police reports falsified. Some police personnel paid bribes to receive promotions.

The union Ministry of Justice is responsible for combating corruption. However, although public allegations of corruption were routine, the government did not charge, prosecute, or discipline officials.

Officials are subject to financial disclosure laws as of June 21. Presidential decree No. 11-103/PR implementing a 2008 Law on Transparency of Political, Economic, Financial and Social Activities requires all officials at union and island levels to declare their assets prior to entering office. Officials subject to the law submitted written declarations on taking office.

No laws provide 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 human rights organization and some international nongovernmental organizations (NGOs) generally operated without government restriction, investigating and publishing their findings on human rights cases. Domestic NGOs largely supplanted government ministries in the provision of some functions, especially in health and education. Government officials were generally cooperative and responsive to their views.

The government cooperated with international organizations and permitted visits by representatives of the U.N. and other organizations. No outside visits were made

during the year, but domestic human rights and other nongovernmental organizations used locally based U.N. personnel as a means of influencing the government. No reports or criticisms were issued.

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

Although the law prohibits discrimination based on race, gender, disability, language, or social status, there were reports of discrimination against women and persons with disabilities.

Women.—Rape and Domestic Violence.—Rape is illegal and punishable by imprisonment of five to 10 years or up to 15 years if the victim is younger than age 15. However, the government did not enforce the laws on rape effectively. The law does not specifically address spousal rape, which occurred. Statistics were scarce, since many of these situations were settled within families or by village elders without recourse to the formal court system. Authorities believed the problem was widespread, as was overall sexual violence. For example, allegations of crimes of sexual aggression accounted for about half of all persons detained.

The law prohibits domestic violence. No reliable data were available on the extent of the problem. The government did not take any concrete action to combat violence against women. While 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, entered the formal court system.

Sexual Harassment.—al 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.

Sex Tourism.—The Comoros is a source country for men and women subjected to sex trafficking. There are reports that foreign tourists frequented establishments where such trafficking occurred.

Reproductive Rights.—Couples and individuals are generally free to choose the number and spacing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Modern contraceptive use among married women and girls ages 15-49 was approximately 19 percent, according to the U.N. Population Fund (UNFPA). Existing health resources (including personnel, facilities, equipment, and drugs) were inadequate, making it difficult for the government to respond to the health needs of the population. According to the Population Reference Bureau, approximately 62 percent of births were attended by skilled personnel. The UNFPA estimated maternal mortality in 2008 to be 340 deaths per 100,000 live births. A general lack of adolescent reproductive health information and services led to unwanted pregnancies and increased morbidity and mortality among adolescent girls. These incidents were generally concealed for social and cultural reasons. There are no legal barriers preventing women from receiving treatment for sexually transmitted infections, but many hesitated to do so due to social and cultural concerns.

Discrimination.—The law provides for equality of persons, and in general, inheritance and property rights practices do not discriminate against women. The local cultures on Grande Comore and Moheli are traditionally matrilineal, and all inheritable property is the possession of women. This cultural practice leads at times to what might be seen as discrimination against men in the inheritance of homes and land. Men retain the head-of-household role in society. Throughout the country, including on Anjouan, land and homes are usually awarded to women in case of divorce or separation. 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 with those of men engaged in similar work; however, few women held positions of responsibility in business. The Ministry of Health, Solidarity, and Gender Promotion is responsible for promoting women's rights.

Children.—Birth Registration.—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. An estimated 15 percent of children were not officially registered at birth, although many of these situations were regularized subsequently. No public services were withheld from children who were not officially registered.

Education.—Universal education is compulsory until the age of 12, but not tuition-free. The public education system was in severe disrepair; private schools, including madrassas, took up some of the slack. When families paid private school tuition, boys generally were more likely to attend schools than girls.

Child Abuse.—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. Although there were no official statistics on child abuse, it was common and often occurred when impoverished families sent their children to work for wealthier families. The practice was most prevalent on Anjouan, where children were sent to the French department of Mayotte, where the population is ethnically related to that of Anjouan. There were also scattered reports of teachers raping students in some schools. Traditional societal networks rather than formal law enforcement investigations generally handled these cases.

Sexual Exploitation of Children.—Child prostitution and child pornography are illegal. The law considers unmarried children under age 18 to be minors, and they are protected legally from sexual exploitation, prostitution, and pornography. The age of consent is 13. Anyone convicted of luring a child into prostitution is subject to a prison term of two to five years and a fine of 150,000 to one million Comoran francs (\$417 to \$2,778). There were no official statistics regarding these matters. There was evidence that children sent to work within the country or to Mayotte by family members, or enrolled in madrassas were sometimes subject to sexual abuse. The country was a source for children subjected to sex trafficking. Girls were exploited in prostitution on all three islands in rented houses, nightclubs, and hotels, often with the knowledge of their families or after being coerced by other young girls. There were reports that foreign tourists frequented these establishments.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no known Jewish population, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—For information on trafficking in persons, see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The constitution and laws do not mandate access to buildings, information, and communication for persons with disabilities.

Handicap Comores, the country's nongovernmental center for persons with disabilities on Grande Comore, was run by a local NGO called Shiwe, 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.—Consensual same-sex sexual activity is illegal and can be punished by up to five years' imprisonment and a fine of 50,000 to one million Comoran francs (\$139 to \$2,778). During the year, however, no case of this nature came before the courts. Lesbian, gay, bisexual, and transgender (LGBT) persons generally did not publicly discuss their sexual orientation, due to societal pressure. There were no LGBT organizations.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements. It provides for the right to strike, requiring an eight-day notification period and specification of the reason for and duration of the strike. The law includes a system for resolving labor disputes. Unions have the right to bargain collectively. The government, especially the ministries of finance and labor, sets wages in the large public sector, and imposes a minimum wage in the small private sector. The law allows unions to conduct their activities without government interference. The law does not prohibit antiunion discrimination by employers in hiring practices or other employment functions. There are no laws protecting strikers from retribution.

The law was not applied in the settlement of private-sector disputes, but was invoked unpredictably and inconsistently in labor disputes in the public sector. Worker organizations were independent of the government and political parties.

Workers exercised these rights in practice. There were no reports of instances of retribution against strikers. Common problems included failure to pay salaries regularly or on time, mostly in the government sector, and unfair and abusive dismissal

practices such as firing employees without giving proper notice or paying the required severance pay. There were no incidents of antiunion discrimination during the year.

b. 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 during accidents, fires, and disasters. The union government's civil protection unit may oblige persons to respond to disasters if it is unable to obtain sufficient voluntary assistance. There are no specific prohibitions against forced or compulsory child labor. The law was not applied during the year.

Forced child labor occurred in practice, particularly in agriculture (planting, weeding, harvesting), fishing, informal retail (selling goods on the street), and domestic service.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—Laws exist to protect children from exploitation in the workplace. The law establishes 15 as the minimum age for employment.

The government did not enforce such laws. The Ministry of Labor is responsible for enforcing child labor laws, but it did not actively or effectively do so. There were three labor inspectors (one for each island). These inspectors were responsible for all potential violations of labor law and did not focus only on child labor cases.

Children worked in subsistence farming, fishing, in the informal sector selling goods along roadsides, and extracting and selling marine sand. Children worked on food crops such as manioc and beans, and also on cash crops such as vanilla, cloves, and ylang-ylang (a flower used to make perfume). Some children worked under forced labor conditions, particularly in domestic service, roadside and market selling, and agriculture. In addition, some Qur'anic schools arranged for indigent 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.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The official estimate for the poverty income level is 250,000 Comoran francs (\$700) per year.

Although the union government and local governments did not enforce the minimum wage law and workweek standards, unions had adequate influence to negotiate de facto minimum wage rates for different skill levels for unionized jobs. These provisions applied to all workers, regardless of sector or country of origin. In practice unions promoted this de facto minimum wage via their ability to strike against employers.

Some employers, particularly the government, were consistently remiss in paying salaries. Despite some strikes and other protests, the union government was unable regularly to pay government employees—including low-level officials, teachers, and medical workers—with arrears building up over years; most public sector employees did not receive more than one third of their expected pay in any given year.

No safety or health standards exist for worksites.

DEMOCRATIC REPUBLIC OF THE CONGO

EXECUTIVE SUMMARY

The Democratic Republic of the Congo (DRC) is a nominally centralized, constitutional republic. The president and the lower house of parliament (National Assembly) are popularly elected. Provincial assemblies choose the members of the upper house (Senate). On November 28, the country held multiparty presidential and National Assembly elections, which many local and international observers judged lacked credibility and were seriously flawed. State security forces (SSF) acted independently of civilian control and of military command in many instances.

The three most important human rights issues were: conflict and insecurity in the East that exacerbated an already precarious human rights situation, particularly sexual- and gender-based violence (SGBV); insecurity during the election period; and the lack of an independent and effective judiciary.

Other major human rights problems included the following: impunity enjoyed by SSF throughout the country for many serious abuses, including unlawful killings, disappearances, torture, rape, and arbitrary arrests and detention; severe and life-

threatening conditions in prison and detention facilities; prolonged pretrial detention; arbitrary interference with privacy, family, and home; SSF members' abuse and threatening of journalists and human rights advocates, and threatening and obstructing the work of U.N. investigators; abuse of internally displaced persons (IDPs) by SSF and rebel and militia groups (RMG); widespread official corruption; SSF and RMG retention and recruitment of child soldiers; and use of forced civilian labor. Societal discrimination against and abuse of women and children, Pygmies, persons with albinism, and homosexual persons; trafficking in persons; child labor; and lack of protection of workers' rights were also problems.

Impunity for human rights abuses was a severe problem in both the security services and elsewhere in the government. Authorities did not prosecute or punish the great majority of abusers.

Internal conflicts, particularly in North Kivu, South Kivu, and Orientale provinces, permitted RMG to commit violent abuses against civilians. These abuses—some of which may constitute war crimes—included unlawful killings, disappearances, torture, and SGBV. RMG also recruited, abducted, and retained child soldiers and compelled forced labor. RMG and some army units engaged in the illegal exploitation and trade of natural resources in the East. In a separate conflict in the Haut Uele and Bas Uele districts of Orientale Province, the Lord's Resistance Army (LRA) continued to commit serious human rights violations through attacks resulting in deaths, injuries, abductions, forced labor, looting, and general insecurity.

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

a. Arbitrary or Unlawful Deprivation of Life.—There were several occasions during the year when SSF members arbitrarily and summarily killed civilians, sometimes during apprehension or while holding them in custody, sometimes during protests, and often when victims did not surrender their possessions, submit to rape, or perform personal services. For example, Human Rights Watch (HRW) reported that SSF killed 24 individuals, including both bystanders and members of the opposition, in elections-related violence between December 9 and 14. Of these incidents, 20 took place in Kinshasa, two in North Kivu, and two in Kasai Occidental.

The Armed Forces of the DRC (FARDC), including dissident elements that had been poorly integrated into the FARDC, such as former members of the National Congress for the Defense of the People (CNDP) militia led by General Bosco Ntaganda (who remained the subject of an outstanding International Criminal Court (ICC) arrest warrant), were allegedly implicated in politically motivated killings, arbitrary arrests, temporary detentions, and the abduction and disappearance of a number of individuals.

The trial of those accused of the 2010 killing of long-time human rights activist Floribert Chebeya concluded in June. A court sentenced four national police (PNC) officers to death and one to life in prison, and acquitted three. The civil party representing the families of the deceased claimed only "partial satisfaction" with the verdict and filed an appeal calling for former PNC Inspector General John Numbi to be tried. Several rule of law experts in the country and almost 80 local and international human rights nongovernmental organizations (NGOs) also expressed serious concerns about the credibility and independence of the investigation and trial. Numbi was suspended from his position in June 2010 pending an investigation, but authorities did not charge him or put him on trial.

RMG in conflict zones committed unlawful killings during the year, and there were reports that some businesses facilitated such killings and other abuses by sourcing minerals from areas controlled by RMG and FARDC units (see section 1.g.).

b. Disappearance.—There were reports of disappearances attributable to SSF, including reports of disappearances of members of opposition political parties (see section 2.b.). Authorities often refused to acknowledge the detention of suspects and in some cases detained suspects in secret detention facilities. Local and international human rights organizations alleged SSF abducted individuals during the electoral period and detained individuals in secret nontraditional prisons (military camps and private offices and residences).

For example, on November 4, former CNDP members of the FARDC allegedly kidnapped and beat a popular musician after he performed songs in support of opposition candidates. They released him on November 6 after community demonstrations. On November 9, he spoke at a press conference in support of President Kabila, reportedly under intense pressure.

There were no developments in the 2010 case involving Sylvestre Bwira, president of the Civil Society of Masisi, North Kivu. FARDC units comprised of ex-CNDP members held and severely beat him; he was later released. The abuses occurred after he had sent an open letter to President Kabila in August 2010 denouncing

abuses committed with impunity by General Ntaganda's troops and the parallel CNDP administration in Masisi Territory. By year's end authorities had taken no action to bring those responsible to justice.

RMG and FARDC units kidnapped numerous persons, generally for forced labor, military service, or sexual services, and there were reports that commercial sourcing of minerals from areas controlled by these entities may have facilitated such kidnappings and other abuses. Many of the victims disappeared (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—In July the president promulgated a law criminalizing torture. However, the government did not effectively enforce the law, and there were many reports from the U.N. Joint Human Rights Office (UNJHRO) and other human rights organizations that SSF tortured civilians, particularly detainees and prisoners, and employed other types of cruel, inhuman, and degrading punishment. Members of the police, the National Intelligence Agency (ANR), and the FARDC perpetrated most cases of torture. There were very few reports of government authorities taking action against persons responsible for these acts.

The UNJHRO reported several cases of torture. For example, on October 3, in the Tshikapa Territory of Kasai Occidental, 15 police officers without a warrant reportedly arrested a young pregnant woman. During the arrest, they stripped her naked and punched and kicked her before sending her to their commander, who placed her in jail. While detained, the police shaved her head, armpits, and pubic area. They released her on October 6, after she miscarried. No known investigation took place, although the U.N. informed the military garrison in Tshikapa.

Authorities took no further action in the August 2010 case in which FARDC soldiers arrested five persons, including two minors, suspected of involvement in an attack on a United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) peacekeeping base in North Kivu that killed three peacekeepers. During their detention at the headquarters of the 12th FARDC Sector in Kasando, Lubero Territory, soldiers allegedly tortured the individuals, giving them between 40 and 120 lashes each and burning and mutilating their feet and hands to obtain confessions. The five were transferred to the Goma military court.

On several occasions during the year, SSF utilized cruel, inhuman, or degrading methods to exact punishment. For example, on September 24, members of the Republican Guards (RG) arrested and beat three civilians in Goma after their vehicle was involved in a traffic accident that damaged a military vehicle. (The RG guards the president and has no authority to arrest or detain civilians.) The soldiers allegedly beat the victims, stole their property, and detained the individuals in solitary confinement while continuing to beat them. One victim filed a complaint with the local military prosecutor.

In addition, on several occasions during the year, police beat and arrested journalists who wrote or broadcast material they did not like (see section 2.a.).

Some church leaders also beat, whipped, and starved children accused of witchcraft (see section 6).

There were continuing reports, including many from UNJHRO, of members of the SSF raping civilians, both in the conflict zone in the East (see section 1.g.) and elsewhere. For example, on November 17, two girls were allegedly raped by two soldiers of the 2nd Company of the Special FARDC Regiment in Isiro, Haut-Uele District. Intelligence services of Operation Rudia II opened an investigation, but no additional information was available at year's end.

No additional information was available regarding the rape in March 2010 by four policemen from Kampungu police station in Mweka Territory of the daughter of a man they sought in Kasai Occidental.

Prison and Detention Center Conditions.—Conditions in most prisons remained severe and life threatening. The penal system was underfunded, and most prisons were understaffed, undersupplied, overcrowded, and poorly maintained. Serious threats to life and health were widespread and included: violence, particularly rape; food shortages; lack of access to potable water; and inadequate sanitation, ventilation, temperature, lighting, and medical care. Death from starvation or disease was common. Men and women, juveniles and adults, and pretrial detainees and convicted prisoners were often held together. Escapes were common.

According to the Joint Prison Coordination (which includes the Ministry of Justice, the Ministry of Defense, and MONUSCO), in 2010 the number of those in pretrial detention exceeded 18,000, including an estimated 500 women. The reported total number of sentenced prisoners did not exceed 4,000, including approximately 100 women. These figures represent several times the number of persons the system was designed to hold.

Even harsher conditions prevailed in small detention centers, which were extremely overcrowded; had no toilets, mattresses, or medical care; and 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 state security forces, there were no reports of such closures during the year. According to MONUSCO, the security services, particularly the intelligence services and the RG, continued to operate numerous illegal detention facilities characterized by harsh and life-threatening conditions. Authorities routinely denied family members, friends, and lawyers access to these illegal facilities.

Authorities denied some prisoners and detainees access to visitors and did not permit them to have contact with or submit complaints to judicial authorities (see section 1.d.). The government had not established an effective or reliable system to monitor detention facilities, and authorities very rarely investigated allegations of inhumane prison or detention center conditions. There were no government ombudsmen serving to protect the rights of prisoners and detainees. There were no reports of authorities preventing prisoners or detainees from practicing their religion. No meaningful steps were taken to improve recordkeeping or to use alternatives to sentencing for nonviolent offenders. In general, the conditions of women prisoners were no worse than those for men.

On most occasions, the government allowed the International Committee of the Red Cross, MONUSCO, and some NGOs access to all official detention facilities. However, it did not allow these organizations access to illegal government-run detention facilities, including those run by the ANR, the RG, and units of FARDC, including ex-CNDP FARDC units in Masisi Territory, North Kivu.

RMG sometimes detained civilians, often for ransom, but little information was available concerning the conditions of detention (see section 1.g.).

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest or detention; however, SSF arbitrarily arrested and detained persons on a routine basis.

Role of the Police and Security Apparatus.—The PNC is part of the SFF, which operates under the Ministry of Interior and has primary responsibility for law enforcement and public order, including during the electoral period. 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 Direction Generale de Migration (DGM), responsible for border control; the RG; and the FARDC, which is part of the Ministry of Defense and is generally responsible for external security, but also fulfills an internal security role.

The SSF generally were undisciplined, corrupt, undertrained, and grossly underfunded. Salaries were often late or unpaid, although the initiative of the European Union Mission for Security Sector Reform in the DRC (EUSEC), which provided biometric identification cards to soldiers to facilitate disbursement of pay and census of soldiers, resulted in some progress (see section 4).

There were mechanisms available to investigate abuses by SSF and address internal discipline problems, although the mechanisms remained weak and ineffective, particularly for addressing misconduct by mid- and high-ranking officials. However, some progress was made during the year related to internal discipline of the PNC and FARDC. For example, see section 1.a. for a discussion of the Chebeya case. In February a military tribunal sentenced 10 FARDC officers to 10-20 years in prison for a mass rape committed in Fizi on January 1 that victimized at least 35 women. Lieutenant Colonel Kibibi Mutware, a former CNDP rebel integrated and promoted within the FARDC and the main defendant, received a 20-year sentence.

The government adopted a police reform law in August that replaced the Inspection Generale d'Audit by the Commissariat General de la Police (CG). The CG is the internal discipline unit within the PNC that investigates corruption and other misconduct and human rights violations perpetrated by police force members. The CG unit was trained and deployed countrywide to investigate police conduct during the electoral process.

The FARDC was ineffective, due in part to weak command and control, poor operational planning, low administrative and logistical capacity, lack of training, and questionable loyalty of some of its soldiers, particularly those in eastern Congo. Other serious obstacles to the formation of a coherent national army included lack of equipment and barracks. Poor integration of former militias, particularly the

CNDP, remained a significant problem. During the year the government implemented a policy of reorganizing the FARDC into regiments in an attempt to disperse former RMG members throughout the military, but this had mixed results as the process was poorly planned and executed. Most ex-CNDP resisted the reorganization and refused to leave their original area of operation. The process resulted in 24 new regiments. These units were of low quality, and most were under the control of a parallel command structure run by former CNDP officers. The reorganization also contributed to a temporary increase in instability in North Kivu and South Kivu as RMG occupied the void left by FARDC units when the latter deployed to training centers prior to reorganizing.

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 stealing food and money. According to UNJHRO there was a direct correlation between the amount of salaries siphoned off by corrupt officers and the level of human rights abuses committed by FARDC, the RG, the PNC, the DGM, and the ANR. Abuses by FARDC soldiers were dramatically reduced in areas where they were properly paid and fed.

Impunity in the SSF remained a severe, widespread problem, and the weaknesses of the justice system continued to play a large role in causing it (see section 1.e.). The government rarely prosecuted and disciplined security force personnel for abusing civilians. Military justice institutions continued to face challenges, including a severe shortage of military judges and prosecutors. Magistrates, prosecutors, and investigators were poorly trained, had little or no resources for investigations, and had limited access to legal codes. In addition, the military justice system was often subjected to political and command interference, and security arrangements for magistrates in conflict-affected areas were inadequate. Magistrates who attempted to investigate politically connected high-level FARDC officers were threatened, as were witnesses providing information to judicial officers as, for example, occurred in the investigation into the Walikale and Bushani mass rapes by the Military Prosecutor's Office in North Kivu.

Some Congolese military prosecutors participated in joint investigation teams (JITs), a U.N. initiative launched during the year that focused on investigating SGBV in the East. JITs, which consisted of UNJHRO officers and Congolese military prosecutors and investigators, received complaints 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 field 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.

The government maintained human rights follow-up committees with MONUSCO in several provinces. Depending on the provinces, they were composed of military and police officers, judicial authorities, military prosecutors, MONUSCO human rights officers, and MONUSCO child protection officers. Committees met regularly to monitor, investigate, and develop strategies to combat human rights abuses. Their effectiveness remained mixed at year's end.

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. 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 RG, and refused to acknowledge their detention.

Arbitrary Arrest.—Security personnel arrested and detained without charge perceived opponents and critics of the government, sometimes under the pretext of state security, and often denying due process, such as access to an attorney (see sections 1.a., 2.a., and 5).

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members.

The military intelligence agency, DEMIAP, arbitrarily arrested persons and subjected them to prolonged arbitrary detention (see section 1.a.).

Pretrial Detention.—Prolonged pretrial detention, often ranging from months to years, remained a problem. In March 2010 U.N. Secretary-General Ban Ki-moon reported that at least 70 percent of inmates were pretrial detainees. In July 2010 Bandundu civil society leaders reported that inmates at Bulungu prison on average spent two to three years in detention before their cases came to trial. No substantial improvement in the situation occurred during the year. 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, inadequate records, judicial inefficiency, or corruption.

e. Denial of Fair Public Trial.—While the law provides for an independent judiciary, in practice the judiciary was inefficient, corrupt, and subject to influence. Judges were poorly compensated and subject to influence and coercion by officials and other influential individuals. Authorities routinely did not respect court orders.

Trial Procedures.—The constitution provides for a presumption of innocence. However, in practice most defendants were assumed guilty and had to prove their innocence. Rarely did the prosecution have the burden of proving its case. Although the government permitted, and in some cases provided, legal counsel, lawyers often did not have free access to their clients. 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 occasionally disregarded. 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 adjudicates. 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 right was irregularly observed in practice.

Political Prisoners and Detainees.—There were reports of political prisoners and detainees. Voix des Sans-Voix, a Congolese NGO, reported 211 political detainees, which represents an increase from the 142 reported in 2010. While the government permitted access to some of these prisoners by international human rights organizations and MONUSCO, authorities consistently denied access to detention facilities run by the RG and the ANR (see section 1.c.).

Civil Judicial Procedures and Remedies.—Civil courts exist for lawsuits and other disputes, and individuals can seek civil remedies for human rights violations within this court system. However, the public widely viewed civil courts as corrupt and believed outcomes were determined by the relative financial means of the parties to the lawsuit. There was little available evidence that individuals used civil courts to address human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—Although the law prohibits arbitrary interference with privacy, family, home, or correspondence, SSF routinely ignored these provisions. Soldiers, demobilized soldiers, deserters, and police harassed and robbed civilians. SSF routinely ignored legal requirements and entered and searched homes or vehicles without warrants. In general, those responsible for such acts remained unidentified and unpunished. State security forces sometimes looted homes, businesses, and schools.

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 Province, and to a lesser degree, the Ituri District of Orientale.

Foreign RMG, including Forces Democratiques de Liberation du Rwanda (FDLR), LRA, and some Congolese Mai-Mai (local militia) groups increasingly formed coalitions during the year and continued to battle government forces and attack civilian populations. Military preparations, and the fighting itself, led to further depredations against civilians by members of SSF and RMG. This continuation of fighting in the East, which impeded humanitarian aid in some areas, kept the figure of IDPs at approximately 1.7 million at the end of the year, exacerbating an already severe humanitarian crisis.

MONUSCO continued to maintain several thousand soldiers and civilian personnel in the country to assist the government in establishing and maintaining peace and security, particularly in the East. In June the U.N. Security Council extended MONUSCO's mandate for 12 months, adding election logistical and technical assistance to its mandate. At year's end, MONUSCO included approximately 19,000 peacekeepers, military observers, and police.

Killings, Physical Abuse, Punishment, and Torture.—According to reports by U.N. agencies and NGOs, SSF arrested, illegally detained, raped, tortured, and summarily executed or otherwise killed civilians and looted villages during military actions against RMG. Impunity remained a severe problem, and several individuals in the SSF continued to hold high positions despite credible evidence of their direct involvement in serious human rights abuses or failing to hold subordinates accountable for such abuses (see section 1.d.).

Taking advantage of parallel command structures, ex-CNDP FARDC units in the East controlled their own stockpile of weapons and resisted central government orders to deploy outside of the East. According to the U.N. Group of Experts (UNGEO), some ex-CNDP elements collaborated with RMG who were officially their enemies.

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. SSF in the East forced men, women, and children, including IDPs, to serve as porters, miners, and domestic laborers.

RMG committed numerous serious abuses, especially in rural areas of North Kivu, South Kivu, and Orientale, killing, raping, and torturing civilians, often as retribution for alleged collaboration with government forces. RMG maintained and recruited child soldiers, including by force, sometimes from schools and churches, and sometimes killed, threatened, and harassed humanitarian workers. RMG abducted men, women, and children and compelled them to transport looted goods for long distances without pay. They forced adult and child civilians and child soldiers to mine, and forced men, women, and children to provide household labor or sexual services for periods as long as several months. In parts of the East, RMG looted, extorted, and illegally taxed and detained civilians, often for ransom.

For example, UNJHRO reported that during the night of December 31, 2010–January 1, 2011, FARDC soldiers (probably ex-CNDP) raped at least 46 women and one girl in the villages of Bushani and Kalambahiro in Masisi territory, North Kivu. They also abducted two civilians and inflicted cruel, inhuman, or degrading treatment on 12 others. They looted at least 100 houses and three buildings and set on fire or destroyed at least four houses. While the military prosecutor attempted an investigation, FARDC commanders in the area refused to cooperate, and by year's end no one had been arrested for the crimes.

According to MONUSCO, that same night in the town of Fizi, South Kivu, FARDC Colonel Kibibi and his men raped at least 35 women in retaliation for the killing of a FARDC soldier by civilians. As discussed in section 1.d., authorities arrested Lieutenant Colonel Kibibi and 10 of his men and tried them for the rapes. The military tribunal sentenced Kibibi and three other officers to 20 years in prison, two soldiers to 15 years, and three soldiers to 10 years in prison for human rights violations, including mass rapes. In addition, one soldier was acquitted while a minor who was among the accused was transferred to a juvenile court. At year's end, Kibibi was reportedly serving his sentence.

According to the UNJHRO, during clashes in June between the RMGs Alliance des Patriotes pour un Congo Libre et Souverain (APCLS) and Mai Mai Cheka near Mutongo village in Walikale Territory, North Kivu, 85 individuals including 10 minors and one man were raped and 11 persons were subjected to other cruel, inhuman and degrading treatment. At least 20 villages in the area were looted. APCLS combatants allegedly perpetrated the majority of these abuses. Indirect sources also alleged 35 other women were raped during the clashes, but the UNJHRO could not directly interview the alleged victims. Its investigation continued at year's end.

Ugandan RMG ADF/NALU operated in North Kivu, committing terrorist attacks against the civilian population. In April it ambushed and killed 10 FARDC soldiers in Beni territory of North Kivu. In October a coalition of forces from the RMGs FDLR, National Liberation Front (FNL, a Burundian RMG operating in DRC) and Mai Mai Yakutumba operating in South Kivu killed at least five persons working for a local NGO. During the year the Front for Patriotic Resistance in Ituri (FRPI) attacked civilian populations in Orientale Province, including an attack on October 20 that killed a young woman and displaced 30,000 persons.

On December 7, the trial of eight individuals accused of organizing the 2010 Walikale mass rapes began. In July and August 2010 a coalition of the FDLR, Mai-Mai Cheka, Patriotic Forces for the Liberation of Congo (FPLC), and combatants led by Colonel Emmanuel Nsengiyumva, a former member of the CNDP and FARDC, allegedly raped 303 women, children, and men in 13 villages in Walikale, North Kivu. The perpetrators also looted more than 1,000 homes and abducted 116 civilians, whom they subjected to forced labor. According to the U.N., one of the villages attacked, Luvungi, where more than 100 persons were raped, was a lucrative target

because it was a mining hub located only four miles from gold mines. As of the end of the year, one of the eight individuals charged with the rapes had been arrested and another had died. The trial was scheduled to relocate to Walikale Territory and reconvene in 2012.

During the year men were raped as part of the violence between RMG and FARDC. Male rape cases may have numbered in the hundreds, but statistics for male rape were even more difficult to compile than those for female rape.

Child Soldiers.—The recruitment and use of children in North Kivu, South Kivu, and Orientale provinces by RMG and FARDC (particularly within the poorly integrated elements, including ex-CNDP), continued. The government took some steps to reduce the use of child soldiers (e.g., awareness campaigns for Congolese Army personnel and partnerships with international organizations on training materials). In addition, some FARDC commanders made an effort to remove child soldiers and turn them over to MONUSCO, UNICEF, or other humanitarian organizations. However, the integration of former RMG, including CNDP, into the FARDC continued to be a major hindrance to reducing the number of child soldiers. That process continued to be plagued by separate command structures within FARDC that did not respond to FARDC directives, including a specific prohibition against the use of child soldiers.

Various U.N. agencies and offices present in the country and the Congolese Ministry of Foreign Affairs created the Resolution 1612 Country Task Force in 2006. MONUSCO and UNICEF are the cochair of the task force, which pursues advocacy to encourage the government to commit to, negotiate, and implement an action plan to end the recruitment and use of children by the FARDC. The Ministry of Justice and Human Rights and the Ministry of Defense created a Joint Committee to work on the action plan, but by year's end, the government had not finalized or adopted the action plan.

Other Conflict-related Abuses.—Fighting between FARDC and RMG continued to displace populations and limit humanitarian access to conflict areas. According to the U.N. Office for the Coordination of Humanitarian Affairs (OCHA), between January and September there were 116 attacks on humanitarian agency personnel, compared to 105 attacks in the first six months of 2010. These two years represent a significant increase over 2009 (84 attacks in 10 months) and 2008 (36 attacks in 10 months).

In North Kivu and South Kivu RMG and criminal elements of the FARDC continued to illegally exploit and trade natural resources for revenue and power. Clandestine trade in minerals and other natural resources facilitated the purchase of small arms to commit abuses and reduced government revenues needed for increasing security and rebuilding the country. The natural resources most used to generate direct and indirect financing for armed actors and conflict were the minerals cassiterite (tin ore), coltan (tantalum ore), wolframite (tungsten ore) and gold, followed by timber, charcoal, and fish.

The illegal trade in minerals continued to be both a symptom and a cause of the conflict in the Kivu provinces. While FARDC military operations during the year and in 2010 drove RMG out of many of the principal mining areas in the Kivus, RMG continued to control many of the more remote mining deposits, increasingly pillaged mineral traders and transporters, and employed intermediaries to purchase minerals at mines they could no longer access. Further, the FARDC regimentation process allowed RMG, especially the FDLR, to regain territory they had lost in the past. Ex-CNDP FARDC elements remained loyal to and in some cases shared mining profits with General Ntaganda as they continued to control large areas rich in natural resources in North Kivu and South Kivu, including Walikale Territory, the part of North Kivu that is richest in cassiterite.

The law specifically prohibits the involvement of the FARDC in mining and the mineral trade. The law also prohibits RMG from engaging in mining. However, the government did not effectively enforce the law. Criminal involvement by FARDC units and RMG included protection rackets (such as protection fees paid by mining pit managers to avoid pillage or to facilitate smuggling), indirect commercial control (including the use of illegal "tax" revenues to buy and sell minerals near mining sites), and direct coercive control (including pillage). In addition, FARDC units and RMG routinely extorted illegal taxes from civilians and at times forced civilians to work for them or relinquish their mineral production.

In March President Kabila lifted the six-month suspension on mining in three eastern provinces that began in September 2010. Reviews of the ban's effectiveness were mixed. Following the suspension, the military's control of some mining areas expanded, and some FARDC elements increased their use of forced labor in the mines due to lower sale prices on the clandestine market.

The UNGOE reported that several RMG and units of SSF profited from illegal trade and exploitation in the mineral sector. Allied Democratic Forces profited from illegal exploitation of timber and gold. The FDLR ran protection tax rackets in mining areas in Walikale through which it financed both weapons purchases and commercial enterprises. The FDLR's revenue from exploitation of cassiterite and coltan decreased, but these minerals were still a source of income. The FDLR also illegally grew and traded cannabis to finance its operations. The FNL trafficked in gold and timber in South Kivu. Mai Mai Yakutumba trafficked gold in South Kivu and imposed taxes on copper miners in the town of Yungu. Mai Mai Cheka continued to control certain cassiterite mines in Bisie, gold mines elsewhere in North Kivu, and diamond mines as well. The APCLS imposed illegal taxes on miners in Walikale. Mai Mai Simba exploited and taxed the exploitation of gold, diamond, and cassiterite deposits, and smuggled ivory, in Maiko Park in Maniema and Orientale provinces. Mai Mai Muhamba smuggled ivory and coffee in North Kivu. In addition, elements of the FARDC exerted control over mining operations throughout the eastern DRC.

The UNGOE reported that four eastern DRC mineral trading counters—ITT Mining, Huaying Trading Company, Donson, and Etablissement Namukaya—purchased minerals without exercising due diligence to ensure they were conflict-free. According to the UNGOE, the main onward purchasers from ITT, Huaying, and Donson were the investment companies Tolead, Unilink Trading, and Chengjian Tower. A Tanzanian company called Safaa Mining SPRL also purchased copper from an RMG.

There were credible reports that the following armed groups perpetrated serious human rights abuses in DRC during the year: ADF/NALU, APCLS, FDLR, FNL, LRA, Mai Mai Cheka, Mai Mai Yakutumba, and FRPI.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and press. While the law potentially inhibits these freedoms through its prohibition on insulting the head of state, there were no known instances of the prohibition being invoked. In practice the government restricted individuals' freedom of speech, and freedom of the press declined during the year, particularly during the election period. Generally, individuals could privately criticize the government, its officials, and other private citizens without being subject to official reprisals. However, the government intimidated journalists and publishers into practicing self-censorship. Public criticism of government officials and government conduct or decisions regarding issues such as conflict and insurgencies, management of natural resources, and corruption, sometimes resulted in harsh responses, often from the ANR, the intelligence service under the president's control.

Status of Freedom of Speech and Press.—The Haute Autorite des Medias, a quasi-governmental organization mandated by the earlier transitional constitution, has the power to suspend broadcast stations for hate speech or calls for ethnic violence. In January a new regulatory law took effect, establishing the Conseil Supérieur de l'Audiovisuel et de la Communication (CSAC), and in August the president appointed its 15 members, who assumed their posts in September. The CSAC is mandated to guarantee freedom and protection of the press as well as ensure equal access for political parties, associations, and citizens to official means of communication and information. Journalists in Danger (JED), a Kinshasa-based journalist advocacy group, accused the president of appointing nonqualified members to manipulate the CSAC.

In September, journalists and political parties signed a CSAC code of conduct prohibiting hate speech and ensuring open access to media during elections. In practice, however, CSAC lacked the capacity to monitor adequately all of the newspapers and television and radio stations operating across the country.

The CSAC required hour-long debate programs to be broadcast for each of the 11 presidential candidates, in which they or their chosen representative discussed their campaign with selected journalists. All 11 debates were broadcast on national media outlets and several private TV stations, some of which boasted a quasi-nationwide audience. In addition Radio Okapi, an independent radio station jointly founded by MONUSCO and the Fondation Hironnelle, with support from various international donors, devoted airtime to each presidential candidate, or their representative, to allow them to explain their political platforms to the public. These interviews aired nationwide during the electoral campaign and helped ensure equality of media exposure for all contenders. With the exception of national debates, media outlets failed to ensure a fair distribution of airtime among the various candidates. The EU election observer mission reported that President Kabila received 86 percent of televised airtime, versus 7 percent for Leon Kengo wa Dondo, 3 percent for Vital Kamerhe,

and 1 percent for Etienne Tshisekedi, the leading opposition presidential candidate. JED found that, in its sampling, Kabila received 60 percent, Kamerhe 20 percent, and Tshisekedi 15 percent of televised airtime. JED expressed concern over the increasing partiality of media sources, who reported their own opinions rather than events on the ground.

A large and active private press (both pro and antigovernment) functioned throughout the country, and the government licensed a large number of daily newspapers. According to JED, 52 television stations, approximately 240 radio stations, and 200 newspapers were registered with the Ministry of Communication. The government required newspapers to pay a one-time license fee of 250,000 Congolese francs (approximately \$278) 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.

Radio remained the most important medium of public information due to limited literacy and the relatively high cost of newspapers and television. The state owned three radio stations and three television stations, and the president's family owned two television stations.

In 2010 government authorities added a provision in journalists' letters of accreditation that the military code of justice (concerning criminal penalties, including imprisonment) applied to any foreign journalists who committed press offenses. In response, international journalists expressed concerns over their ability to report on sensitive subjects such as the conflict in the East and corruption. At year's end, there were no known cases in which this policy was implemented. Nevertheless, SSF harassed foreign journalists. For example, on December 23, a RG officer confiscated the working materials of Thomas Hubert of BBC Afrique when he was investigating Tshisekedi's planned "inauguration" at Martyrs' Stadium (see section 3). Many hours later, Hubert recovered all the materials except for his camera memory card.

According to JED, one journalist was killed during the year. On June 21, unidentified armed men killed Kambala Musonia, a journalist with Radio Communautaire de Lubero Sud (RCLS), near his home in Kirumba, North Kivu, after Musonia hosted a call-in program during which listeners blamed a surge of insecurity in the region on local SSF.

SSF also beat, arbitrarily arrested, harassed, and intimidated local journalists because of their reporting. In an open letter to the deputy prime minister and minister of the interior dated November 4, Reporters without Borders and JED alleged that freedom of the media was deteriorating, citing various cases as evidence. For example, a television cameraman was taken into custody by police after filming a Union pour la Democratie et le Progres Social (UDPS) demonstration on October 29. Police freed him two days later.

In its annual report on press freedom released on December 29, JED documented 28 cases of assault of journalists during the year, which represented a 400 percent increase compared with 2010. However, the number of jailings of journalists decreased from 17 in 2010 to nine during the year.

Overall.—JED reported an 84 percent increase in press freedom abuses, including one murder, and several assaults, arbitrary arrests and detentions, threats, restricted movements, and illegal sanctions or censorship, compared with 2010. Furthermore, JED noted a 28 percent increase in abuses in 2011 when compared with 2006, the last electoral year. The NGO underscored that journalists, reacting to threats of violence, censored themselves. JED further 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.

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.

In addition, there were several reports of media outlets being shut down during the election period. While CSAC was, in theory, the only institution with the authority to restrict broadcasts, the government often exercised this power. The media and communications ministry, for example, shut down the signal of pro-opposition Radio Tele Lisanga (RLTV) from November 6 to 15—before the elections—after it aired a live phone call from South Africa by Etienne Tshisekedi, in which the UDPS leader declared himself president of the republic and advocated violence against the police. DRC media minister Lambert Mende later called the suspension of RLTV “a protective measure” taken against a media organization that promoted hate speech. CSAC

later followed up with an official suspension of the station's broadcasting rights. While the sanction against RLTV expired on December 9, the station remained off the air at year's end. In addition, the signal for Canal Futur, a TV station owned by unsuccessful presidential candidate and the head of the Union for the Congolese Nation (UNC) Vital Kamerhe, was suspended for 10 days on November 28, after the station allegedly defamed one of Kamerhe's political adversaries. It remained off the air at year's end. On December 21, the CSAC's rapporteur stated that "other grievances" prevented either broadcasting signal from being relaunched. On December 31, authorities suspended Radio France Internationale's broadcasts for airing Etienne Tshisekedi's New Year's national address alongside President Kabila's address, and therefore, according to the Information Minister, supporting Tshisekedi's "anticonstitutional comedy."

During the year national and provincial governments continued to use criminal defamation and insult laws to intimidate and punish those critical of the government. For example, on April 12, Lambert Mbuyi of the radio-television station Debout Kasai airing in Mbuji-Mayi, Kasai Oriental Province, was questioned at ANR. ANR accused him of airing, the day before, a program considered defamatory toward provincial authorities.

On December 3, the government cut off the SMS function of cell phones in an effort to control information and limit demonstrations and violence in the aftermath of the national elections. Two associations of people with disabilities in South Kivu and Kinshasa protested this decision, stating that people with hearing and speech impairments used SMS as a primary means of communication, and without access to SMS their livelihoods were cut off and they were unable to receive alerts about potential violence. On December 28, the SMS function was restored.

Internet Freedom.—The government did not restrict access to the Internet or monitor e-mail or Internet chat rooms. The CSAC law stipulates that bloggers must obtain authorization from CSAC. At year's end, CSAC had not refused authorization to any bloggers, and 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. The government sometimes restricted this right.

The government requires 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. State security forces often acted against unregistered protests, marches, or meetings.

On occasion authorities denied permission to hold demonstrations, in particular to opposition parties and their civil society allies. Incidents related to freedom of assembly occurred regularly. For example, according to HRW, 12 opposition supporters and bystanders were killed and 41 were injured on November 26, the final day of the campaign period, when supporters of both Etienne Tshisekedi and President Kabila gathered at N'djili Airport to greet the incoming candidates. RG personnel reportedly fired their weapons into the air and into the crowds.

In addition, the UNJHRO recorded 24 incidents concerning the freedom to assemble between November 2010 and September 2011. One such incident occurred when presidential candidate Kamerhe visited Goma and Bukavu in December 2010. Kamerhe was welcomed by a large crowd in Goma, which was then violently repressed. Thirteen victims, including one child and one 80-year-old woman, were treated after the incident. Local authorities banned subsequent gatherings and jailed Kamerhe's followers in Kasongo and Kindu. At least one woman, Consolante Kanyangire Biringanine, the women's coordinator of Kamerhe's U.N. political party, was killed on April 24.

SSF occasionally arrested demonstrators. Opposition party UDPS staged weekly protests in front of the headquarters of the National Independent Electoral Commission (CENI), decrying what it claimed was a lack of transparency and CENI's failure to create an inclusive political process for all parties. During the weekly protests, demonstrators at times burned cars and threw objects while police responded with tear gas, shot bullets into the air, and arrested several individuals.

On September 7, the governor of Kinshasa banned all demonstrations during the final week of the candidacy registration period in response to violent back and forth retaliatory actions between supporters of UDPS and the Parti du Peuple pour la Reconstruction et la Democratie (PPRD).

Freedom of Association.—The constitution provides for freedom of association. In practice the government sometimes restricted this right directly. During the year several domestic NGOs were denied authorization to operate (see section 5). In addition, on February 26, in the Ituri District of Orientale Province, the U.N. coordinator was arrested when he was reportedly conducting recruitment activities for his party. Indirectly freedom of association was impeded through intimidation in some areas, including Kasai Oriental and Maniema provinces.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>

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 sometimes restricted these rights.

In-country Movement: SSF established barriers and checkpoints on roads, and 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 fine foreigners not carrying passports, although the law does not require foreigners to do so.

SSF sometimes required travelers to present official travel orders from an employer or government official, although the law does not require such documentation. SSF often detained individuals traveling without official orders in order to pressure bribes.

The significant risk of rape by SSF and RMG, coupled with government inability to secure eastern territories, effectively restricted freedom of movement by women in many rural areas, particularly in the East (see section 1.g.).

Foreign Travel.—Passport issuance was irregular and often required payment of substantial bribes.

Internally Displaced Persons (IDPs).—As of September, there were 1.7 million IDPs in the country, including 600,984 in North Kivu, 518,618 in South Kivu, and 447,627 in Orientale provinces. The remainder of the IDPs were in Equateur, Katanga, and Maniema provinces. These figures represented a slight decrease (1 percent) over the course of the previous six months. While still high, the rate of displacement was lower than in previous years. Likewise, OCHA reported the rate of return also slowed during the year amid continued insecurity.

The conflict in the East, and the continuing state military operations against RMG, were considered the primary causes of displacement. For example, many people fled their villages in July as the FDLR continued to target villages in South Kivu, stealing cattle and looting houses.

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, as of November 30, approximately 77,000 stayed in 31 sites and camps managed by international NGOs and coordinated by the Office of the United Nations High Commissioner for Refugees (UNHCR). The percentage of IDPs in North Kivu in formal and informal camps fell from 35 percent in 2008 to 17 percent in 2011. Those residing outside camps stayed with host families, found shelter in dilapidated buildings, or found refuge in the forest. Displaced women and children were extremely vulnerable to abuses, including rape and forced recruitment, by FARDC, RMG forces, and civilians.

IDPs in North Kivu were victims of abuses, including sexual exploitation of women and children, abduction, forced conscription of children, looting, plundering of crops, illegal taxation, and general harassment, by all factions engaged in fighting, including FARDC, and by other civilians. For example, OCHA reported in June the abduction and killing of IDPs in Beni Territory, North Kivu, as IDPs returned to their fields during the day. Abuses in camps around Goma included killings and death threats, particularly by demobilized fighters, as well as abduction and rape. Some IDPs were also reportedly subjected to forced labor (see section 1.g.).

Protection of Refugees.—As of November there were 153,180 refugees in the country from seven adjacent countries, the majority from Angola and Rwanda. In addi-

tion, there were 221,055 Congolese refugees recorded as living in Burundi, Rwanda, Tanzania, and Uganda.

The country's laws provide for the granting of asylum or refugee status, and the government has established a rudimentary system for providing protection to refugees. In practice it granted refugee and asylum status to individuals 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.

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. However, government authorities did not provide adequate security to refugees.

As of November 30, 7,626 refugees had returned voluntarily to Rwanda and 3,941 refugees had returned voluntarily to Burundi. In addition, 1,538 Angolans had returned to Angola after the November 4 resumption by UNHCR of the voluntary repatriation operation to Angola.

Unlike in previous years there were no reports of widespread forced expulsions. In 2009 Angola forcibly expelled 85,000 irregular Congolese immigrants to Bas-Congo Province, and the DRC retaliated by forcibly expelling 30,000 Angolans, including those with refugee status. During the year smaller expulsions along the entire border between the two countries continued. While most 2009 expulsions were conducted peacefully, abuses during expulsions by SSF of both countries occurred during the year. According to the UNJHRO, in January and February 2010, 9,205 Congolese were allegedly expelled from Angola, including 1,943 women, of whom 304 were allegedly raped by Angolan security forces. Congolese security forces committed 23 documented and verified rapes of expelled Congolese women on Congolese soil. Authorities had arrested one lower-level FARDC officer for the rapes by year's end.

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 presidential and parliamentary elections based on universal suffrage.

Elections and Political Participation.—Recent Elections.—Presidential and parliamentary elections were held on November 28, and on December 9, the CENI announced that President Joseph Kabila received approximately 49 percent of the vote, Etienne Tshisekedi received 32 percent, and Vital Kamerhe 8 percent. Several international observer missions, including the Carter Center and the EU Observer Mission, judged that the results of the elections "lacked credibility," due largely to irregularities and a lack of transparency in the vote tabulation process.

Election day was generally peaceful but chaotic and disorganized at a number of polling stations throughout the country. For example, many individuals could not find their names on the voting lists and therefore could not vote. Midway through election day, the CENI publicly announced that these "omitted" individuals could vote in the stations in which they registered, regardless of whether their names appeared on the rolls. In addition to the confusion, an RMG attacked a polling station in Lubumbashi on election day, and there were numerous incidents of violence in Kasai Occidental and parts of Kinshasa.

On December 12, Vital Kamerhe, on behalf of the opposition, filed a claim with the Supreme Court seeking to annul the presidential elections. On December 16, the Supreme Court upheld the CENI's provisional results declaring that President Kabila won the election. The opposition quickly denounced the Supreme Court's ruling, and some international stakeholders criticized the procedure employed by the court. President Kabila was sworn into office on December 20.

Meanwhile second place winner and Kabila's primary opponent Etienne Tshisekedi declared he had won the election and held his own "inauguration" at his home on December 23. SSF had prevented the inauguration from taking place at the Martyr's Stadium, as planned by Tshisekedi and his UDPS party. Up to five people died in small-scale clashes on that day. At year's end Tshisekedi remained in detention in his residence.

By year's end parliamentary election results had not been announced.

During the year, a number of legal codes were changed concerning the elections process. Perhaps most significantly, on January 25, the Senate and the National As-

sembly adopted an amendment to the constitution that changed the presidential election from a two-round voting system to a single-round system whereby a simple majority determines the winner.

In June and July, officials completed the voter registration process, registering approximately 32 million voters nationwide. In October the CENI began publishing voter lists on its Web site. Many observers, including the Carter Center, claimed that the voter registration process was flawed.

The registration of presidential and legislative candidates was accompanied by demonstrations, especially by opposition party UDPS and Alliance pour la Majorité Présidentielle (AMP) member PPRD.

Political Parties.—The 2007 law on the status and rights of the political opposition recognizes opposition parties represented in parliament as well as those not in parliament. The law also details the various “sacred” rights and obligations of opposition parties. During the year political parties were able to operate most of the time without restriction or outside interference, but there were notable exceptions, particularly during the election period. Opposition members were sometimes harassed (see section 2.a.).

Participation of Women and Minorities: At year’s end women held 10 percent of seats in the National Assembly (50 of 500) and approximately 6 percent in the provincial assemblies (43 of 690). This was a decrease from the 12 percent of seats held prior to the 2006 elections. In addition, four of the 108 senators were women. Among the 45 government ministers and vice ministers, four 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. The enslavement of and discrimination against Pygmies continued in some areas and undoubtedly contributed to their lack of political participation (see section 5).

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. In 2002 the government established a watchdog agency for the enforcement of the Code of Professional Ethics, which promotes ethical behavior among civil servants in the workplace. The Congolese Court of Accounts and the Congolese Anti-Corruption League NGO are also entities that work closely on corruption matters. In 2007 the government ratified a protocol agreement with the SADC (Southern African Development Community) on fighting corruption.

Nevertheless, the authorities did not implement the law against corruption, and corruption remained endemic throughout the government and state security forces. Bribery was still routine in public and private business transactions, especially in the areas of government procurement, dispute settlement, and taxation. 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.

Corruption in the judicial and penal systems continued to be severe (see section 1.c.). 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. 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.

Weak financial controls and lack of a functioning judicial system encouraged officials to engage in corruption with impunity. Many civil servants, police, and soldiers reportedly were paid late, had not been paid in years, received irregular salaries, or did not earn enough to support their families, all of which fostered corruption. L’Observateur, a daily newspaper, reported in December that a number of police officers in Beni, North Kivu, went on strike after not being paid for up to five years. 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.).

The law criminalizes money laundering and terrorist financing, and provides for a Financial Intelligence Unit. Limited resources and a weak judicial system hampered the government’s ability to enforce anti-money laundering regulations, however, and local institutions and personnel lacked the training and capacity to enforce the law and its attendant regulations fully. During the year the government reached money-laundering convictions in two cases.

Reports, including the UNGOE report, indicated that the mining sector continued to lose millions of dollars because of official corruption at all levels, including illegal exploitation of minerals by FARDC and RMG in the East (see section 1.g.).

In October the International Monetary Fund (IMF) raised concerns about two mining contracts entered into in August with Sodimico and Gecamines that it and the World Bank noted were concluded without proper adherence to transparency principles. The IMF refused to conclude its fourth review of the government under the PEG 2 (the government's Economic Program) until the government audits and publishes the contracts.

The Ministry of Justice and Human Rights created an internal anticorruption team on May 10. According to one internal source, however, this new structure lacked independence and therefore the power to fight corruption.

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.).

The law requires the president and ministers to disclose their assets to a government committee. President Kabila and all ministers and vice ministers reportedly did so during the year. However, the data were not made public.

The law does not provide for public access to government-held information. In practice the government did not grant access to government information for citizens or noncitizens, including foreign media.

To enforce anticorruption laws among civil servants and other government employees, in 2009 President Kabila launched a "zero tolerance" campaign. Within this framework, he established the Financial Intelligence Unit to combat money laundering and misappropriation of public funds.

In 2008 the country was accepted as a candidate in the Extractive Industries Transparency Initiative (EITI), an international voluntary initiative designed to increase transparency in transactions between governments and companies in the extractive industries. Although the government took some positive steps under EITI, including the establishment of a National EITI Committee, publication of the first report on EITI in the country, and the hiring of an independent auditor to validate the EITI process, the government did not meet its March 2010 validation deadline, nor did it meet a subsequently imposed June 2011 deadline. The EITI Secretariat granted the government a final 18-month extension to complete validation by March 1, 2013.

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, SSF 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 U.N. officials to detainees in certain types of facilities (see sections 1.c. and 1.d.). The government allowed international humanitarian agencies access to conflict zones, permitted many U.N. human rights officers to investigate abuses, and invited U.N. special rapporteurs and representatives to visit the country to assess the human rights situation and provide technical assistance. However, the government took no significant steps to implement their recommendations. There were instances in which authorities, particularly SSF, obstructed the work of U.N. human rights monitors and special rapporteurs, and FARDC units in North Kivu occasionally made death threats against U.N. personnel.

Officials from the Ministry of Justice and Human Rights met with domestic NGOs and sometimes responded to their inquiries. In March 2010 the minister announced the creation of a liaison organization for consultation between the government and human rights NGOs to monitor human rights and devise strategies to improve the situation. Scheduled to meet every two weeks, the first session convened in September 2010. Thereafter the liaison organization met sporadically, the latest occasion being November 18 to discuss human rights issues during the electoral period. While there was no official Human Rights Commission, there is an Interministerial Human Rights Committee, which meets on an ad hoc basis to address high-profile issues. During the UNHRC's Universal Periodic Review (UPR) process, numerous domestic human rights NGOs and the government underscored the need to establish an independent national human rights commission, with a broad mandate to protect and promote human rights.

There were reports that local officials required domestic NGOs seeking to register to pay bribes and denied several domestic NGOs authorization to operate. Domestic human rights NGOs were particularly vulnerable to harassment, arbitrary arrest and detention, and other abuses by SSF, when reporting on or supporting victims of abuses by FARDC, ANR, or other SSF and when spotlighting the illegal exploitation of natural resources in the East.

The government generally cooperated with international NGOs that published reports on human rights and humanitarian issues and permitted their investigators access to conflict areas. These human rights and humanitarian aid workers operated in unstable environments where RMG were actively engaged, and were sometimes attacked. For instance, on September 9, RMG kidnapped five members of one of the UNHCR's NGO partners and their drivers near Kigome, Walikale Territory. The members of the NGO escaped although the drivers did not. On September 10, an RMG kidnapped six workers with the NGO Welthungerhilfe in southwest Lubero Territory.

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 consistently to deny UNJHRO officers access to detainees in facilities run by the ANR and the RG in numerous areas.

There was an increase in cases of members of SSF obstructing human rights work by MONUSCO and the U.N. human rights country team. 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.). The government had not responded to several requests for information from various U.N. human rights monitoring bodies made in prior years. In addition, during the year the government replied to only a small percentage of communications, including urgent appeals, from U.N. rapporteurs and representatives, according to the UNHCR.

The government cooperated in some respects with the ICC, which continued investigations into war crimes and crimes against humanity committed in the country since 2003. However, despite the ICC indictment of General Ntaganda in 2008, the government made no effort to arrest and transfer him to the ICC.

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 the ICTR believes might be in the DRC. On May 24, Congolese authorities arrested Bernard Munyagishira, allegedly responsible for leading the genocide in the border town of Gisenyi, Rwanda, directly across the border from Goma, North Kivu. He was transferred to the ICTR on June 14, made an initial appearance before the court on June 20, and at year's end was awaiting trial. In 2009 the government transferred Gregoire Ndahimana, who had surrendered to authorities, to the ICTR in Arusha, Tanzania. On November 17, the ICTR convicted Ndahimana of genocide and crimes against humanity and sentenced him to 15 years in prison.

On December 16, the ICC freed Callixte Mbarushimana, a Rwandan rebel leader who was charged with murder, rape, and torture in the DRC, because of lack of evidence.

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

The constitution prohibits discrimination based on ethnicity, gender, or religion. The government did not enforce these prohibitions effectively.

In many cases throughout this section data from prior years are presented because more recent data were not available. In all such cases observers believed that the situation had not materially improved during the year.

Women.—Rape and Domestic Violence.—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. Spousal rape is not criminal under the law, which was last modified in 2006. The law defines rape to include male victims, sexual slavery, sexual harassment, forced pregnancy, and other sexual crimes. It also prohibits compromise fines and forced marriage, allows victims of sexual violence to waive appearance in court, and permits closed hearings to protect confidentiality. The minimum penalty prescribed for rape is a prison sentence of five years.

SSF, RMG, and civilians perpetrated widespread and sometimes mass rape of women and girls (see section 1.g.). In 2009 the United Nations Population Fund (UNFPA) reported 12,838 cases of sexual violence against both adults and minors in North Kivu, South Kivu, and Orientale provinces, with a total of 17,507 cases across the entire country. According to the March 2009 U.N. Secretary General's 27th report to the U.N. Security Council, more than 1,100 women and girls were raped each month in the East alone. An American Journal of Public Health study published in June supported this assertion.

Statistical information on rape, often based on information from the judiciary and agencies providing services to victims, remained fragmented and incomplete. Accord-

ing to U.N. officials and NGOs such as HRW, statistics on sexual violence represented a small percentage of the actual number of crimes committed and excluded victims who were unable, afraid, or ashamed to seek assistance. The June study also supported the claim that rape and sexual violence were widespread and not limited to conflict zones.

Prosecutions for rape and other types of sexual violence remained rare. According to the High Military Prosecutors Office, in 2010 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 SSF, particularly high-ranking officers, who were responsible for rape (see section 1.d.) or failed to take action against personnel under their command. 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.

It was common for family members to pressure a rape victim to remain silent, even to health care professionals, to safeguard the reputations of the victim and her family. Victims of SGBV faced 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 was common throughout the country. For example, according to the 2007 Demographic Health Survey, 71 percent of women reported some form of sexual, mental, or physical abuse. Other sources found that 86 percent of women in Equateur Province were victims of domestic abuse. While there were few recent statistics available regarding the extent of domestic abuse across the country, a Kinshasa-based December 2010 survey of 1,000 individuals conducted by Les Experts found that 45 percent of respondents had been abused. 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.

Female Genital Mutilation.—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.

Sexual Harassment.—Sexual harassment occurred throughout the country. A 2010 study conducted by the World Health Organization found that 64 percent of workers surveyed had experienced sexual harassment at the workplace. The law prohibits sexual harassment, and the minimum penalty prescribed by law is a prison sentence of one year. However, there was little to no effective enforcement.

Reproductive Rights.—The government respected the right of couples 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, while the law does not require spousal permission for family planning usage, it was still common practice for providers to require permission of a woman's spouse before providing family planning. Women's access to contraception also remained extremely low, with only 6.7 percent of women using modern contraceptive methods. According to the World Health Organization, the maternal mortality rate for 2008 was 670 deaths per 100,000 live births.

Women's access to treatment for sexually transmitted diseases 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 childbirth was 74 percent in 2010.

According to the 2010 Cluster Survey (MICS) conducted by the government with various U.N. agencies and a foreign aid agency, 87 percent of pregnant women received prenatal care at least once from a qualified professional. This represented a 2 percent increase from the 2007 demographic and health survey. Medical assistance during childbirth was not as prevalent as prenatal care, but access did increase between 2001 and 2007. Education, socioeconomic status, place of delivery (hospital, clinic, or home), and geographic location had a significant impact on who received postpartum care. Cultural barriers to seeking healthcare were nonexistent except for the minority of women who belonged to Bunda dia Mayala (formerly known as Bunda Dia Congo), a political and religious movement in which adherents were sometimes prevented from receiving vaccinations.

Discrimination.—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, many widows had been dispossessed of their property. Women found guilty of adultery may be sentenced to up to one year in prison, while adultery by men is punishable only if judged to have "an injurious quality."

In their 2009 report to the U.N. Human Rights Council (UNHRC), seven U.N. 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," by stating that the wife must obey her husband.

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.

The constitution calls for gender parity, but the provision was not given effect by any legislation. Various laws require political parties to consider gender parity when presenting candidates at all levels. However, fewer than 12 percent of the recent legislative candidates were women.

Children.—Birth Registration.—According to 2010 UNICEF data, 28 percent of children under the age of five were registered with the state. This represented a 3 percent drop in the previous three years. However, for the first four months of 2011, the Ministry of the Interior reported overall registration of 47 percent of births. Birth registration was lowest among ethnic minorities such as Pygmies. The lack of registration did not affect access to government services.

Education.—The constitution and law stipulate that public education should be free and that education should be compulsory until 16 years of age. In practice, however, primary school education was not compulsory, tuition-free, or universal, and few functioning government-funded schools existed. 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, combined with the potential loss of income or labor while their children attended class, rendered many parents unable or unwilling to enroll their children. In September 2010 President Kabila ordered that primary school fees would no longer be required outside Kinshasa, Katanga, and Bas-Congo provinces. However, the inadequate education budget severely limited the state's ability to implement its free primary education policy. As a result, many schools continued to rely on fees paid by parents in order to function.

Primary and secondary school attendance rates for girls were lower because many parents preferred to send only their sons to school due to financial, cultural, or security reasons. Approximately 7.6 million children and adolescents did not attend school.

Many of the schools in conflict zones were dilapidated and had been closed due to insecurity. The 2010 Report of the U.N. Secretary General on Children and Armed Conflict in the Democratic Republic of the Congo noted an increase in attacks on schools in areas that often had corresponding reports of child recruitment. Parents in such areas often prevented their children from attending the few functioning schools due to fear that RMG would forcibly recruit their children.

Child Abuse.—Although the law prohibits all forms of child abuse, it occurred. The 2010 MICS survey found that 92 percent of children two to 14 years old experienced some form of violent discipline methods (psychological aggression and/or physical punishment). There was no information about authorities arresting individuals for child abandonment or other abuse during the year.

The constitution prohibits parental abandonment of children believed to have committed sorcery. Nevertheless, parents or other care providers sometimes abandoned and abused such children. The law provides for a sentence of imprisonment for parents and other adults who accuse children of witchcraft, but authorities did not implement the law effectively.

Child abuse was an especially serious problem in the eastern conflict regions. A 2008 report of the U.N. Secretary General on children and armed conflict in the country concluded that children continued to be the primary victims of the conflict in the East.

In 2009 a group of seven U.N. 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 were girls, and in some

cases boys. Between January 2010 and September 2011, UNICEF reported that approximately 21,395 SGBV survivors received medical care, of which 12,829 were in the East. Of the overall number, 57 percent were children.

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 children with disabilities or even speech impediments and learning disabilities were branded as witches. This practice sometimes resulted in parents abandoning their children. According to UNICEF as many as 70 percent of the street children it assisted claimed to have been accused of witchcraft.

In 2009 the Committee on the Rights of the Child established under the U.N. Convention on the Rights of the Child published its concluding observations, which underscored the committee's concern over the frequency of sexual assaults committed against street children, as well as SSF's regular harassment, beating, and arrest of street children. In addition the committee expressed concern that "violence against children accused of witchcraft was increasing, and that children were being kept as prisoners in religious buildings, where they were subjected to torture and mistreatment or even killed under the pretext of exorcism."

Several NGOs, including Save the Children, worked with MONUSCO and UNICEF to promote children's rights throughout the country.

Child Marriage.—The law prohibits marriage of girls under the age of 14 and boys under the age of 18. The 2010 MICS Survey found that 45 percent of 20- to 45-year-old women were married before the age of 18. In addition, some marriages of girls as young as 13 years old took place. Dowry payments greatly contributed to underage marriage, as parents would marry off a daughter against her will to collect a dowry or to finance a dowry for a son.

The 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. However, there were no reports of prosecutions for forced marriage.

Sexual Exploitation of Children.—The minimum age of consensual sex is 14 years for girls and 18 years for men, and the law prohibits prostitution by anyone under the age of 18. Nevertheless, child prostitution occurred throughout the country, although there were no statistics available regarding its prevalence. Some of these children engaged in prostitution without third-party involvement, while others were forced to do so.

According to the World Bank, 26 percent of children living on the streets were girls, and of these, nine out of 10 were involved in prostitution, and seven out of 10 had been raped.

Child Soldiers.—All parties to the conflict in the East used child soldiers (see section 1.g.).

Displaced Children.—There were an estimated 8.4 million orphans and vulnerable children in the country in 2009. Ninety-one percent received no external support of any kind, and only 3 percent received medical support. UNICEF and the World Bank estimated that 30,000–40,000 children lived on the streets, with the highest concentration in Kinshasa. Many of these children were forced out of their homes when their families accused them of witchcraft and bringing misfortune to their families. Others were child refugees and war orphans.

The government was ill equipped to deal with such 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. SSF abused and arbitrarily arrested street children (see sections 1.c. and 1.d.). During the year children's tribunals were launched with the training and deployment of 12 magistrates—one for each provincial tribunal.

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 markets.

Anti-Semitism.—The country has a very small Jewish population, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—Although the law prohibits discrimination against persons with disabilities, 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 persons with

visual disabilities, received private funds and limited public funds to provide education and vocational training.

An August 2010 American Journal of Public Health study found that overwhelming numbers of civilians in the conflict zone were suffering from symptoms associated with mental illness, ranging from post-traumatic stress disorder to depression.

National/Racial/Ethnic Minorities.—Members of the country's more than 400 ethnic groups practiced ethnic discrimination, and discrimination was evident in hiring patterns in some cities. The government took no reported actions to address this problem.

SSF in Kinshasa sometimes harassed, arbitrarily arrested, or threatened members of many different ethnic groups from Equateur, North Kivu, and South Kivu, according to regular reporting from the UNJHRO.

Indigenous People.—The country had a population of between 200,000 and 500,000 Pygmies (Twa, Mbuti, Aka, 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 was widespread. Most Pygmies took no part in the political process and lived in remote areas. Fighting in the East between RMG and SSF caused displacement of some Pygmy populations. Since 2003, many Pygmies who had lived in IDP camps in the East were forced out of the camps by other IDPs, removing their access to humanitarian relief provided to camp residents.

In some areas, traditional leaders (mwami) and wealthy persons captured Pygmies and forced them into slavery. For 2009-10, the World Peasants/Indigenous Organization (WPIO) reported 644 new cases of enslavement of Pygmies.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—While there are no laws specifically prohibiting homosexuality or homosexual acts, individuals engaging in public displays of homosexuality were subject to prosecution under public decency provisions in the penal code and articles in the law on sexual violence. In October 2010, a law was proposed in the national assembly that would impose significant fines and jail terms on individuals engaging in homosexuality or groups promoting or protecting homosexual behavior. No action had been taken on the draft legislation by the end of the year. Homosexuality remained a cultural taboo, and harassment by SSF was believed to have continued.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination based on HIV/AIDS status.

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.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The constitution provides all workers, except government officials and members of SSF, the right to form and join trade unions without prior authorization or excessive requirements, to conduct legal strikes, and to bargain collectively. Additionally, the law provides unions the right to conduct activities without interference. However, the provision does not clearly define specific acts of interference. In the private sector a minimum of 10 employees are required for unionizing a business. Bargaining with the employer requires a minimum of 10 union committee members plus one. Union committee members report to the rest of the workforce. The union committee gives a notice of strike to the company's management and does not need authorization to strike. In general the committee delivers a notice to strike to the employer and then waits for a reply for 48 hours. The employer is not obligated to reply. If he chooses to reply, negotiations, which may take up to three months, begin with a labor inspector and ultimately, the Peace Court. If the employer does not reply signaling his readiness to negotiate, the strike may immediately start. Sometimes employees provide only minimum labor while negotiating.

Foreigners cannot hold trade union office until they have lived in the country for at least 20 years. The law requires unions to have prior consent from the Ministry of Labor (MOL) and to adhere to lengthy mandatory arbitration and appeal procedures before striking. In general the police, army, and domestic workers cannot strike. Directors in public and private enterprises are also excluded from striking.

The law prohibits discrimination against union employees and requires employers to reinstate workers fired for union activities. However, the government did not effectively enforce applicable laws, and the extent to which the government protected these rights in practice was limited.

International NGO Freedom House reported in January that labor unions existed only in urban areas and were largely inactive. The government recognized only 12 unions at the national level. These unions, largely in the natural resources sector, were recognized after the 2008 elections and have a mandate that extends until 2013. Employees in the private sector are free to join one of these 12 nationally recognized unions. Unions present in a private sector company form a union committee, which is recognized by management and, at times, even financially assisted. Membership in the unions was unknown. Informally and not within an official union, artisanal miners organized themselves in small groups for mutual support and sharing benefits.

In August 2010 a Freedom House assessment found significant restrictions on labor rights and a “repressive” labor rights environment. Also in 2010, the International Trade Union Confederation (ITUC) reported that there were arrests of trade union members who were tortured and received ill treatment during their detention. The ITUC and the Trade Union Confederation of the Congo (CSC) also reported acts of interference in trade union activities, including threats of dismissal in violation of the law, the existence of many unions established and financed by employers, and the failure to comply with requirements for collective bargaining. For example, the management of the Societe Nationale des Transports et des Ports (SCTP) dismissed its union head and sent some union members to jail.

Despite the law, antiunion discrimination occurred in practice. To a limited extent, the government protected the right of reinstatement for workers fired for union activities.

In small- and medium-sized businesses, workers could not effectively exercise the right to strike. With an enormous unemployed labor pool, companies and shops could immediately replace any workers attempting to unionize, collectively bargain, or strike. Despite the law prohibiting employers and the government from retaliating against strikers, in April police prevented employees of the SCTP and the Regie des Voies Aeriennes from striking and arrested some employees and union delegates.

Collective bargaining was ineffective in practice. For example, public hospital nurses and public school teachers launched strikes, but both returned to work without any of their demands met. In the public sector, the government set wages by decree and permitted unions to act only in an advisory capacity.

b. Prohibition of Forced or Compulsory Labor.—The constitution prohibits all forms of forced or compulsory labor, including by children. Under the Labor Code, forced labor is punishable by a maximum of six months’ imprisonment plus a fine. Another law also provides for a penalty of prison labor from 10 to 20 years for the enrollment or use of children under 18 years of age in armed forces or the police.

The government did not effectively enforce laws prohibiting forced or compulsory labor. Although no statistics were available, forced labor widely occurred throughout the country.

Examples of violations include the coercion of men, women, and children into forced labor. In the mining sector, individuals took on debt from intermediaries and dealers to acquire food, supplies, and mining tools and equipment. Miners who failed to provide sufficient ore to pay off this debt became debt slaves, forced to continue to work to pay off arrears. The government did not attempt to regulate this practice. By some estimates, tens of thousands of children worked in the mining sector, most often in extremely dangerous conditions as artisanal miners. Children mined diamonds, gold, cobalt, coltan, wolframite, and cassiterite. In mining areas, children sifted, cleaned, sorted, transported heavy loads, and dug for minerals underground. In the East, FARDC elements and RMG, operating outside central government control, continued to abduct and forcibly recruit men, women, and children to serve as laborers (including in mines in the Kivus), porters, domestics, combatants, and sex slaves (see section 1.g.).

A June report by the NGO Free the Slaves stated that children were particularly vulnerable to forced labor in the East. The report noted that, “[i]t is not uncommon for members of armed groups to force an individual to work in the mines during the day and sexually exploit the same person at night.”

Some police officers in the East reportedly arrested individuals arbitrarily in order to extort money from them. The police forced those who could not pay to work until they had “earned” their freedom.

SSF forced men, women, and children, including IDPs and prisoners, to serve as porters, miners, and domestic laborers (see sections 1.c., 1.g., 6, and 7.c.). In addition, according to the UNGOE report of November 2010, in Mushake, Masisi Territory, ex-CNDP FARDC soldiers “enforce salongo, whereby civilians are required to build houses, clean camps, and transport merchandise for the military.” Observers believed that the situation did not materially improve during 2011.

SSF and RMG in conflict-affected areas in the East used children, including child soldiers, for forced labor in mines (see section 1.g.). However, the use of forced child labor by SSF was not limited to conflict zones. For example, in 2009 UNICEF reported that soldiers in Katanga Province forced children and adults to mine and transport heavy loads. No available information suggests that the situation materially improved during the year.

The government took no action against FARDC soldiers who used forced labor and abducted civilians for forced labor during the year.

The government did not conduct any official child labor investigations during the year. Little if any information existed on the removal of victims from forced labor. At year's end there was no effective government effort underway to limit child labor in mines. The government and U.N. sources reported the removal of minors from the ranks of the armed forces in the course of its census and registration program. The armed forces handed these minors over to the United Nations' reintegration program.

Also see the Department of State's annual Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The minimum age for full-time employment without parental consent is 18 years. Employers may legally hire minors between the ages of 15 and 18 with the consent of a parent or guardian. Those under the age of 16 may work a maximum of four hours per day, and all minors are restricted from transporting heavy items.

While criminal courts continued to hear child labor complaints, neither the courts nor other government agencies were able to effectively enforce these laws. Government ministries and the National Committee to Combat the Worst Forms of Child Labor lacked the resources and capacity to enforce child labor laws.

The MOL has responsibility for investigating child labor abuses but had no dedicated child labor inspection service. In December the government approved a National Action Plan to Combat the Worst Forms of 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 the Worst Forms of Child Labor. These agencies had no budgets for inspections and conducted no child labor investigations during 2010 or 2011. According to the NGO Volunteer Office in the Service of Children and Health, while child labor was widespread, no formal complaints had been filed.

The government did not undertake any measures to reinforce the capacities of the labor inspectors to ensure that children under 18 did not engage in hazardous work in mines.

Child labor, including forced child labor, was a problem throughout the country (see section 7.b.).

Child labor was most common in the informal sector, particularly in mining and subsistence agriculture. For economic survival, families often encouraged children to work. According to the MOL, children worked in mines and stone quarries, and as child soldiers, water sellers, domestic servants, and entertainers in bars and restaurants. In December the International Organization of Migration (IOM) reported that several industries in the country used child labor.

According to data collected by a September 2010 UNICEF survey, approximately 42 percent of children between the ages of five and 14 were involved in child labor. The same survey indicated that children in rural areas are more likely to be involved in child labor than children in urban areas (46 percent compared to 34 percent). UNICEF considered children to be involved in labor if, during the week preceding the survey, a child five to 11 years old performed at least one hour of economic activity or at least 28 hours of domestic work, or a child 12 to 14 years old performed at least 14 hours of economic activity or at least 28 hours of domestic work.

Children were also exploited in the worst forms of child labor, many of them in exploitative work in agriculture, street vending, water selling, and domestic service. Children made up as much as 30 percent of the work force in the artisanal mining sector. In mining regions of the provinces of Katanga, Kasai Occidental, Orientale, North Kivu, 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.

Parents often used children for dangerous and difficult agricultural labor. Families unable to support their children occasionally sent them to live with relatives who effectively treated the children as domestic slaves, subjecting them to physical and sexual abuse.

Children were also trafficked for sexual exploitation, including for prostitution in brothels or by loosely organized networks. Reports indicated continued child prostitution, including forced prostitution, throughout the country (see section 6).

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda/htm>.

d. Acceptable Conditions of Work.—The government sets regional minimum wages for all workers in private enterprise, with the highest pay scales applied to the cities of Kinshasa and Lubumbashi. In January 2009 the government established a minimum wage of 1,680 Congolese francs (approximately \$3 at that time) per day. Given the continued devaluation of the currency, the minimum wage, which has never been adjusted, stood at \$1.87 at year's end. While most foreign employers paid higher wages than the official minimum wage, the average worker has had to cope with falling real wages for over a decade.

The law defines different standard workweeks, ranging from 45 to 72 hours, for various jobs and prescribes rest periods and premium pay for overtime. However, the law establishes no monitoring or enforcement mechanism, and employers often did not respect these provisions.

The law specifies health and safety standards. The law does not provide workers the right to remove themselves from dangerous work situations without jeopardizing their employment. Health and safety standards were not effectively enforced in either the formal and informal sectors.

Employers in the informal sector often did not respect the legally required minimum wage. The average monthly wage did not provide a decent standard of living for a worker and family. Government salaries remained low, ranging from 45,000 to 75,000 Congolese francs (approximately \$50 to \$83) 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.

According to the World Bank, between 500,000 and two million miners worked in the informal sector nationwide and up to 16 percent of the population indirectly relied on artisanal mining. Overall estimates were notoriously challenging to verify, and determining the number of miners working specifically in the conflict areas was difficult. In 2010 the international NGO Pact estimated that between 200,000 and 250,000 miners worked in North Kivu and South Kivu. Many suffered violence from guards and SSF for illegally entering mining concession areas.

Informal sector workers, who make up approximately 90 percent of the workforce, are subject to hazardous and/or exploitive working conditions.

REPUBLIC OF THE CONGO

EXECUTIVE SUMMARY

The Republic of the Congo is a parliamentary republic in which most of the decision-making authority and political power is vested in the president and his administration, although the method by which internal decision-making occurs is unclear. Denis Sassou-Nguesso was reelected president in 2009 with 78 percent of the vote, but the validity of these figures is questioned. The 2009 election was peaceful, and the African Union declared the elections to have been free and fair; however, opposition candidates and nongovernmental organizations (NGOs) cited irregularities. While the country has a multiparty political system, members of the president's Congolese Labor Party (PCT) occupy most senior government positions. Security forces reported to civilian authorities.

Major human rights problems included suspected beatings and torturing of detainees by security forces; poor prison conditions; and societal discrimination against women.

Other human rights abuses included arbitrary arrest; lengthy pretrial detention; an ineffective and under-resourced judiciary; infringement of citizens' privacy rights; some restrictions on freedom of speech, press, and assembly, official corruption and lack of transparency; domestic violence, including rape; trafficking in persons; discrimination on the basis of ethnicity, particularly against indigenous persons; and child labor.

The government seldom took steps to prosecute or punish officials who committed abuses, whether in the security services or elsewhere in the government, and official impunity was a problem.

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 disappearances or politically motivated abductions or kidnappings.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, NGOs reported cases of government-led torture and other cruel, inhuman, and degrading treatment.

For example, in early 2011 inmates and pretrial detainees in Brazzaville's prison were reportedly tortured two to three times per month by gendarmes during the night, after the regular prison staff departed the premises at 5 p.m.

In April a gendarme attempted to rape a female inmate in the Brazzaville prison. Following this incident, the government no longer deployed gendarmes inside the prison, but they continued to be stationed outside to prevent prison escapes.

Bradi Oboromalekou was arrested in June 2010 for selling cannabis and possessing a weapon. While incarcerated, his hands were reportedly handcuffed behind his back and he was repeatedly tortured for two weeks in the Brazzaville-Central police station jail before being transferred to the Jean Francois Ndengue police station jail. Oboromalekou continued to be tortured over another six weeks in this second facility before finally being released; the perpetrators enjoyed complete impunity.

In September 2010 Army Lieutenant Ferdinand Bourangon died of torture-induced injuries allegedly perpetrated in Brazzaville's prison. Other unnamed prisoners were also allegedly tortured. To date, no disciplinary action has been taken against prison personnel. Bourangon's family filed a lawsuit against the alleged perpetrators, although the courts have not reviewed the case.

Prison and Detention Center Conditions.—Prison and detention center conditions were harsh and life-threatening. Most inmates slept on the floor on cardboard or thin mattresses in small overcrowded cells, exposing them to disease. The prisons lacked any significant ventilation, had poorly maintained lighting, had wiring protruding from the walls, and had regular occurrences of water backing up into prisoners' cells. Basic and emergency medical care was limited, and meaningful access to social services personnel was severely limited due to insufficient personnel and overcrowding.

Detainees and prisoners are provided potable water in Brazzaville and Pointe Noire prisons; however, the two facilities do not have running water due to the deterioration of the water-pipes. There is no potable water in the country's 10 other departmental prisons.

Record keeping in the penitentiary system did not improve during the past year. Prison officials continue to use a noncomputerized record keeping system.

Prison conditions for women were better than those for men in each of the country's 12 prisons. There was a lower population density in the female cells than in the male cells.

The government took some steps to improve the conditions of its prisons during the year. A new prison was opened in Impfondo, capital of Likouala Department. The prison in Ouesso, capital of Sangha Department, was refurbished. The government was negotiating a contract to build a new prison that would serve Brazzaville and be located 25 miles north of the capital.

Of 12 prisons, two—one in Brazzaville and one in Pointe Noire—were fully operational during the past three years. Other facilities stopped operating at full capacity in 2008 due to infrastructure deterioration. By year's end, the prison population was approximately 1,400, the majority of whom were awaiting trial for assault and robbery. As of October 28, the Brazzaville prison, which was built in 1943 to hold up to 150 prisoners, held approximately 645, including 11 minors. The Pointe Noire prison, built in 1940, held 240 prisoners, including four minors. There were approximately 50-60 detainees and prisoners in each of the country's remaining 10 departmental prisons. Due to the facilities' infrastructure constraints and lack of education services, these facilities do not hold minors. Convicted minors in these districts are therefore given punishments that do not include prison sentences. Additionally, police stations frequently house prisoners in their limited incarceration facilities beyond the maximum statutory holding period of 48-72 hours.

Prison inmates reportedly received, on average, only one meal a day, including inadequate portions of rice, bread, and fish or low-grade meat. Families were allowed to bring meals to inmates.

Separate facilities were maintained for minors, women, and men in Brazzaville and Pointe Noire. In the country's 10 other prisons, there were no reported juvenile detainees, and men are held separately from women. Security measures in

Brazzaville's prison were insufficient to maintain minors' isolation from the general prison population. Pretrial detainees were held with convicted prisoners in each of the 12 prisons. In Brazzaville, prisoners with infectious diseases were kept in one cell but allowed to interact with other inmates. In Brazzaville and Pointe Noire, most of the cells had a functioning television with cable. There were no televisions and cable in the cells of the remaining 10 prisons.

Prisons do not have libraries or sports facilities, but the Brazzaville prison does have a school for juveniles that functions three times per week for two hours per day. The Pointe Noire prison also has a school for juveniles. Classes are taught by qualified inmates when available and by civil servants from the Ministry of Education when qualified inmates are not available. There are no schools in the country's other 10 prisons.

Access to prisoners was conditional on obtaining a communication permit from a judge. The permit allows visitors to spend five to 15 minutes with a prisoner. The visits took place in a small room that held one extended table at which approximately 10 detainees at a time might sit and converse with their visitors. A new permit is required for each subsequent visit with a prisoner. Visitors often have to bribe prison authorities to be allowed in. Many prisoners' families lived far away, and visits were often infrequent because of the financial hardship of travel to the prison.

As in the previous year, the government provided only limited access to prisons and detention centers to domestic and international human rights groups. From January through July, a domestic human rights NGO was informally granted daily access to the Brazzaville prison by one of the facility's administrators. This access was subsequently denied by the same administrator in late July. Diplomatic missions, however, were granted access to both the country's prisons and to police station jails.

Prisoners and detainees were permitted religious observance. Religiously-affiliated charitable organizations visited prisons and detention centers for charitable work and religious support. Prisoners and detainees are supposed to be allowed to submit complaints to judicial authorities, but in practice this right was not respected. There was no provision for an ombudsman. Defendants with sufficient means were able to hire private attorneys to serve on their behalf to propose alternatives to incarceration or to alleviate inhumane conditions.

Prior to a trial, the government is obligated by law to provide legal assistance to detainees who lack the financial resources to hire a private attorney, but this was not done in practice. The government neglected to pay its public defenders, and, consequently, legal representation for poor detainees was limited. The government investigated and monitored prison conditions at the request of local NGOs following complaints from prisoners' and detainees' families. However, little was done to address the penal system's failure to ensure due process for detainees.

For example, three minors in the Brazzaville prison were detained for eight months without access to a lawyer and without their cases being heard by a judge. The minors were subsequently released. Lengthy pretrial detentions are primarily due to the country's judicial system that lacks capacity and financing. Judges often have a large backlog of cases, and the Ministry of Justice typically must wait six months for funding to arrive from the national treasury before cases can go to trial. By law, criminal courts must review cases four times per year. In practice this is not possible since the Ministry of Justice receives funding for processing criminal cases one time per year based on the pending number of cases at the time of the request for funding.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention. However, police, gendarmes, and soldiers unreasonably and arbitrarily detained persons for minor and often imaginary offenses, mostly traffic related, and required them to pay bribes on the spot as a condition for release.

The Penal Code states that a detainee can be detained for a maximum of 72 hours in a police station jail before the case must be reviewed by an attorney general and a decision must be made to either release the individual or transfer the detainee to the prison for pretrial detention. However, the 72 hour maximum was not observed in practice. Some detainees were held for months and transferred among jails before finally being freed by the attorneys general.

The Penal Code also states that prison detainees can be held for a maximum of three months in pretrial detention— with an additional three months with judicial approval. The law dictates that detainees who have completed longer pretrial detentions must be released while awaiting their court hearing. However, this was not observed in practice. Three-quarters of detainees in Brazzaville's prison were pretrial detainees. Prison authorities stated that average provisional detention lasted six months; however, detainees said that the average was closer to 12 to 36 months.

Role of the Police and Security Apparatus.—The security forces include the police, the gendarmerie, and the 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 territorial security, but some units also have domestic security responsibilities, such as the specialized Republican Guard battalion charged with the protection of the president, government buildings, and diplomatic missions. The minister of defense oversees the military forces and the gendarmerie, and the minister of the interior and decentralization oversees the police.

A police unit under the Ministry of Interior and Decentralization is responsible for patrolling frontiers. Another military unit, the military police, reports to the minister of defense and is composed of military and police officers 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, there were members of the security forces who acted independently of government authority, committed abuses, and engaged in malfeasance.

Traffic police extorted bribes from drivers under threat of seizure of their identity cards or 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, with 70 percent of the population earning an income below the poverty level, most detainees could not afford to post bail. Detainees generally were informed of 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 prior to filing of charges, due to administrative errors or delays in processing detainees. Most delays were attributed to lack of staff in the Ministry of Justice and the court system. Family members usually were given prompt access to detainees—but often only after payment of bribes. The law requires that indigent detainees facing criminal charges be provided lawyers at government expense, but this usually did not occur in practice.

Arbitrary Arrest.—Arbitrary arrest continued to be a problem. This was perpetrated most often on 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. The victims usually paid a bribe; if not, the person was detained at a police station (or the airport) until either a bribe was paid or someone with influence put pressure on authorities to release the individual.

Pretrial Detention.—Lengthy pretrial detention due to judicial backlogs was a problem. Pretrial detainees continued to constitute the majority of prisoners. On average detainees waited 6 months, according to prison authorities, or 12 to 36 months, according to detainees, before going to 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.

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 Martial Court, a military tribunal system established to try criminal cases involving military members, gendarmerie, or police, does not try civilians. The court was believed to be subject to influence and corruption. Subsequent to an investigation into corrupt military payroll practices, the Martial Court continued to garnish the salaries of more than 500 current and former military personnel to recover misappropriated funds.

Trial Procedures.—The constitution provides for the right to a fair trial presided over by an independent judiciary, and the government generally respected judicial independence in practice. The constitution also provides for criminal trials to be conducted by the courts at least four times per year. For more than 20 years, however, criminal trials have only been held annually due to a lack of funding within the

Ministry of Justice. The combination of a legal caseload that far exceeded the capacity of the judiciary and the lack of adequate funding to cover the expenses of criminal trials resulted in the government being unable to ensure fair and timely trials. The Court of Justice processed 84 criminal cases nationwide during 2010, including cases of misappropriation of public money, murder, rape, armed robbery, infanticide, indecent assault, and arson. In 2011 the Ministry of Justice was unable to provide the number of criminal cases nationwide, but it did confirm that 52 criminal trials were held in Brazzaville. In general, when trials occurred prior to 2008, and in 2010 when the Court resumed its normal caseload, defendants were tried in a public court of law presided over by a state-appointed magistrate. Juries were used. Defendants had the right to be present at their trial and to consult with an attorney in a timely manner, although this did not always occur in practice. Defendants were occasionally convicted in absentia after the courts had tried unsuccessfully for a period of six months to locate the accused to stand trial. An indigent defendant facing serious criminal charges was entitled to an attorney at public expense. Defendants could generally confront or question accusers and witnesses against them and present witnesses and evidence on their own behalf. The defense had access to prosecution evidence. Defendants were presumed innocent and had the right of appeal. In principle, the law extended the above rights to all citizens, and the government generally abided by these provisions.

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

Civil Judicial Procedures and Remedies.—In contrast to the criminal courts, the civil courts review cases on a regular basis throughout the year. The civil courts experience long delays—although less than the criminal courts—but are considered to be functional. Individuals can file a lawsuit in court on civil matters related to human rights, including seeking damages for or cessation of a human rights violation. However, the public generally lacked confidence in the judicial system's ability to address human rights issues.

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.—*Status of 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. As in the previous year, the government generally respected freedom of speech and press, according to international NGO Freedom House. Broadcast journalists and government print media journalists practiced self-censorship. The nongovernment print media experienced few constraints. Approximately 10 private weekly newspapers in Brazzaville often publish articles and editorials critical of the government. There are no government restrictions on Internet access.

Freedom of Speech.—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 sometimes punished critics after the fact. Unlike in previous years, there were no reports of news agencies being ordered to close.

Freedom of Press.—There was one state-owned newspaper, La Nouvelle République, and 54 private publications, some of which were closely allied with the government and others which were at times critical of the government. On December 14, the High Council on the Liberty of Communication (CSLC) prohibited newspapers Amical and La Voix du Peuple from publishing for periods of six and three months, respectively. The CSLC ruled that both newspapers had broken national laws by inciting hatred and ethnic division. 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 local radio or television stations. There are no nationwide radio or television stations. Collectively, there are 39 radio stations, four of which are government-owned, and 23 television stations, of which at least 15 are privately owned. Several satellite television services were available for the few who could afford them.

Government journalists were not independent and were expected to report positively on government activities. However, there was no evidence that there were adverse consequences when government journalists deviated from this guidance.

A number of journalists based in Brazzaville 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 did not repeal the policy that allowed for such revocation. This policy potentially affected journalists employed by both international and government-controlled media. Local private journalists were not affected.

Libel Laws/National Security.—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. A greater proportion of the public, especially youth, accessed the Internet more frequently and utilized online social media. However, only the most affluent could afford to access the Internet in their own homes; others who accessed it used cyber cafes. There were no known attempts by the government to collect personally identifiable information via 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 generally did not respect this right in practice.

Groups that wished to hold public assemblies were required to seek authorization from the Ministry of Interior and Decentralization and appropriate local officials, who could withhold authorization for meetings that they claimed might threaten public order.

Unlike the previous year, the government did not always respect the right of peaceful assembly in practice. For example, local NGOs reported that on January 22, the government prevented opposition group Party for a Democratic Alliance (P.A.D.) from holding a public meeting that was scheduled to take place in the auditorium of the national television building. On July 31, police refused opposition party Rally of Young Patriots (R.J.P.) access to the Massamba-Debat stadium in Brazzaville, where a public rally had been preauthorized. The police again prevented opposition parties from gathering outside of the Massamba-Debat stadium on December 13.

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 Interior and Decentralization. Registration was sometimes subject to political influence. There were no reports of discriminatory practices that targeted any particular group.

c. Freedom of Religion.—For a description of religious freedom, please see the 2011 International Religious Freedom Report at <http://state.gov/g/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; unlike during the previous year the government generally respected these rights in practice.

The government cooperated with the Office of the U.N. 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.

In-country Movement.—The 2003 disarmament agreement effectively ended the organized rebellion in the Pool region. Unlike in the previous year, unidentified armed elements believed to be ex-Ninja rebels largely ceased to harass and intimidate citizens. The country's major road and railway connecting the capital, Brazzaville, to the port of Point Noire traverse the Pool region. The increased presence of law enforcement officers throughout the Pool region, including on rail cars, in 2010 and 2011, significantly reduced banditry and increased freedom of movement of persons and goods through much of the country.

As in the previous year, the government's two operations to improve security in the Pool region, "Kimia" and "Kidzounou," continued to achieve results.

Foreign Travel.—Unlike in the previous year, the government did not impose an international travel ban on opposition leaders. Opposition leaders traveled to Europe and back without any government interference.

Emigration and Repatriation.—The government generally did not prevent the return of citizens, including political opponents of the president. The last returnee was

former first lady Jocelyne Lissouba, who returned to the country in May 2010; she had fled with her husband, former president Pascal Lissouba, in 1997. Jocelyne Lissouba enjoyed a warm reception from President Sassou-Nguesso. Former president Lissouba received a pardon in 2009 but remained in France for health reasons.

Protection of Refugees.—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. 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 country, especially in areas that border the Democratic Republic of the Congo (DRC), received numerous waves of displaced persons in recent years. Between October 2009 and May 2010, nearly 115,000 refugees fled ethnic violence and rebellion in Equateur Province of the DRC and sought shelter in the country's Likouala Department. As of October, the country hosted 131,446 DRC refugees and 4,761 DRC asylum seekers.

In June 2010, the government signed a tripartite agreement with the government of the DRC and UNHCR that outlined the conditions and means for an eventual voluntary repatriation of the Likouala refugees to the DRC's Equateur Province. The parties met again in November 2010 and agreed on a plan that would begin to repatriate the first group of refugees in April 2011. As of August, UNHCR reported 17 repatriations to the DRC. The delay in repatriations was primarily due to the refugees' desire to wait for the DRC presidential elections in November 2011 to take place, for post-conflict peace and reconciliation between the Lobala and Boba tribes to be reinforced, and for repatriation aid assistance from the international community to be made available.

The country hosts 828 Angolan refugees, of which 773 are from the Angolan enclave of Cabinda. Between October 18 and 20, the government convened a second tripartite meeting with the government of Angola and UNHCR; agreement was reached to launch a voluntary repatriation effort on November 3 that would fall within the framework of the 2002 tripartite agreement. The first tripartite meeting was held in Cabinda in 2009.

The country also hosted 7,846 Rwandan refugees who fled the genocide in 1994. A tripartite meeting was held by the government, the government of Rwanda, and UNHCR in January, at which time a decision was made to invoke a cessation clause that will revoke the refugee status of Rwandans in the Congo beginning in December 2011. At that time, current Rwandan refugees will need to either repatriate to Rwanda, or change their status in the Congo to permanent resident.

Applications for refugee status are handled by the National Refugee Assistance Center (CNAR). The CNAR received 80-90 percent of its operating budget from UNHCR.

Access to Asylum.—In 2007 and 2008, the CNAR and UNHCR processed a case backlog of approximately 4,800 asylum seekers who had entered the country beginning in 2003. In 2008 there were 993 asylum applications, in 2009 there were 397, in 2010 there were 128, and as of August, there were 24 applications in 2011. According to UNHCR, as of October, the country hosted 140,338 refugees and 5,746 asylum seekers. Refugees and asylum seekers came largely from the DRC, Rwanda, Angola.

Refugee Abuse.—Gender-based violence was frequent in refugee sites, with 43 cases of rape reported in the first half of 2011, 28 of which involved minors. UNHCR provided care to 38 of the victims. The current number of pending cases before the courts concerning gender-based violence is 37. According to UNHCR, the vast majority of such cases go unreported. One reason for this is that complaints can take a year or more before they are examined by the courts, and families of victims often prefer to negotiate settlements directly with the perpetrators. UNHCR protection officers and medical personnel provided medical, psychosocial, and legal assistance to victims of gender-based violence, including rape. Refugees had equal access to community health centers and hospitals and legal recourse for criminal complaints, e.g., rape, and civil disputes.

Primary school was funded by UNHCR and made accessible to all refugees during the past year. During this academic year, 26,558 refugee children, including 13,004 girls, in Likouala Department were enrolled in primary school. Access to secondary education for refugees was severely limited. Most secondary education teachers are refugees themselves who either volunteer or are paid by the parents of refugee children. There were 7,200 refugee children enrolled in secondary school in Likouala Department, including 2,755 girls.

Employment.—Employment opportunities for refugees are not enumerated in law. Anecdotal evidence suggests that quotas and excessive work permit fees limit refugee employment opportunities. A healthcare organization stated the law requires it to hire the country's nationals for at least 90 percent of its positions. The same organization stated that two-year work permits that cost approximately 150,000 CFA (\$303), roughly equivalent to three months salary, are required.

Many refugees work informally in the agriculture sector to obtain food. Some refugees farm land that belongs to local nationals in exchange for a percentage of the harvest, or for a cash payment. Other refugees rent land from local nationals in order to conduct subsistence farming.

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 2009 presidential election.

Elections and Political Participation.—Recent Elections.—Denis Sassou-Nguesso was reelected president in the 2009 election with a claimed 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 gross manipulation of voter lists and discrepancies between the officially reported rates of voter participation and those observed by independent election observers. The African Union declared the elections free and fair.

On October 9, the country held a midterm senatorial election for one half of the senate's 72 seats. The president's ruling party—Parti Congolais du Travail (PCT)—and its allies won 28 seats, the opposition won three seats, and five independents were elected. Unlike the National Assembly and presidential elections, the senatorial elections are conducted through indirect suffrage.

Political Parties.—Major political parties included the ruling PCT, 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. Opposition parties were restricted from organizing before, during, and after the 2009 presidential election.

Following that election and the August 17, 2011 selection of three new ministers, the government included high-ranking politicians from northern ethnic tribes as well as representatives from other regions and ethnicities.

Participation of Women and Minorities.—After the October Senate elections, there were nine women in the 72-seat Senate and nine women in the 137-seat National Assembly. There were five women in the 37-member cabinet.

Many indigenous persons—largely Pygmies—were excluded from the political process due to their isolation in remote areas, lack of registration, cultural barriers, and stigmatization by the majority Bantu population (see section 6). However, indigenous rights were strengthened by the parliament's passage of an indigenous persons rights protection bill in December 2010, which became law on February 25 upon President Sassou-Nguesso's signature of the legislation.

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 most recent Worldwide Governance Indicators, government corruption was a severe problem, although the Bank and the International Monetary Fund (IMF) noted the government undertook significant reform measures to combat corruption. For example, in February 2010 the government undertook to identify and remove nonexistent civil servants known as ghost workers from the payroll. The effort was ongoing and by year's end an estimated 2,700 ghost workers had been identified. Many of the beneficiaries of this corruption scheme received one or more fraudulent salaries in addition to the salary they earned from their legitimate position.

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 government officials, through bribes or other fraud, regularly diverted revenues from these industries into private overseas accounts before the remaining revenues were declared officially. Some funds have been properly repatriated, but most remain unlocated. A number of ministries were also identified as having diverted funds to secret accounts, including the ministries of education,

health, and foreign affairs, the latter of which is being internally investigated for receiving funds to operate several nonexistent embassies abroad.

Pervasive lower-level corruption included security personnel and customs and immigration officials demanding bribes. During the year there were reports of arrested individuals whose families bribed police to secure their release.

Senior officials were subject to financial disclosure laws. It was unclear if they 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. For example, the IMF completed consultations on an Extended Credit Facility in mid-year, but the government refused to provide certain financial information from the Ministry of Finance and the Treasury concerning the state-owned oil company.

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 when publishing their findings on human rights cases. Government officials generally were more cooperative with 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.

Government Human Rights Bodies.—The government-sponsored Human Rights Commission (HRC) is charged with acting as a government watchdog and addressing public concerns on human rights issues. Some civil society members claimed that the commission was completely ineffective, lacked independence, was primarily represented by persons who have no expertise in human rights, and was created to appease the international community. President Sassou-Nguesso appointed most, if not all, of its members.

In 2011 the Human Rights Commission did not undertake activities to directly respond to human rights problems in the country. Instead the organization focused on reforming its institutional structure, and on increasing its subject matter expertise through attendance at international conferences on human rights.

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 handicap; however, the government did not effectively enforce these prohibitions. There were documented instances of societal discrimination and violence against women. In addition, regional ethnic discrimination and discrimination against indigenous persons occurred.

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 a local women's group, the penalties for rape could be as little as several months' and rarely more than three years' imprisonment, despite what the law says. The government established two centers in Brazzaville to provide care to rape victims. The government could not provide national figures for cases of rape in 2011.

Rape was common, although the extent of the problem was unknown because the crime was seldom reported. Fewer than 25 percent of reported rape cases were prosecuted, according to local and international NGO estimates. In August 2010 a suspected serial killer who allegedly raped and killed nine women was arrested and detained in the Brazzaville prison, and was awaiting trial for rape and murder.

Domestic violence against women, including rape and beatings, was widespread but rarely reported. There were no specific provisions in 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, a result of victims' fear of social stigma and/or retaliation, as well as a lack of confidence in the courts to address human rights abuses. Local NGOs sponsored domestic violence awareness campaigns and workshops.

Female genital mutilation (FGM) was not practiced indigenously and is against the law. It may have occurred in some immigrant communities from West African countries where it is common. There were no known governmental or other efforts to investigate or combat FGM.

Sexual harassment is illegal. Generally the penalty if convicted is two to five years in prison. In particularly egregious cases the penalty can equal the maximum for rape, i.e., five to 10 years' imprisonment. However, the government did not effec-

tively 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.

Reproductive Rights.—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 due to cost. According to the U.N. Population Fund (UNFPA) in 2008, only an estimated 13 percent of married women ages 15-49 used some form of modern contraceptive method. Health clinics and public hospitals were generally in poor condition and lacked experienced health staff. The UNFPA estimated the maternal mortality ratio (the ratio of maternal deaths per 100,000 live births) to be 781 and a woman's lifetime risk of maternal death to be one in 39. According to the Population Reference Bureau, approximately 83 percent of births were attended by skilled personnel.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. However, HIV-positive persons continued to experience social stigmatization and discrimination that limited their access to these services. The National Committee to Fight AIDS coordinated national policy to counter the spread of the HIV/AIDS virus.

Discrimination.—Customary marriage and family laws discriminate against women. Adultery is illegal for both women and men. Polygyny is legal while polyandry is not. The law provides that a legal wife shall inherit 30 percent of her husband's estate. The law limits dowries to symbolic amounts; however, this often was not respected. Men were obliged to pay excessive bride prices to the woman's family. The Ministry of Promotion of Women's Rights was in charge of protecting and promoting the rights of women.

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 of the economy. Women experienced economic discrimination with respect 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 these problems, 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.

Birth Registration.—The government does not provide automatic recording of births; it is up to 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 have a difficult time registering, as offices for registration are located only in provincial capitals. The government continued a system of providing free birth registration in Brazzaville, but, as in previous years, the program did not cover other areas.

Education.—Education is compulsory, tuition-free, and universal until the age of 16, but families are 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 because their parents usually failed to register births and obtain the necessary birth certificate. Schools were overcrowded and facilities extremely poor. Girls and boys attended primary school in roughly equal numbers; however, boys were five times more likely than girls to go on to high school and four times more likely to go on to a university. In addition there were 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.—Child abuse was not commonly reported, but was thought to be prevalent. Most reports in previous years involved the West African immigrant communities in the country.

Child Marriage.—The law prohibits child marriage, and the legal age for marriage is 18 years for women and 21 for men. However, marriage at an earlier age is permissible if both sets of parents give their permission; the law does not specify the minimum age in this special circumstance. The penalty for forced marriage between an adult and a child is a prison sentence of three months to two years and a fine of 150,000 CFA (\$300) to 1,500,000 CFA (\$3,000).

Sexual Exploitation of Children.—There were cases of children, particularly those who lived on the streets, engaging in prostitution with third-party involvement. The prevalence of the problem remained unclear, although the U.N. Children's Fund (UNICEF) estimated in a 2007 report that 25 percent of the approximately 1,800 internationally trafficked children were sexually exploited.

The minimum age for consensual sex is 18. The maximum penalty for sex with a minor is a prison sentence of five years and a fine of 10,000,000 CFA (\$20,000).

A Child Protection Code promulgated in April provides penalties for crimes against children such as trafficking, pornography, neglect, and abuse. Penalties for these crimes range from forced labor, to fines of up to 10,000,000 CFA (\$20,000), to prison sentences of several years. The penalty for child pornography includes a prison sentence up to one year and a fine up to 500,000 CFA (\$1,000).

Displaced Children.—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, while others sold cheap or stolen goods to support themselves.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no substantial Jewish community in the country. There were no reports of anti-Semitic acts.

Trafficking in Persons.—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical, sensory, intellectual, or mental 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.

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 relationships among ethnic, regional, and political equities can be difficult to discern. A majority of the president's cabinet members and generals originate from the country's northern Departments.

Indigenous People.—According to local NGOs, Pygmies were severely marginalized in regard to employment, health services, and education, in part due to their isolation in remote areas and their different cultural norms. Pygmies were often considered socially inferior and had little political voice; however, in recent years several Pygmy rights groups have developed programs to overcome this. Many Pygmies were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests.

The 2007 national census estimated the indigenous population to be 2 percent of the general population, equivalent to an estimated 74,000 persons.

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 homosexuality. A law promulgated during the country's colonial era and still in force prohibits homosexual conduct and makes it punishable by 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 against gays, lesbians, or transgendered individuals during the year.

Other Societal Violence or Discrimination.—Public opinion polls show that societal discrimination against individuals with HIV/AIDS is significant. Unlawful divulgence of medical records by practitioners, negligence in treatment by health professionals, family abandonment, and unwarranted termination of employment are all offenses subject to sanctions. Civil society, including organizations advocating the rights of persons with HIV/AIDS, was fairly well-organized and sought fair treatment, especially regarding employment. NGOs and the government worked widely on HIV/AIDS issues, including raising public awareness of the fact that those living with HIV/AIDS were still able to contribute to society.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements. Workers exercised this right in practice. However, members of the security forces and other essential services do not have this right. 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. The law also provides that for strikes in services that are “essential for protecting the general interest,” employers establish a “minimum service,” in which the refusal to take part is considered gross misconduct.

The law also provides for the right to bargain collectively, and workers generally exercised this right freely, although collective bargaining was not widespread due to the severe economic conditions. In one case where collective bargaining was not allowed, Congolese employees of a Chinese construction company who were building a highway from Pointe Noire to Brazzaville were denied employment contracts, paid under the country’s minimum wage, and were subject to dismissal for absences of three consecutive days, irrespective of the reason for the absences.

The law prohibits antiunion discrimination, and 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.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. There were unconfirmed reports that such practices occurred. Such cases involved child trafficking victims who were forced to fish, work in markets, or participate in domestic servitude for little or no compensation.

Children—mostly from Benin, and also Togo, Mali, Guinea, Cameroon, Senegal, and the DRC—are subjected to forced domestic labor, market vending, and fishing. Child victims experience harsh treatment, long work hours, and have almost no access to education or health services; they receive little or no remuneration for their work.

The government has not repealed a 1960 law which 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 ever being applied or enforced.

Also see the Department of State’s annual Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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.

The most common forms of child labor were in markets, commercial fishing, or in domestic servitude, where children were subject to harsh conditions, long hours, and little or no pay. Children worked with their families on farms or in small businesses in the informal sector without government monitoring. Children are engaged in the worst forms of child labor in agriculture and domestic service. There were no official government statistics on general child labor. However, a 2005 International Labor Organization survey showed that 85 percent of the sample of 47,000 working children resided in rural areas, and just over half (53 percent) were girls who performed household chores or worked in exchange for pay.

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 ineffective. As in the previous year, limited resources prevented the ministry from carrying out a review of the formal sector, which would include child labor inspection trips. Labor inspections occurred during the year, but there were no official data available at year’s end. International aid groups reported little change during the year in child labor conditions.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The national minimum wage was 54,000 CFA (\$109) per month in the formal sector. 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 law provides for a standard workweek of seven hours per day, five 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 42 hours per week.

Although health and safety regulations require biannual visits to businesses 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 jeopardizing their continued employment. There were no exceptions for foreign or migrant workers.

COTE D'IVOIRE

EXECUTIVE SUMMARY

Cote d'Ivoire is a democratic republic. On May 21, Alassane Ouattara, leader and candidate of the opposition party Rally for Republicans (RDR), was officially inaugurated president. The inauguration followed the April 11 capture of Laurent Gbagbo, the former president who refused to accept the results of the October and November 2010 presidential election. The U.N. and international and domestic observer missions declared the vote fair and democratic and recognized Ouattara as the country's duly elected president; however, President Ouattara and former president Gbagbo took separate oaths of office in December 2010 and remained in a standoff over the presidency until Gbagbo's capture. Post-electoral violence perpetrated by both sides, but attributable primarily to pro-Gbagbo forces, resulted in approximately 3,000 deaths, significant population displacement, torture, sexual violence, and widespread property destruction. On March 17, President Ouattara combined the former rebel Forces Nouvelles (FN) with cooperating elements of the Defense and Security Forces (FDS), the former government's security forces, into the Republic Forces of Cote d'Ivoire (FRCI), the country's new official military. Until President Ouattara's official inauguration in May, security forces, who largely supported former president Gbagbo, did not report to civilian authorities. Following the inauguration, violence significantly decreased, but there still were instances in which elements of the security forces acted independently of civilian control—particularly FRCI members ineligible for the unified military, armed pro-Gbagbo groups supported under the former regime, and endemic militia groups in the West.

The postelectoral conflict involved serious human rights abuses committed by both sides. Under Gbagbo, state-sponsored death squads, government security forces, and militia groups intimidated and silenced perceived or actual pro-Ouattara supporters. Gbagbo also reportedly hired Liberian mercenaries that were implicated in numerous human rights abuses. Abuses were also committed by the FRCI and other militant groups fighting against Gbagbo. There were numerous reports that the FRCI committed extrajudicial killings on the battlefield and also failed to protect pro-Gbagbo populations from reprisal killings in the wake of the FRCI's advance. Dozos, or traditional hunters, and pro-Ouattara militia groups participated in reprisal killings, primarily in the western region of the country; although there was no confirmation of allegations that the Ouattara government provided financial, material, or logistical support to militia groups that were sympathetic to Ouattara and the FRCI, although investigations continued at year's end.

The most important human rights problems in the country included state-sponsored killings under Gbagbo; extrajudicial killings, torture, rape, and displacement of persons committed during the postelectoral violence; and disregard for civil liberties and political rights.

Other human rights problems under the Gbagbo government included the following: restriction of citizens' right to change their government; enforced disappearances; life-threatening prison and detention center conditions; arbitrary arrest and detention; denial of fair public trial; arbitrary interference with privacy, family, home, and correspondence; police harassment and abuse of noncitizen Africans; restrictions on freedoms of speech, press, peaceful assembly, association, and movement; official corruption; discrimination and violence against women, including female genital mutilation (FGM); trafficking in persons; discrimination against lesbian, gay, bisexual and transgender (LGBT) individuals, persons with disabilities,

and persons with HIV/AIDS; child abuse and exploitation, including forced and hazardous labor; and forced labor.

Other human rights problems under the Ouattara government included poor prison and detention center conditions; arbitrary arrests and detention; and arbitrary interference with privacy, family, home, and correspondence. The government restricted speech, press, assembly, association, and movement. Corruption was pervasive. Discrimination and violence against women and children, including FGM, was a problem, as was trafficking in persons. Discrimination against persons with disabilities and persons with HIV/AIDS also was a problem. There were reports security forces targeted LGBT individuals for abuse. Forced and hazardous labor, including by children, was common.

Impunity for abuses committed by the security forces remained a serious problem. The Ouattara government reiterated its commitment to respect human rights and punish the perpetrators of human rights abuses, regardless of party affiliation; however, little progress was made during the year. In May President Ouattara asked for assistance from the International Criminal Court (ICC) to investigate human rights abuses committed during the postelectoral crisis. On November 29, former president Gbagbo was indicted under an ICC arrest warrant for crimes against humanity and transferred to The Hague, where he was awaiting trial at year's end. The Ouattara government also created a national-level Dialogue, Truth and Reconciliation Commission (DTRC), a national Commission of Inquiry (COI), and a Special Prosecution Cell to address human rights abuses committed during the postelectoral crisis.

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

a. Arbitrary or Unlawful Deprivation of Life.—During the postelectoral crisis there were numerous reports that the Gbagbo government or its agents systematically attacked and killed Ouattara supporters and shot and killed demonstrators. The FRCI and other militia groups either independent or loosely aligned with pro-Ouattara forces committed reprisal attacks and summary executions (see section 1.g.).

b. Disappearance.—During the year there were reports of politically motivated disappearances committed by security forces and militia groups under the Gbagbo government (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, pro-Gbagbo security forces and police beat and abused detainees and prisoners to punish them, extract confessions, or extort payments with impunity. There were reports that police officers under the Gbagbo government forced detainees to perform degrading tasks under threat of physical harm and continued to harass and extort bribes from civilians, usually on the basis of ethnic identity.

During the postelectoral crisis there were reports that non-Ivoirian Africans, mostly from neighboring countries, were subject to harassment and abuse by pro-Gbagbo security forces and militia groups, including repeated document checks, extortion, and racketeering.

There also were reports that the FRCI sometimes used cruel and degrading treatment during the postelectoral crisis. Violence against women, including rape, was widespread during the year and committed by various actors (see section 1.g.).

Prison and Detention Center Conditions.—During the postelectoral crisis many of the country's 33 prisons were damaged and looted, and in several towns prisoners were freed by unidentified elements during the course of the fighting. Government records from the beginning of the year were lost or were destroyed in the looting. In the 22 prisons located in the South, overcrowding had been a serious problem. For example, MACA, the country's main prison located in Abidjan, was built for 1,500 persons but held approximately 5,400 until March 3, when unidentified armed elements freed all inmates. Conditions in MACA were notoriously poor; however, wealthier prisoners reportedly could "buy" extra cell space, food, and even staff to wash and iron their clothes. The Gbagbo government provided inadequate food rations, which resulted in cases of severe malnutrition if families of prisoners did not provide additional food.

On August 16, MACA prison was renovated and reopened with 16 prisoners; by October 7, it held 507 prisoners. Conditions in MACA improved as a result of renovations and sufficient cell space for prisoners; however, the Ouattara government continued to provide inadequate food rations at a cost of FCFA 300 (\$0.60) per person per day.

Across all government prisons, male minors, few in number, were generally held separately from adult men; however, some minors were detained with their adult accomplices. Pretrial detainees were held with convicted prisoners. Prisoners and

detainees had access to visitors and were permitted religious observance. Prisoners could submit complaints to judicial authorities without fear of censorship, and prison authorities investigated credible allegations of inhumane detention conditions.

Under the Gbagbo government, prison conditions for women were particularly difficult, and health-care facilities inadequate. There were credible reports that female prisoners engaged in sexual relations with wardens in exchange for food and privileges. Pregnant prisoners went to hospitals to give birth, and their children often lived with them in prison. The prisons accepted no responsibility for the care or feeding of the infants, although inmate mothers received help from local NGOs. By year's end conditions for the few remaining female inmates had improved, due in part to increased space in the prisons.

The Ouattara government generally permitted access to prisons by the International Committee of the Red Cross (ICRC) and the U.N. Operation in Cote d'Ivoire (UNOCI). Although the Ouattara government did not initially authorize a June ICRC request to visit former President Gbagbo, his wife, and their associates, it granted permission the following month, and the ICRC visited Gbagbo in July. The ICRC visited Simone Gbagbo in November.

The Gbagbo government granted the ICRC access to prisoners and detainees throughout the postelectoral crisis. The ICRC visited prisoners in the prisons and detainees in the police stations under Gbagbo's control without problems.

On several occasions during the year, UNOCI's human rights division visited former president Gbagbo and his associates to assess their detention conditions. In Bouna UNOCI voiced concern that inmates were not allowed family visits and that hygiene and sanitary conditions were poor, complaints that were subsequently addressed by prison authorities. UNOCI's visits with former president Gbagbo confirmed that he was not being mistreated.

Although the FN officially transferred prisons under its control to the Gbagbo government in January 2010, before the election and postelectoral crisis, in practice the FN did not transfer operational control until after Gbagbo's detention. At year's end all of the country's 33 prisons were under the Ouattara government's control, but only 16 were operational.

Detention and prison conditions in former FN rebel zones were poor, with detainees sometimes held in converted schools, movie theaters, or other buildings with poor air circulation and sanitary facilities. Prison guards were not properly trained. Nutrition and medical care were inadequate due to budget constraints. Some detainees became ill, and some died from respiratory disease, tuberculosis, or malaria due to lack of medical care and unhygienic conditions.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, in practice this occurred frequently under the Gbagbo government and infrequently under the Ouattara government.

Role of the Police and Security Apparatus.—The FDS, under former president Gbagbo's Ministry of Defense, included 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. During the postelectoral crisis the security forces were either supportive of former president Gbagbo (such as the presidential security force) or relatively neutral (such as the police). Building upon almost a decade of politicization of the military, during the postelectoral crisis former president Gbagbo disarmed and marginalized forces suspected of being pro-Ouattara and concentrated his power in security forces with close ethnic ties to his regime. These security forces were used solely to consolidate Gbagbo's hold on power, and they ceased all other functions or activities for the nation as a whole. Gbagbo also used militia groups during the postelectoral crisis to maintain power, such as the Young Patriots, the Group of Patriots for Peace, and the militant Student Federation of Cote d'Ivoire (FESCI). Militia groups fought alongside government security forces and in some cases were given weapons and encouraged to join the national army (see section 1.g.).

In response Ouattara created the FRCI on March 17, combining the FN forces with some anti-Gbagbo elements of the FDS that had fled north. However, as the FRCI advanced through the South, they were joined by a variety of irregular volunteers. These volunteers were not a part of the FRCI but fought alongside them on some occasions and for a similar cause. As the FRCI advanced, their numbers swelled due to these additions, but officially none of those who joined were considered FRCI despite wearing a t-shirt or hat with the FRCI insignia. The matter was further complicated because the Ouattara government had not completed a survey of those under the official control and command of the new military leadership prior to the FRCI's formation. Therefore, attributing crimes or abuses committed during

the postelectoral violence to official FRCI security forces was often difficult. At year's end the survey to determine eligible from ineligible FRCI forces continued.

The police, officially under the jurisdiction of the Ministry of Interior, included paramilitary rapid intervention units such as the antiriot brigade and the Directorate for Territorial Surveillance (DST), a plainclothes investigating unit. In 2005 the Ministry of Interior formed the Special Security Command (CECOS) to combat rising crime in Abidjan. CECOS was a joint endeavor that included members of the military, gendarmerie, and police. There were allegations that CECOS formed death squads to kill opponents of Gbagbo during the postelectoral crisis.

During the postelectoral crisis many police and gendarmes abandoned their posts, and their stations were looted, resulting in a security vacuum in a large portion of the country. For example, on March 30, in Yamoussoukro, the police prefect's office was reportedly looted by ex-prisoners who were earlier freed by unidentified armed people. The ex-prisoners looted the office and took all the archives, including their own case files. Also on March 30, young civilians reportedly looted the gendarmerie brigade of Yamoussoukro.

Under Gbagbo, poor training and supervision of security forces, corruption, and a failure to prosecute miscreants in the security ranks resulted in general lawlessness and public disrespect for authorities. Racketeering at roadblocks remained a serious problem. Security forces harassed, intimidated, abused, and confiscated the official documents of persons who refused to pay bribes. Gbagbo 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. On numerous occasions security forces failed to prevent violence.

The Ouattara government announced plans to reform the security sector and to demobilize armed elements not part of the formal security forces. For example, Ouattara dissolved CECOS, although their members had already disbanded, and reconstituted the Republican Guard. Reports of racketeering decreased in Abidjan after the postelectoral crisis, as did reports of police stopping motor vehicles. In the areas of the country traditionally aligned with Gbagbo, especially in the West, racketeering increased in the immediate postelectoral period; however, by year's end the Ouattara administration had significantly reduced illegal checkpoints. The Ouattara government detained approximately 45 police and military personnel who were accused of abuses or misconduct during or after the postelectoral crisis; a small number of those detained were released on provisional bail, while the majority remained in detention at year's end awaiting trial.

The Ouattara government established an official Military Police in December to allow security forces to internally investigate abuses. There were numerous civilian-controlled mechanisms to investigate abuses by security forces, including abuses committed during the postelectoral crisis. Such mechanisms included a Special Prosecution Cell, the national Commission of Inquiry, and continuing investigations by the Ministry of Justice.

Arrest Procedures and Treatment While in Detention.—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 with prior authorization from the prosecutor. 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.

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 matters of national security, detainees were sometimes 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.

Following the postelectoral crisis some members of the former ruling party, including former president Gbagbo, were held under house arrest. With the exception of the former president and first lady, the Ouattara government moved the detainees to detention centers. In August the Ouattara government brought formal charges against former president Gbagbo, the first lady, and the other detainees. As a sign of good will, some of these detainees were released by the Ouattara government in November.

The Ouattara government received criticism for the four-month delay in bringing charges against the detainees. According to the Ouattara government, the delay in bringing charges against former president Gbagbo stemmed from a lack of judicial capacity, as a result of the looting and damage to ministry buildings during the postelectoral crisis, as well as the significant administrative hurdles associated with bringing charges against high-level government officials. For example, before charging former president Gbagbo, the Constitutional Council first had to authorize the decision to bring charges against him.

The DST was responsible for collecting and analyzing information relating to national security. It had the authority to hold persons for up to four days without charges; however, human rights groups stated there were some cases of detentions exceeding the statutory limit.

Arbitrary Arrest.—There were numerous reports of arbitrary arrests by pro-Gbagbo security forces. For example, a supporter of the pro-Ouattara coalition party, the Union of Houphouëtists for Democracy and Peace (RHDP), was arrested during a January 4 raid by the FDS on the headquarters of the Democratic Party of Cote d'Ivoire (PDCI) and released from detention on 5 January.

There was at least one detention case from 2010 addressed during the year. On February 1, four Ghanaians and one Togolese national were released by the FN police director in Bouake. The five had been arrested in December 2010 for alleged mercenary activities on behalf of former president Gbagbo, but were released due to insufficient evidence.

Pretrial Detention.—Prolonged pretrial detention was a problem under the Gbagbo government. Despite the legal limit of 10 months of pretrial detention in civil cases and 22 months in criminal cases, some pretrial detainees were held for years. However, as most prisoners were freed during the postelectoral crisis, and prison records were looted or loosely kept, statistics on pretrial detainees for the year were not available. There was little information on pretrial detention under the Ouattara government, as most detention centers did not resume functioning following the postelectoral crisis until late in the year. During the year it was not a problem as there were virtually no prisoners. However, there was no assurance that the Ouattara administration addressed the institutional challenges that facilitate extended pretrial detention.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the judiciary was generally independent in ordinary criminal cases; however, the judiciary has historically followed the lead of the executive in national security or politically sensitive cases and was subject to influence from the executive branch, the military, and other outside forces. Judges were corrupt, and their rulings were frequently influenced by bribes. During the postelectoral crisis the judiciary did not function. Under the Ouattara government, the judiciary began slowly rebuilding capacity and attempting to root out corruption but faced significant challenges, especially in restarting proceedings in the criminal courts.

Trial Procedures.—The Gbagbo and Ouattara governments did not always respect the presumption of innocence, although the law provides for it. The law also provides for the right to public trial, although key evidence sometimes was given secretly. Juries were used only in trials at the court of assizes, which convened as needed to try criminal cases; however, following the postelectoral crisis there were instances in which the FRCI made summary decisions for resolution of criminal and economic matters.

Defendants have the right to be present at their trial, and they can present witnesses or evidence on their behalf or question any witnesses brought to testify against them. Defendants accused of felonies have the right to legal counsel at their own expense. Defendants accused of capital crimes have the right to legal counsel either at their expense or at the state's expense. 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 had 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 law specifically provides for a grand mediator, appointed by the president, to bridge traditional and modern methods of dispute resolution. President Ouattara appointed a new grand mediator in September.

Military courts do not try civilians and provide 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 former FN in the northern and western regions. The system was placed under the jurisdiction of the government-wide judicial system following the crisis.

Political Prisoners and Detainees.—There were no reports of political prisoners or detainees. While some Gbagbo supporters claimed that former ruling party members held in detention were political prisoners, the Ouattara government brought specific charges against the officials four months after their detention, including charges of economic crimes, armed robbery, looting, and embezzlement.

Civil Judicial Procedures and Remedies.—The constitution and law provide for an independent judiciary in civil matters; however, the judiciary, under the Gbagbo regime, was subject to corruption, outside influence, and favoritism based on family and ethnic ties. 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.

For most of the year the judiciary did not function. The dismissal of judges and failure to replace them during the Gbagbo era, systematic looting of Ministry of Justice buildings and tribunals during the postelectoral crisis, and destruction of archives by pro-Gbagbo supporters seeking to suspend judicial operations effectively halted civil judicial activities.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law provide for these rights; however, the Gbagbo and Ouattara governments did not respect these rights in practice. The law requires warrants to conduct searches, the prosecutor's agreement to retain any evidence seized in a search, and the presence of witnesses in a search, which may take place at any time; in practice police sometimes used a general search warrant without a name or address.

Gbagbo security forces reportedly monitored private fixed-line and cellular telephone conversations, but the extent of the practice was unknown. 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.

Elements of the FRCI continued to use confiscated property and vehicles obtained during the conflict, including property of members of the Gbagbo regime and privately owned property. Some vehicles were returned, and there were cases of arrest and detention of FRCI members for alleged robbery and theft.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Killings.—Violence perpetrated by both sides during the postelectoral period resulted in more than 3,000 deaths.

Security forces loyal to Gbagbo were complicit in extrajudicial killings and used lethal force to raid areas in which perceived or actual Ouattara supporters lived. Many killings reportedly took place with the assistance of pro-Gbagbo militia forces (see below). Attacks were systematic and used excessive force against civilians, many with northern names, due to their perceived support for Ouattara. For example, on March 17, FDS elements shelled private homes and the local market in Abobo, Abidjan, an area with many perceived or actual Ouattara supporters. The attack resulted in the deaths of at least 25 civilians and injured 40.

Security forces loyal to Gbagbo also killed demonstrators. On March 3, in Abobo, Abidjan, security forces loyal to Gbagbo opened fire on a demonstration of approximately 3,000 unarmed women; seven demonstrators were killed. According to the U.N. Human Rights Council Commission of Inquiry, no action was taken by the Gbagbo government to hold the perpetrators accountable.

Security forces loyal to Gbagbo also killed foreign citizens. For example, on April 4, in Abidjan, unidentified armed persons abducted the French general manager of the Novotel Hotel and three foreign guests. On June 2, the body of the general manager was found in a lagoon in Abidjan; the three foreign guests were presumed dead at year's end. Under Ouattara the Ministry of Justice arrested and indicted 10 security force members loyal to Gbagbo in connection with the incident.

The Burkina Faso embassy confirmed and formally registered that 357 of its citizens were killed by pro-Gbagbo forces.

There were allegations that security forces loyal to Gbagbo were complicit in the use of mass graves in N'dotre in 2010. In December 2010, after being denied access to the area, heavily guarded by pro-Gbagbo security forces, UNOCI's human rights division gained access in mid-March. Although the allegations of mass graves could

not be proven, it was noted that there were 250 bodies with suspicious injuries in a morgue in nearby Anyama.

The FRCI also committed extrajudicial killings in the months immediately following its March 17 creation. Many killings were reprisal attacks on perceived or actual Gbagbo supporters. For example, on April 1, in the Seweke III neighborhood of San Pedro, FRCI elements reportedly shot and killed Gerard Leonce Yagba after he denied knowledge of the whereabouts of his brother, whom neighbors described as a militia member.

FRCI elements reportedly executed people suspected of participating in armed resistance following Gbagbo's April 11 detention. In the Yopougon neighborhood of Abidjan, armed militia groups and security forces, loyal to Gbagbo and implicated in dozens of targeted killings of unarmed pro-Ouattara civilian supporters, continued to fight the FRCI. In the course of gaining control of the neighborhood, FRCI elements reportedly executed people suspected of participating in the fighting. On May 15, FRCI elements in the Koweit neighborhood of Yopougon allegedly executed a man carrying two pistols who was presumed to be a militia member.

On August 18, the Minister of Justice demanded the arrest of two FRCI members after the UNOCI human rights division released information on their involvement in extrajudicial killings of civilians; however, there was no information that the two FRCI members had been arrested by year's end.

Militias affiliated with both parties reportedly perpetrated arbitrary and unlawful killings.

Pro-Gbagbo militias were responsible for numerous killings, often reportedly perpetrated in the presence of or with assistance from security forces loyal to Gbagbo. Members of the Young Patriots, who were responsible for summary executions in previous years, continued to operate with impunity during the postelectoral crisis. In late February and in March, Ble Goude, leader of the Young Patriots, called on supporters to attack all foreigners and join the army. On February 26, Young Patriots members reportedly beat a presumed rebel, put a tire around his neck, poured petroleum on his body, and set the man on fire. In July the Ouattara government issued an international arrest warrant for Ble Goude. On May 6, UNOCI's human rights division confirmed the presence of mass graves in Yopougon. Through their inquiries the division determined that 68 bodies were buried across 10 sites and that pro-Gbagbo militias had reportedly killed all of the victims on April 12.

There were several reports of youth supporters of the pro-Ouattara RHDP coalition participating in armed uprisings to protect neighborhoods from security forces loyal to Gbagbo. For example, on February 24 and 25, armed RHDP youth attacked the FDS headquarters in Daoukro, set up roadblocks, and looted the homes of FDS members loyal to Gbagbo following a clash between FDS and RHDP youth that left six dead, including one elderly woman.

Following several months of targeted killings and disappearances perpetrated by FDS troops loyal to Gbagbo in the Abidjan neighborhood of Abobo, an armed militia formed under the name of the Invisible Commando. The militia was ostensibly led by Ibrahim Coulibaly, also known as "IB," a former FN member and coup plotter. In collaboration with local residents, the Invisible Commando militia violently resisted attempts by FDS members to enter the Abobo neighborhood. In the process of these confrontations, there were numerous reports of civilian deaths. The Invisible Commando also reportedly attacked pro-Gbagbo supporters. For example, on March 7, the group attacked the Ebré ethnic group in the Anonkoua-Koute District of Abobo, resulting in at least three civilian deaths. There were no explicit links between the Invisible Commando militia and the FRCI, which arrested "IB" on April 26 in Abobo; the militia leader was killed while reportedly resisting arrest.

Several groups of perpetrators, including pro-Gbagbo and pro-Ouattara militias and unaligned groups, were responsible for summary executions, rape, property destruction, and displacement of citizens in the western regions of Moyen Cavally and Dix-Huit Montagnes, particularly the towns of Duekoué, Guiglo, and Toulepleu.

Numerous killings occurred in clashes between indigenous ethnic groups and northern ethnic groups. In some instances other groups—including security forces loyal to Gbagbo, Liberian mercenaries, the FRCI, and Dozos—were complicit in the killings. As Gbagbo's efforts to retain power became increasingly violent and as civil authority abandoned the region, violence perpetrated by indigenous ethnic groups against northern ethnic groups increased. In the wake of the FRCI advance toward Abidjan, ethnic reprisals by Dozos and militias were widespread.

For example, between January 3 and 5, fighting between the Dioula and Guéré communities in Duekoué left at least 37 people dead and 91 injured. On March 28 and 29, UNOCI reported the deaths of 213 victims from various ethnic groups. The U.N. Human Rights Council Commission of Inquiry reported that at least 1,012 peo-

ple were killed in the ern regions of Moyen Cavally and Dix-Huit Montanges from December 2010 to April 24.

Following their May 3 defeat by the FRCI, Liberian mercenaries in Abidjan retreated toward the Liberian border. There were numerous reports of extrajudicial killings committed during this time, particularly in Dabou, Irobo, and Grand-Lahou. The U.N. Human Rights Council Commission of Inquiry reported that retreating mercenaries killed at least 59 persons—including 46 civilians and 13 FRCI members.

The security situation in the West remained precarious, particularly along the Liberian border. On September 15, armed militiamen from Liberia reportedly killed 23 people in two villages near the Tai Forest.

Abductions.—There were numerous reports of disappearances, reportedly perpetrated by several groups. Security forces that supported Gbagbo and pro-Gbagbo militia groups were responsible for numerous disappearances. The majority of the disappearances involved non-Ivoirian Africans, particularly those from the neighboring countries of Burkina Faso and Mali, who were perceived to be Ouattara supporters.

For example, on February 22, in Abidjan's Hopital Militaire neighborhood, pro-Gbagbo gendarmes reportedly arrested a Malian driver and took him to an undisclosed location. The whereabouts of the driver were unknown at year's end.

On January 4, a Burkinabe farmer living in the Duekoue Antenne area disappeared. He had been previously threatened by Guere militia men, who had accused him of supporting the Malinke community and the RHDP political party. The man had informed Gbagbo authorities of the threats, but they had taken no action.

Physical Abuse, Punishment, and Torture.—There were credible reports that armed men, including pro-Gbagbo and FRCI security forces, raped women and girls throughout the country. In some cases it was difficult to determine the affiliation of perpetrators. The UNOCI Human Rights Division documented 46 cases of rape related to electoral violence from December 2010 to April 24. For example, on April 13, two FRCI soldiers reportedly raped a Gbagbo supporter in her home in Deahouepleu (near Danane). The perpetrators reportedly threatened the victim, vandalized her belongings, and stole FCFA 215,000 (\$430).

In early February FDS members stationed in Boyapleu purportedly raped nine women, some of whom were pregnant. One of the victims, who was two months' pregnant, lost the baby after the rape. Another victim, a 17-year-old girl, was reportedly beaten up and raped by two FDS members, who then stole FCFA 20,000 (\$40) from her.

Security forces loyal to Gbagbo reportedly used torture. For example, on January 15, a supporter of the pro-Ouattara coalition party, the RHDP, who was previously arrested during a January 4 raid by the FDS on the headquarters of the Democratic Party of Cote d'Ivoire (PDCI), was rearrested, tortured, and sexually abused by elements of the Republican Guard.

On March 28, FDS members and Guere militia men arrested a Malinke man for allegedly hosting rebels in his home. They tied him up and beat him with machetes, sticks, and rifle butts. They detained the victim for 14 hours and demanded FCFA 200,000 (\$400) to be release him.

There were also reports of torture by the FRCI. On May 20, FRCI members in Duekoue bound a man to a tree by tying a mattress around him and then set the mattress on fire. The man was severely burned on his left arm. There were several reports that FRCI members also tortured people by dripping burning plastic bags on their bodies.

Child Soldiers.—There were allegations of use of child soldiers by both the FRCI and pro-Gbagbo militia during the height of the crisis; however, there was no information documenting actual practice. After Ble Goude's March 19 call for more people to fight against Ouattara supporters, hundreds of young men, including some students, reportedly sought to enroll in the army to fight "the rebels." According to UNOCI's child protection unit, there was no evidence of the use of child soldiers by the FRCI.

Other Conflict-related Abuses.—The postelectoral violence caused thousands to flee their homes. At its peak more than one million persons were internally displaced and 200,000 took refuge in neighboring countries, primarily in Liberia, Ghana, and Togo. In the months following Gbagbo's detention, internally displaced persons (IDPs) and refugees started to return home, but many had not returned by year's end due to lingering security concerns. As of December, 186,000 IDPs remained, primarily in the west and southwest regions of the country, and the number of refugees in neighboring countries had dropped to approximately 160,000, the vast majority in Liberia.

Both the state-run media and pro-Gbagbo militias incited violence against the U.N. and UNOCI, which made it more difficult for them to carry out their peacekeeping, human rights, and humanitarian work. On January 10, a supply convoy was looted by forces loyal to Gbagbo while taking supplies to the Golf Hotel where Ouattara was under siege. On January 13 pro-Gbagbo student militants seized and burned a U.N. vehicle in the Riviera 2 neighborhood of Abidjan. On February 28, the Gbagbo regime also ordered the shutdown of electricity and water to the North, which impeded U.N. operations there. Services were restored on March 5.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press, but the Gbagbo government restricted these rights in practice. Restrictions on press freedom significantly diminished under the Ouattara government.

Freedom of Speech.—There were no official restrictions on the ability of individuals to speak and assemble. However, on March 3, soldiers loyal to the Gbagbo government fired on a demonstration of women in the Abobo neighborhood of Abidjan, killing seven (see section 1.g.). On October 8, an FPI rally in Koumassi, Abidjan, was attacked by unidentified individuals. On October 15, the Ouattara government prevented the FPI from holding a rally in Yopougon, Abidjan.

Freedom of Press.—Several private newspapers criticized ruling and opposition parties during both the Gbagbo and Ouattara governments. Most newspapers, however, were politically aligned and sometimes resorted to fabricated stories to defame political opponents. During the postelectoral crisis the media played a major role in inflaming tensions, and newspapers backed by political parties published inflammatory editorials. Media freedoms were drastically curtailed, and journalists were harassed for reporting on the political standoff. Following Gbagbo's arrest the state-owned daily newspaper *Fraternite Matin* switched allegiance to the Ouattara government.

The 2004 Press Law prohibits the transmission of any political commentary by private radio stations. Prior to Gbagbo's capture, the National Audiovisual Communication Council (CNCA), controlled by the Gbagbo government, closely monitored *Radio Nostalgie*, reportedly because the major shareholders of the company were close to Ouattara. Prior to the December legislative elections, the Audiovisual Communications Authority (HACA), which had replaced the CNCA, issued a reminder of this prohibition.

The Gbagbo government exercised considerable influence over news coverage and program content of the state-run television channel RTI. The U.N. and other international organizations criticized Gbagbo for using the media to incite political violence and exploit ethnic tensions. Singling out RTI and the *Fraternite Matin* newspaper, the U.N. accused both media outlets of leading a calculated campaign of disinformation against President Ouattara and the UNOCI peace-keeping force.

RTI, which was controlled by Gbagbo loyalists during the crisis, was repeatedly targeted by Ouattara's forces and later closed following heavy damage to its headquarters and broadcasting facility. RTI reopened on August 9 and the new state broadcast regulator, HACA, stressed that safeguards were in place to prevent RTI from reprising its previously divisive role. Upon RTI's return to the airwaves, the Ouattara-controlled Television Cote d'Ivoire, which transmitted from Ouattara's headquarters at the Golf Hotel, ceased broadcasting.

Until the former president's arrest, forces loyal to Gbagbo deliberately interfered with UNOCI radio station ONUCI-FM. UNOCI, which criticized forces loyal to Gbagbo who jammed the station, continued to operate by broadcasting its programs through the Bouake radio station in the North.

The country's media regulatory agencies were politicized, and both the Gbagbo and Ouattara governments hired and fired directors according to their political leanings. In December 2010 the CNCA banned all foreign television and radio stations. On April 13, President Ouattara revoked the ban and subsequently replaced the CNCA with the HACA.

Violence and Harassment.—Security forces loyal to Gbagbo and pro-Gbagbo militias harassed journalists during the postelectoral crisis, particularly pro-Ouattara journalists. For example, on March 10, security forces loyal to Gbagbo cordoned off the premises of *Edipresse*, the national newspaper printing and distribution company, and demanded that publications supportive of Ouattara not be distributed. The company also decided to suspend the distribution of pro-Gbagbo dailies until the ban was lifted the following day.

Additionally, on January 28, journalists Aboubacar Sanogo and Yayoro Charles Lopez, affiliated with a newspaper backing the FN, were arrested on allegations of

“rebellion” and “threatening national security” and held for 20 days at the gendarmerie’s criminal investigation department without formal charge. According to Reporters Without Borders, the journalists were mistreated by the authorities, who hit them with rifle butts and burned them with cigarettes. The journalists were moved to Abidjan’s MACA prison, still without formal charges, and remained there until March 31, when all MACA inmates were set free by unidentified armed elements.

There were instances in which pro-Gbagbo journalists reportedly faced violence and harassment from FRCI members. In April the offices of three pro-Gbagbo newspapers—Notre Voie, Le Temps, and Le Nouveau Courrier—were looted and forced to close. The newspapers did not resume publication until late May and early June. After it resumed publishing on June 8, Le Temps newspaper was suspended twice by the National Press Commission, which deemed several of its antigovernment articles as incitement to hatred and ethnic violence.

On June 4, six armed men, reported to be elements of the FRCI, arrived at the home of Serge Grah, a journalist for Le Temps, claiming they were looking for information. They detained Grah for 13 hours and took his computer.

The Ouattara administration ordered the arrest of three journalists from the opposition newspaper Notre Voie on November 24. The journalists were charged on November 29 with using the press to incite “theft and looting and the destruction of private property.” The charges were later reduced, and the three journalists were fully exonerated on December 6 in a trial that lasted less than one hour.

Although the Gbagbo government took no action against the perpetrators of violence against journalists, the Ouattara government occasionally did. For example, on July 21, the Ouattara government indicted RTI journalist Hermann Aboa on numerous charges, including inciting hatred, breach of public order, undermining national defense, and participation in an armed gang. Reporters Without Borders called for Aboa’s release from jail, alleging that the charges against Aboa were false. At year’s end Aboa was reportedly being held in Abidjan’s MACA prison. Authorities were still investigating him, a process which they said could take up to five years. No date was set for his trial.

Libel Laws/National Security.—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.

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 broadcast of government television or radio programs in the former zones, but there were some reports that the FN did not allow distribution of some pro-Gbagbo newspapers.

No action was taken against FN forces that beat, harassed, and killed journalists in previous years.

Internet Freedom.—There were no restrictions by the Ouattara government 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. During the postelectoral crisis, however, the Ivorian Telecommunication Agency, which was controlled by Gbagbo, ordered Internet service providers to prevent access to several Web sites publishing pro-Ouattara reports. Despite the order the sites remained unblocked. The Gbagbo government also suspended all text messaging services, which were not restored until the Ouattara government assumed power.

Academic Freedom and Cultural Events.—The Gbagbo government restricted academic freedom. FESCI, the pro-Gbagbo 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 Gbagbo government controlled most educational facilities, and a presidential decree required authorization for all meetings on campuses. FESCI members were known to kill and torture other students, teachers, and civilians with impunity. During the postelectoral crisis FESCI members reportedly set up roadblocks, extorted money from students and civilians, and used violence to intimidate pro-Ouattara supporters. On March 4, a group of FESCI youth reportedly raided and vandalized the residences of two politicians supportive of Ouattara.

Following the crisis the Ouattara government implemented policies that severely limited FESCI’s ability to operate. Universities remained closed after the end of the crisis, and all dorm rooms were ordered vacated. In addition the government passed

a decree that bans student groups from participating in national politics. Student groups are now only allowed to address student issues on university campuses.

Due to the postelectoral crisis many students were unable to attend school. The U.N. Office for the Coordination of Humanitarian Affairs estimated that, as a result of missed classes, 5 percent of primary school students (17,754 out of 338,354 enrolled) were not able to take the end-of-year examination. As of September schools in Moyen Cavally remained closed, including five schools reportedly occupied by FRCI elements. Most students were able to take the end-of-year high school exams; however, scores were significantly lower than in 2010. The national director for exams speculated the lower scores resulted from class interruptions during the crisis and trauma caused by the violence.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law allows for freedom of assembly. The Gbagbo regime restricted this right in practice and extended a six month renewable ban on public protests. The Ouattara government sometimes restricted freedom of assembly. For example, on October 15, the Ouattara government prevented the FPI from holding a rally in Yopougon, Abidjan. The Ouattara government allowed the ban on public demonstrations to expire. Groups that wished to hold demonstrations or rallies in stadiums or other enclosed spaces were required by law to submit a written notice to the Ministry of Security or the Ministry of Interior three days before the proposed event.

Pro-Gbagbo police dispersed antigovernment demonstrations violently several times during the postelectoral crisis (see sections 1.g. and 2.a).

The Ouattara government did not violently disperse protests; however the Ouattara government ended two FPI demonstrations, citing security reasons.

No action was taken against security force members who forcibly dispersed demonstrations in previous years.

Freedom of Association.—The law provides for freedom of association, and the Gbagbo and Ouattara governments generally respected this right; however, the law prohibits the formation of political parties along ethnic or religious lines, although the former was apparently a key factor in some parties' membership.

c. Freedom of Religion.—See the Department of State's 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 do not provide specifically for freedom of movement, foreign travel, emigration, or repatriation. Both governments restricted freedom of movement during the year.

The Gbagbo government encouraged the deliberate targeting of U.N. personnel, which impeded efforts by the Office of the U.N. High Commissioner for Refugees (UNHCR) to protect and assist IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern during the crisis. Under the Ouattara government, cooperation with the UNHCR and other international NGOs resumed, and U.N. personnel were able to move freely.

In-country Movement.—There were frequent restrictions on internal travel. Security forces, local civilian "self-defense" committees, and water, forestry, and customs officials and other unidentified groups reportedly erected and operated roadblocks on major roads, where they regularly extorted money from travelers. During the postelectoral crisis numerous roadblocks were erected, less for racketeering purposes than to monitor the movement of certain groups of people, particularly Economic Community of West African States (ECOWAS) nationals. Following resolution of the crisis, these roadblocks dramatically decreased; however, reports persisted that roadblocks manned by uniformed armed men continued to be a problem in the southwestern and western regions of the country. Medical personnel in the Tai Department, one of the country's 72 local administrations, reported that patients were unable to obtain health care as a result.

Persons living under FN authority reportedly continued to face harassment and extortion when trying to travel between towns and to and from the government-controlled South. Villagers complained that these fees prevented pregnant women and other vulnerable persons from traveling to receive medical care.

Internally Displaced Persons (IDPs).—As of December the U.N.'s Office for the Coordination of Humanitarian Affairs reported that an estimated 186,000 IDPs who had fled their homes or villages as a result of postelectoral violence in the western part of the country and in Abidjan had not returned home. The majority of the IDPs lived with host families. In Duekoue approximately 27,000 IDPs had taken refuge in a Catholic mission outside the town at the height of the conflict; the ICRC provided tents, medical supplies, water, and latrines. At year's end approximately 1,700 IDPs (509 families) remained in the mission.

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. As a result of the postelectoral crisis, there were increased reports of rape and sexual violence against female IDPs.

The Ministry of Foreign Affairs and the Ministry of Labor, Social Affairs and Solidarity, working in concert with U.N. agencies, took the lead on IDP matters.

The Ouattara government respected the principle of voluntary returns, but did not put laws and policies in place to protect IDPs in accordance with the U.N. Guiding Principles on Internal Displacement.

During the year U.N. agencies and local authorities continued to facilitate the steady return of IDPs. Shelter was the greatest impediment to return. Security fears also limited returns in some areas; however, returnees generally reported that they felt secure and that the FRCI was providing protection. In December the UNHCR conducted a five-day protection mission to return zones in Bolequin, Guiglo, and Toulepleu and found that, on average, 73percent of the displaced population had returned.

Protection of Refugees.—Access to Asylum.—The constitution and law provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government granted refugee status and asylum.

Refugee Abuse.—Defense and security officers reportedly did not honor identity documents issued to refugees by the government or by the UNHCR on some occasions. There were reports that pro-Gbagbo security forces destroyed refugees' identity documents or arbitrarily detained, verbally harassed, and beat refugees at checkpoints, particularly during the postelectoral crisis.

Access to Basic Services.—Liberians made up the majority of the country's refugees, and approximately 22,500 Liberian refugees remained in the country at year's end. 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 Ivoirian 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 UNHCR assisted with the safe, voluntary return of refugees to their homes.

Temporary Protection.—The government also provided temporary protection for individuals who may not qualify as refugees under the relevant U.N. conventions.

Stateless Persons.—The scale of statelessness in the country was unclear; the UNHCR estimates ranged from a few thousand to as many as 900,000.

Ivoirian 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, the Gbagbo government did not respect these rights.

Elections and Political Participation.—Recent Elections.—In October 2010 the country held its first presidential election in 10 years. Incumbent President Laurent Gbagbo, candidate of the Ivoirian People's Front (FPI), and opposition RDR party leader Alassane Ouattara advanced to the November 2010 presidential runoff. In December 2010 the Independent Electoral Commission (CEI) declared Ouattara the winner of the runoff with 54.1 percent of the vote; Gbagbo received 45.9 percent. Voter turnout was recorded at 81 percent. The U.N. Special Representative of the

Secretary General independently certified the results of the election, determining Ouattara the winner by a margin similar to that announced by the CEI. As a result the African Union, ECOWAS, the U.N., and multiple international and domestic observer teams also recognized Ouattara as the new president. Gbagbo, however, refused to accept the results, and the Constitutional Council, which was made up entirely of Gbagbo appointees, overturned the CEI ruling, citing voter “irregularities.” More than 500,000 votes for Ouattara were annulled, and Gbagbo was declared the winner. Ouattara and Gbagbo remained in a standoff over the presidency and took separate oaths of office in December 2010. Gbagbo retained control of state resources including the national television station, the security forces, and the treasury.

The political stalemate plunged the country into crisis. Violence perpetrated by both sides resulted in approximately 3,000 deaths, significant population displacement, torture, sexual violence, and widespread property destruction. On March 17, President Ouattara signed a decree to unify former rebel forces, the FN and former government security forces, and the FDS into the FRCI, the country’s new official army. On April 11, the FRCI—with limited assistance from U.N. peacekeepers and French military forces—captured Gbagbo. On May 21, President Ouattara was inaugurated.

On December 11, the country held elections for representatives to the National Assembly. The elections were peaceful and generally free and fair, despite minor administrative problems. Voter turnout was 37 percent, which was higher than the 32 percent recorded for the 2000 legislative elections.

Preliminary results indicated that President Ouattara’s RDR party won a majority with 127 seats. The PDCI, a pro-Ouattara party, won 77 seats. Independents, some reported to be pro-FPI, won 35 seats. At year’s end the political opposition was poised to have limited representation in the National Assembly.

Participation of Women and Minorities.—Initial results indicate there were 29 women elected to the National Assembly.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. In prior years, the government did not implement the law effectively, and officials reportedly frequently engaged in corrupt practices with impunity. Corruption had the greatest impact on judicial proceedings, contract awards, customs and tax matters, and accountability of the security forces. President Ouattara vowed to reverse corrupt practices in the government and asked all ministers in August to sign a code of ethics.

The 22 cocoa and coffee industry officials arrested in 2008 for allegedly embezzling FCFA 100 billion (\$200 million) were released on bail in January. A trial date was set for January 2012.

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

A number of international and domestic human rights groups reported harassment from security forces loyal to former President Gbagbo during the postelectoral crisis.

U.N. and Other International Bodies.—During the postelectoral crisis security forces loyal to Gbagbo harassed human rights groups, targeted U.N. personnel and denigrated their work, restricted U.N. access to certain areas, and obstructed UNOCI human rights investigators in their efforts to investigate abuses (see section 1.g.).

Under the Ouattara government, UNOCI and 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. The government regularly permitted the World Food Program, the ICRC, and other international organizations to conduct humanitarian operations. Eleven U.N. agencies, including the International Labor Organization and the World Health Organization, were resident and active throughout the year.

No cases were opened against perpetrators who threatened and harassed members of human rights organizations in this or previous years.

Government Human Rights Bodies.—To address the human rights abuses committed during the postelectoral crisis, the Ouattara government established the DTRC, a national COI, and a Special Prosecution Cell within the Ministry of Justice. The DTRC was established as an independent commission composed of three vice-chairpersons and seven representative members: one representative for the traditional chiefs, two religious leaders (Catholic and Muslim), five representatives of the country’s main regions (South, North, Center, East, and West), one representative of African foreign nationals residing in Cote d’Ivoire, and one representative of

the Ivoirian Diaspora. The COI, officially established under the Ministry of Human Rights, received a six-month mandate to conduct investigations. The Ministry of Justice planned to work with both the DTRC and COI, through its Special Prosecution Cell, which also was established to investigate crimes committed during the postelectoral crisis. The Ouattara government was supportive of the reconciliation process and devoted resources to the COI and the Special Prosecution Cell; however, the work of these institutions, particularly the DTRC, remained in the initial stages and little progress was made during the year to address impunity for abuses committed during the postelectoral crisis by year's end. The extent of public trust in the institutions was minimal due to the lack of concrete progress.

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

The law prohibits discrimination based on race, ethnicity, national origin, gender, or religion; however, neither the Gbagbo nor Ouattara governments effectively enforced the law.

Women.—Rape and Domestic Violence.—The law prohibits rape and provides for prison terms of five to 20 years for perpetrators; however, the Gbagbo and Ouattara governments did not enforce this law in practice, and rape was reportedly widespread. 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. The law does not specifically penalize spousal 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.

On November 27, a 14-year-old girl was raped by her visiting uncle. The girl's father reported the assault to the police but was told he had to pay FCFA 30,000 (\$60) for a medical examination to open an investigation; he was unable to pay. He was killed by his daughter's rapist when he confronted him. Police arrested the rapist in Daoukro and transferred him to the court in Bongouanou, where his trial continued at year's end.

There were continued reports of unidentified highway bandits raping and sexually assaulting women in the western part of the country. Violence against women, including rape, increased during the postelectoral crisis (see section 1.g.).

The law does not specifically outlaw domestic violence, and it was a serious and widespread problem. Domestic violence complaints remained minimal, and many victims' parents reportedly urged withdrawal of a complaint because of the fear of social stigma.

During the year the Ministry of Family and Social Affairs provided limited assistance to victims of domestic violence and rape. The ministry provided government-operated counseling centers, and ministry officials visited some victims in their homes.

The National Committee to Fight Violence Against Women and Children monitored abusive situations through frequent home visits and made weekly radio announcements of cell phone numbers for victims to call.

Harmful Traditional Practices.—Other forms of societal violence against women included traditional practices such as dowry deaths (the killing of brides over dowry disputes), levirat (forcing a widow to marry her dead husband's brother), and sororat (forcing a woman to marry her dead sister's husband). The Gbagbo and Ouattara governments held awareness-raising seminars on sexual violence for judicial and security personnel.

Sexual Harassment.—The law prohibits sexual harassment and prescribes penalties of between one and three years of imprisonment and a fine ranging between FCFA 360,000 and one million (\$720 to \$2,000). However, the Gbagbo and Ouattara governments rarely enforced the law, and such harassment was reportedly widespread and routinely accepted as a cultural norm.

Reproductive Rights.—Couples and individuals have the right to decide the number, spacing, and timing of their children. In urban areas access to contraception and skilled attendance during childbirth were available to women who could afford it. For women who were poor or lived in rural areas transportation and the cost of services posed significant barriers in accessing health centers and hospitals. Furthermore, threats or perceived threats of violence from husbands or family members also inhibited some women from seeking family planning or health services.

Discrimination.—The law prohibits discrimination on the basis of gender; however, women experienced economic discrimination in access to employment, credit, and owning or managing businesses. Gbagbo and Ouattara government policy encouraged full participation by women in social and economic life; however, there was resistance among employers in the formal sector to hiring women. Some women also

encountered difficulty in obtaining loans, as they could not meet the lending criteria.

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 were 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. They also campaigned against legal provisions that discriminated against women and continued their efforts to promote greater participation of women in national and local politics.

Children.—Birth Registration.—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 FCFA 500 (\$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 officially deny public services such as education or health care to children without documents; however, some schools reportedly required parents to present children's identity documents before they could be enrolled.

Education.—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 reportedly 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 reportedly persisted, particularly in rural areas.

Teachers sometimes reportedly demanded sexual favors from students in exchange for money or 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 FCFA 100,000 to one million (\$200 to \$2,000).

Child Abuse.—Children were victims of physical and sexual violence and abuse. Claims of child rape were often reclassified as indecent assault. Between January and August, only three cases of indecent assault reportedly came before the court of Abidjan. Children accused of practicing witchcraft were placed in the care of pastors, who sometimes reportedly 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 impeded government efforts.

Harmful Traditional Practices.—FGM was reportedly a serious problem in some parts of the country. The law specifically forbids FGM and provides penalties for practitioners of up to five years' imprisonment and fines of FCFA 360,000 to two million (\$720 to \$4,000). Double penalties apply to medical practitioners. FGM was practiced most frequently among rural populations in the North and West. Local NGOs continued public awareness programs to prevent FGM and worked to persuade practitioners to stop the practice. However, authorities made few arrests related to FGM during the year, and practitioners were rarely charged.

Child Marriage.—The law prohibits the marriage of men under the age of 20 and women under the age of 18 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 reportedly performed with girls as young as 14. In December the Ministry of Family, Women, and Children organized awareness-raising and sensitization activities against child marriage in Divo, in the northern part of the country.

Sexual Exploitation of Children.—The minimum age of consensual sex is 18. 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 FCFA 30,000 to 300,000 (\$60 to \$600). Statutory rape of a minor carries a punishment of one to three years in prison and a fine of FCFA 360,000 to one million (\$720 to \$2,000). Cote d'Ivoire is a country of origin and destination for children subjected to trafficking in persons, specifically forced prostitution.

Child Soldiers.—There were allegations of the use of child soldiers by both the FRCI and pro-Gbagbo militias during the postelectoral crisis; however, there was no credible information documenting actual practice (see section 1.g.).

Displaced Children.—Local NGOs reported that there were thousands of children living on the streets across the country. NGOs dedicated to helping these children found it difficult to estimate the extent of the problem or to determine whether these children had access to government services. There were no known government programs that addressed specifically the problem of children living on the streets.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The country's Jewish community numbered fewer than 100 persons. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/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 such individuals 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 either the Gbagbo or Ouattara governments enforced these laws during the year.

There were no reports during the year that persons with disabilities were specific targets of abuse, but they reportedly encountered serious discrimination in employment and education. The government reserved 800 civil service jobs for persons with disabilities; however, in practice government employers sometimes refused to employ persons with disabilities.

The government financially supported special schools, associations, and artisans' cooperatives for persons with disabilities, but many such persons 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 are responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The country has an ethnically diverse population, with more than 60 ethnic groups. Groups sometimes practiced societal discrimination against others on the basis of ethnicity. Approximately 25 percent of the population was considered foreign, although many within this category were second- or third-generation residents. Outdated or inadequate land ownership laws reportedly resulted in conflicts with ethnic and xenophobic overtones, often between the native populations and other groups.

Police routinely abused and harassed non-Ivoirian 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 identity card fraud.

In the postelectoral period, security forces loyal to Gbagbo systematically harassed and targeted persons with northern or Muslim names. Several incidents of ethnic violence resulted in deaths and injuries (see section 1.g.).

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 reports of violent clashes between the native population and members of the foreign community, particularly Burkinabe farmers. These reports declined in the second half of the year.

The law prohibits xenophobia, racism, and tribalism, making these forms of intolerance punishable by five to 10 years' imprisonment. No one was prosecuted under the law during the year.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Although there is no explicit law prohibiting same-sex sexual activity, public indecency with a same-sex partner is illegal. There was no official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. However, societal stigmatization of the LGBT community was reportedly widespread, and the government did not act to counter it during the year.

Gay men were reportedly subjected to beatings, imprisonment, verbal abuse, humiliation, and extortion by police, gendarmes, and members of the armed forces.

During the year the FRCI reportedly beat and abused gay men and transgender persons, most of them sex workers. Complaints were not filed for fear of reprisals.

The situation of the LGBT community reportedly improved after the postelectoral crisis but remained precarious. The few LGBT organizations in the country operated with caution to avoid being targeted by the FRCI and former FDS members. However, newspapers reported favorably on a New Year's Eve party held by a group of lesbians in Abidjan.

Other Societal Violence or Discrimination.—Societal stigmatization of persons living with HIV/AIDS was widespread, disproportionately affecting women due to gender inequity and economic vulnerability.

Promotion of Acts of Discrimination.—From the November 28, 2010, presidential runoff to Gbagbo's April 11 capture, the U.N. and international organizations criticized the former president for using the state-controlled media to incite political violence and promote ethnic tension. Pro-Gbagbo dailies, such as *Notre Voie* and *Le Temps*, were also cited as promoting and inciting ethnic and racist violence, particularly against Burkinabe and other foreign nationals living in the country (see section 2.a.).

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides for the right of workers to form or join unions of their choice, protects the right to strike and collectively bargain, and prohibits antiunion discrimination by employers or others against union members or organizers. Under the labor law, employers cannot fire workers for union activities. The law provides for the reinstatement for a dismissed worker within eight days following the receipt of a wrongful dismissal claim by the employer. However, the law does not permit members of the police and military services to form or join unions, or collectively bargain. The law further 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. In addition if the strike is deemed a threat to public order, the president has broad powers to compel strikers to return to work under threat of sanctions, and to submit strikes in essential services to arbitration, but the labor code does not provide a list of such services.

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. The law allows unions in the formal sector to conduct their activities without interference, and the government protected this right in practice, with some reported exceptions.

Although the political crisis prevented the full exercise of trade unions rights, there were no reports of strike breaking during the year.

Collective bargaining agreements apply to all employees and were in effect in many major business enterprises and sectors of the civil service. For a collective bargaining agreement to be initiated by a union, 30 percent of workers must be represented before bargaining can begin. The number of collective bargaining agreements reached during the year was unknown.

The Ministry of Labor, Social Affairs, and Solidarity did not report any complaints of antiunion discrimination and employer interference in union functions during the year. However, there was at least one case of harassment against union members during the postelectoral crisis, although it was unclear whether action by police was an act of antiunion discrimination. On April 26, Basile Mahan Gahe, secretary general of Dignite Labor Confederation and a Gbagbo supporter, was arrested and detained at the city of Williamsville police station. On June 29, Gahe was transferred from the police station to the Pergola Hotel, where he was held under house arrest. On July 9, Gahe was sent to the prison of Boundiali in the North and accused of national security related infractions. Investigation continued at year's end, and he remained in pretrial detention in Boundiali. The union's office was looted, and the other members went into hiding.

Absent reciprocal union agreements, foreigners are required to obtain residency status, which takes three years, before they may hold union office.

b. 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 second half of the year. On November 3, the Ouattara government established the National Committee for the Monitoring of Actions for the Fight against Trafficking, Forced Labor and Child Labor, which is chaired by the first lady and responsible for the follow-up and assessment of government actions on these issues. The government also set up an interministerial committee for the fight

against trafficking, forced labor and child labor under the prime minister to coordinate and implement programs on the elimination of child labor. However, despite these efforts, forced or compulsory labor by children continued to occur, specifically on cocoa, coffee, pineapple, and rubber plantations.

Instances of forced labor reportedly occurred in the unregulated informal labor sectors. Thus, domestics, most nonindustrial farm laborers, and those who worked in street shops and restaurants remained outside formal government protection. Forced adult labor reportedly 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 pay for workers who lived in conditions of effective indenture.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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 reportedly remained a widespread problem, particularly in cocoa and coffee plantations, and gold mines. In most instances the legal minimum working age is 14; however, the Ministry of Civil Service and Administrative Reform and the Ministry of Labor, Social Affairs, and Solidarity enforced this provision effectively only in the civil service and in large multinational companies. Children were not allowed to work between 7 p.m. and 6 a.m. They reportedly 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 nine reportedly worked as domestic servants, often within their extended family networks.

In September 2010 the government passed a law banning child trafficking and the worst forms of child labor. The punishment for violating the law includes a prison term of up to 5 years, and a fine from FCFA 500,000 to one million (\$1,000 to \$2,000). Children reportedly continued to work under hazardous conditions on cocoa farms. A Tulane University survey published in 2009 found that 24.1 percent of children between the ages of five and 17 in 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). Similar hazardous conditions reportedly existed during the year. A small percentage of the children working on cocoa farms had no family ties to the farmers, but most worked on family farms or with their parents.

In June 2010 the government created an Independent Office for the Fight against Child Labor. In 2009 the government launched a new program addressing child labor in cocoa-growing areas. The program focused on decreasing poverty and thereby decreasing child labor by ensuring that each village had 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 and the dangers associated with child labor. In 2009 the government began to implement the program in 10 villages and selected 20 more villages for participation. During the year the government completed 15 projects, and construction continued on an additional five projects. The remaining 10 were scheduled for completion by July 2012. The Ouattara government relaunched these efforts within the framework of its self-help village program in June. By year's end they had reached 10 new villages.

The Ministry of Labor, Social Affairs, and Solidarity was responsible for enforcing child labor laws and made progress during the year in addressing the worst forms of child labor. On November 3, the government established the National Committee to Monitor Actions for the fight against trafficking, forced labor, and child labor, which was chaired by the first lady and responsible for the follow up and assessment of government actions on these issues. The government also set up an inter-ministerial committee for the fight against trafficking, forced labor, and child labor under the prime minister to coordinate and implement programs on the elimination of child labor. While enforcement of child labor laws continued to be hindered by financial constraints and the postelectoral crisis, which prevented the ministry from holding scheduled training programs for judges and labor inspectors on the enforcement of child labor law and from organizing national sensitization campaigns, 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 Ministry of Labor, Social Affairs, and Solidarity 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. As part of the World Day against Child Labor in June, the government emphasized ending hazardous child labor on

cocoa farms. On July 28, First Lady Dominique Ouattara announced a partnership between the Child Labor Task Force and her NGO, Children of Africa, to fight against the worst forms of child labor. The task force continued to implement a national action plan to combat child labor and trafficking in persons. 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 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.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://www.dol.gov/ilab/programs/ocft/tda.htm>

d. Acceptable Conditions of Work.—Minimum wages varied according to occupation, with the lowest set at FCFA 36,607 (\$73) per month for the industrial sector; a slightly higher minimum wage rate applied for construction work. The official estimate for the poverty income level is between FCFA 500 (\$1) and FCFA 700 (\$1.40) a day. 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.

Under Gbagbo and Ouattara, no government action was reportedly 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 law does not prohibit compulsory overtime.

The law provides for occupational safety and health standards in the formal sector. Workers in the formal sector had the right to remove themselves from dangerous work without jeopardy to continued employment by utilizing the Ministry of Labor, Social Affairs, and Solidarity's inspection system to document dangerous working conditions. Despite the law workers in both the formal and informal sectors could not absent themselves from such labor without risking the loss of their employment. Labor laws covered neither foreign migrant workers nor citizen workers working in the informal labor sector.

The government did not effectively enforce either the law or the standards, particularly in the large informal sector of the economy. The 300 labor inspectors reportedly accepted bribes. The labor law provides for the establishment of a committee of occupational, safety, and health representatives responsible for ensuring protection and worker health at workplaces. The committee is composed of union members. The chairman of the committee could pass a violation for unhealthy and unsafe working conditions to the labor inspector without penalty. Further, the enterprises are obliged by law to provide medical services for their employees. However, small firms and businesses in the informal sector frequently did not comply.

The Ministry of Labor, Social Affairs, and Solidarity was responsible for enforcing the minimum wage. Labor unions contributed to effective implementation of the minimum salary requirements in the formal sector.

The standard workweek was 40 hours. The law requires overtime compensation for additional hours and provides for at least 24-hour rest period per week. The law does not prohibit compulsory overtime. The law also provides for regulations on occupational, safety, and health standards in the workplaces. The government did not enforce occupational, safety and health standards effectively in the informal sector. Several million foreign workers, mostly from neighboring countries, typically worked in the informal labor sector, where labor laws were not enforced.

DJIBOUTI

EXECUTIVE SUMMARY

Djibouti is a republic with a strong elected president and a weak legislature. In April 2010 parliament amended the constitution to remove term limits, facilitating the April 8 reelection of President Ismail Omar Guelleh for a third term. The president won with 80 percent of the vote against one independent candidate, who was supported by one of two opposition coalitions that had boycotted the election until

April 3; the other coalition did not participate in the election. International observers characterized the election as free and fair, although they criticized preelection planning and the presence of security forces at polling stations. Security forces reported to civilian authorities.

The 2010 constitutional amendment removing presidential term limits, general dissatisfaction with the government, student unrest, and high levels of unemployment contributed to popular protests in February. On February 18, security forces used tear gas and rubber bullets to disperse violent young protestors who remained following a peaceful demonstration. One civilian and one police officer were killed, and numerous demonstrators were injured. The subsequent security crackdown resulted in numerous arrests, detentions, and criminal proceedings against demonstrators. Between March 25 and April 8, the official campaign period, the government banned opposition rallies.

The most serious human rights problem in the country was the government's abridgement of the right of citizens to change or significantly influence their government; it did so by harassing, abusing, and detaining government critics and by its unwillingness to permit the population access to independent sources of information within the country.

Other human rights problems included the use of excessive force, including torture by security forces; harsh prison conditions; arbitrary arrest and prolonged pretrial detention; denial of fair public trial; interference with privacy rights; restrictions on freedoms of speech, press, assembly and association; lack of protection for refugees; corruption; discrimination against women; female genital mutilation (FGM); trafficking in persons; discrimination against persons with disabilities; and government denial of worker rights.

Officials engaged in corrupt practices with impunity.

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, at least one of which resulted from torture.

On February 18, demonstrators gathered initially in the area of Avenue Nasser, outside the city center of Djibouti City, and then marched to Hassan Gouled Stadium, where the crowd grew to approximately 3,000 persons. Participants listened to opposition speeches calling for President Guelleh to abandon plans for a third term and criticizing the country's 60 percent unemployment rate, high cost of staple foods, and lack of affordable housing. Most participants departed the stadium before the 6:00 p.m. permit deadline imposed by the Ministry of the Interior; however, several hundred remaining young demonstrators began throwing rocks, overturning vehicles, and burning tires. Security forces responded with tear gas and rubber bullets, killing one demonstrator and injuring numerous others. Estimates of the number of demonstrators arrested ranged from 80 to 200. On February 27, approximately 80 of those detained were brought to court, and 40 cases were dismissed. Of the remaining 40, approximately 25 demonstrators were convicted of assault or arson and were sentenced to prison. An additional number were charged with demonstrating beyond the time allotted on the rally permit and were released by the end of February.

According to Reporters Without Borders (RSF), Balbala resident Dirir Ibrahim Bouraleh allegedly died as a result of injuries inflicted during torture at a gendarmerie unit where he was detained from April 23 to 27. Sergeant Major Abdourahman Omar Said reportedly conducted the torture that resulted in Bouraleh's death.

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 beat and tortured detainees.

The government arrested dozens of its political opponents in February, including six persons who provided reporting to opposition radio station La Voix de Djibouti, which broadcasts from Europe. Among the six were Farah Abadid Heldid and Houssein Robleh Dabar, who gendarmes arrested without warrant on February 5. On February 9, the two opposition journalists were transferred to Gabode Prison on charges of "participating in an insurrectional movement." According to RSF, while in custody of the gendarmerie, Heldid was interrogated and tortured, reportedly by Abdourahman "Doudou" Ali Ismael, a member of the gendarmerie's Investigation and Documentation Section (SRD). On June 23, after four months in Gabode Prison, Heldid and Dabar were released after filing appeals with the Court of Appeals and the Supreme Court. Reporters Houssein Ahmed Farah, Abdillahi Aden Ali, Joustapha Abdourahman Houssein, and Mohamed Ibrahim Waiss, all of whom were

arrested along with Heldid and Dabar in February, also were released on June 23. The four, who were members of opposition parties, were charged with “participating in an insurrectional movement.”

On November 21, SRD gendarmes again arrested Heldid and Dabar, according to RSF. Until November 24, when they were released, the two journalists reportedly were interrogated and tortured. Before being freed they were questioned by State Prosecutor Maki Omar Abdoukader and Prosecutor General Djama Souleiman Ali. The journalists were taken before an investigating judge at the Supreme Court, where they were charged with encouraging an illegal demonstration and insulting the president. Their mistreatment in the gendarmerie reportedly was ordered by Sergeant Major Abdourahman Omar Said, the gendarme allegedly responsible for the torture and death of Dirir Ibrahim Bouraleh (see section 1.a.). According to RSF, Heldid and Dabar were arrested to prevent La Voix de Djibouti from publicizing the distribution of a leaflet calling for a “Day of Anger” protest. Mohamed Souleiman Cheik Moussa, a magistrate who authored the leaflet, was arrested the same day.

In early March, in Tadjourah, a soldier shot a civilian in the leg as a result of a personal altercation. The injured civilian was sent to Djibouti for medical treatment. It was unclear what actions were taken against the soldier who fired the shot; however, a gendarme and a military commander in Tadjourah were transferred from the region.

Prison and Detention Center Conditions.—While there have been some improvements in recent years, prison conditions remained harsh. The country has one central prison and a number of small jails supervised by local police or gendarmes. There were reports that police and gendarmes abused and tortured prisoners during the year.

Gabode Prison in Djibouti City had a maximum capacity of 500 inmates but often held 750. Inmates in Gabode had adequate access to potable water and sanitary facilities and were provided three meals a day, with meat served on alternate days. Prisoners’ families were allowed to bring food to the prison. The prison had a permanent doctor and six permanent nurses on its staff during the year; in 2010 the doctor was available “on call” only. Prisoners with serious health problems received treatment at the main Djibouti City public hospital. Authorities held prisoners who were seriously ill separately and segregated prisoners with communicable diseases from prisoners with other health problems. Adequate medication was available. During the prisoner intake process, prison officials tested for and documented serious health conditions. However, prisoners with serious mental illness did not receive adequate care. The prison had both written and electronic procedures to track prisoner names, thumbprints, and dates of detention and release.

Conditions in jails, which held detainees until their summary release or transfer to the central prison, were poor. Jails had no formal system to feed or segregate prisoners and did not provide medical services. Most detainees were kept in jails for a few weeks before either release or transfer to Gabode Prison.

At Nagad Detention Center, which primarily held undocumented immigrants and was not part of the prison system, detainees had access to potable water, food, and medical treatment. Authorities deported most detainees within 24 hours of arrest.

Statistics were unavailable, but Gabode Prison generally held approximately 600 prisoners, including an average of 12 female prisoners, whose conditions of detention were similar to those of male prisoners. There were generally fewer than 20 juvenile prisoners, who were not always held separately from adults. Authorities allowed young children of female prisoners to stay with their mothers. Pretrial detainees were not held separately from convicted prisoners.

Prisoners and detainees were permitted visitors each Friday afternoon and religious observance regardless of religion.

There was no formal system to enable prisoners and detainees to submit complaints to judicial authorities to request investigation of inhumane conditions.

The government granted prison access to foreign embassies and the International Committee of the Red Cross (ICRC), which was allowed to inspect prisons every six months. A small group of Eritrean prisoners of war captured during the 2008 border skirmish with Eritrea received regular visits from ICRC staff, and government authorities accepted ICRC recommendations with regard to medical concerns for one of the prisoners.

The government continued to provide human rights training for guards.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government did not respect these prohibitions.

Role of the Police and Security Apparatus.—Security forces included 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.

Security forces were generally effective, although corruption was a problem across all three services, particularly in the lower ranks where wages were low. The gendarmerie is responsible for investigating allegations of police misconduct, and the Ministry of Justice is responsible for prosecution; however, no allegations of police misconduct were prosecuted during the year.

Police had a Human Rights Office, and human rights education was integrated into the police academy curriculum. During the year the local police academy coordinated with the International Organization for Migration (IOM) to host a workshop to train security forces in refugee rights and processing.

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 government generally did not respect the law in practice, especially in rural areas. Detainees may be held another 48 hours with the prior approval of the public prosecutor. The law provides that detainees be promptly notified of the charges against them, although in practice there were delays. The law requires that all persons, including those charged with political or national security offenses, be tried within eight months of arraignment; however, police disregarded this right. The law contains provisions for bail, but authorities rarely made use of it. Detainees have the right to prompt access to an attorney of their choice. In criminal cases the state provides attorneys for detainees who cannot afford legal representation. Detainees generally were allowed access to family members and legal counsel.

Arbitrary Arrest.—During the year numerous persons, including opposition members, journalists, and human rights activists, were arbitrarily arrested, often without warrants (see sections 1.a., 1.c., and 3).

For example, on February 19, three opposition leaders were briefly arrested after an altercation with police when the three visited a police station to demand the release of 30 demonstrators detained the previous evening for vandalism and looting (see section 1.a.). The three leaders—Aden Robleh Awaleh, president of the National Democratic Party (PND), Mohamed Daoud Chehem, president of the Djiboutian Party for Development (PDD), and Ismael Guedi Hared, president of the Union for Democracy and Justice party (UDJ)—were released later the same day by order of the president.

Pretrial Detention.—Lengthy pretrial detention was a problem, and approximately half of the prison population was in pretrial detention. Statistics were unavailable, but it was not uncommon for prisoners to wait two or three years—and in one case eight years—for their trials to begin. Judicial inefficiency contributed heavily to lengthy pretrial detention.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the judiciary lacked independence and was inefficient. Constitutional provisions for a fair trial often were not respected.

Allegations of politically motivated prosecutions surfaced in June 2010 following the conviction in absentia of businessman Abdourahman Boreh on charges of terrorism for allegedly directing a grenade attack in Djibouti City. Boreh, whose foreign attorney was not allowed into the country, claimed his 15-year-sentence was intended to derail a potential presidential bid.

In 2010 the foreign attorney for Jean-Paul Noel Abdi, the president of the Djibouti League for Human Rights (LDDH), whom authorities charged with conspiring against the state, was denied an entry visa and had no physical access to his client (see section 5).

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Islamic law (Sharia), and nomadic traditions. Islamic law prevailed in family matters.

Trial Procedures.—The law states that the accused is innocent until proven guilty; however, in practice, trials did not proceed in accordance with the presumption of innocence. Trials generally were public. A presiding judge and two associate judges hear 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 chooses lay assessors from the public. Defendants have the right to be present, consult with an attorney in a timely manner, confront witnesses, and present witnesses and evidence on their own behalf. These rights were generally respected. The indigent have a right to legal coun-

sel in criminal and civil matters but in practice sometimes did not have legal representation. Defendants have the right of appeal.

Traditional law often applied in cases involving 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. Most parties preferred traditional court rulings for sensitive issues such as rape, where a consensus toward maintaining peace between those involved was valued over the individual rights of the victim, who was often pressured by family to abide by traditional court rulings.

Political Prisoners and Detainees.—Numerous persons were detained for political reasons during the months leading up to the election and released afterwards. For example, the government charged eight men—including human rights activist Jean Paul Noel Abdi—with conspiring against the state (see section 5). The prisoners were permitted legal representation and were allowed to meet with their attorneys before trial. Noel Abdi was released two weeks later. The remaining prisoners were detained for two months and released shortly after the election.

Civil Judicial Procedures and Remedies.—In cases of human rights violations, citizens could 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 between government branches. The government did not always comply with the decisions and recommendations of these bodies pertaining to human rights.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—Although the constitution and law prohibit such actions, the government did not 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. Government opponents claimed the government monitored their communications and kept their homes under surveillance.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law allow for freedom of speech and press, provided such freedoms comply with the law and respect “the honor of others.” In practice the government did not respect these rights. The law provides prison sentences for media offenses.

Freedom of Speech.—While individuals often expressed themselves freely in society, individuals who criticized the government publicly or privately could face reprisals.

Freedom of Press.—There were no privately owned or independent media in the country. Printing facilities for mass media were government owned, which created obstacles for those wishing to publish criticism of the government. The principal newspaper, *La Nation*, maintained a monopoly on domestic news “by means of ubiquitous state-owned media that do what they are told,” according to RSF. All opposition newspapers have been closed by the courts or “by means of the economic asphyxiation which the government uses to gag the media,” according to RSF. Each registered political party was allowed to publish a public journal or newspaper, although the 2007 ban on the opposition political party newsletter *Le Renouveau* remained in effect (see section 3). During the year the opposition PND party regularly published the political newsletter *La Republique*. Other parties published papers sporadically. Opposition political groups and civil society activists circulated newsletters and other materials critical of the government.

The government owned the only radio and television stations, which were operated by Radio-Television de Djibouti (RTD). The official media generally did not criticize government leaders or policy, and opposition access to radio and television time remained limited. RTD did provide limited coverage of opposition events during the election season. Foreign media broadcast throughout the country, and cable news and other programming were available.

Violence and Harassment.—The government arrested and harassed journalists, two of whom security forces tortured during the year (see section 1.c.).

Censorship or Content Restrictions.—The country's media and slander laws and the government's harassment and detention of journalists resulted in widespread self-censorship.

Libel Laws/National Security.—The government cited national security to suppress criticism and arrested, detained, and tortured journalists charged with such offenses during the year (see section 1.c.).

Circulation of a new newspaper requires authorization from the Communication Commission, which requires agreement from the Djiboutian National Security Service following an investigation. The only publishing houses equipped for broad dis-

tribution were government owned, obliging antigovernment sources to print privately.

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 access to the Web site of the Association for Respect of Human Rights in Djibouti, which was often critical of the government.

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 provides for freedom of assembly, the government severely restricted this right. The Interior Ministry requires permits for peaceful assemblies and denied such permits to opposition groups during the election campaign.

On February 5, students from the law college of the University of Djibouti gathered in response to an abnormally large failure rate on an important exam. Over the next four days demonstrations erupted at secondary schools and again at the university. While the motives of demonstrators were unclear, some observers attributed student actions to general disapproval of the government's education policies. Security forces used tear gas to disperse demonstrators. An unknown number of students were arrested and released within 48 hours.

The government's use of excessive force to quell violence following a demonstration on February 18 resulted in the death of one demonstrator and numerous injuries (see section 1.a.).

The government denied an opposition request for weekly Friday rallies to be held leading up to the April 8 election. In a March 9 letter to the opposition, interior minister Yacin Elmi Bouh justified the denial by noting that only registered parties were permitted to hold outdoor rallies. According to Bouh, since the opposition declaration was made on behalf of all five opposition parties—including the banned Movement for Democratic Renewal (MRD)—the opposition declaration of weekly rallies could not be considered credible (see section 3). The letter also accused the opposition of seeking a “blank check” for weekly demonstrations and of seeking to promote insurrection. The government maintained an increased security presence on Fridays to deter demonstrations until the election.

Freedom of Association.—The constitution and law allow for freedom of association provided legal requirements are met; however, the government restricted this right in practice. The government harassed and intimidated opposition parties, human rights groups, and labor unions (see sections 1.c., 3, 5, and 7.a.).

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law generally 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 U.N. 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.

In-country Movement.—Due to the continuing border dispute with Eritrea, certain areas in the north remained under military control.

Internally Displaced Persons (IDPs).—Numerous families displaced in 2008 as a result of a border dispute between Djibouti and Eritrea continued to live in the Khor area south of their original homes.

The government utilized the National Assistance Office for Refugees and Disaster Stricken People (ONARS) to screen, assess, and aid refugee applicants. The government allowed IDPs access to ONARS and to international humanitarian organizations and welcomed assistance from outside organizations. The government deported large groups of foreigners who were determined to be economic migrants and not IDPs.

Protection of Refugees.—*Access to Asylum.*—The laws provide for the granting of asylum or refugee status. The government has established a system for providing protection to refugees under the National Eligibility Commission; however, during the year asylum was seldom granted except to persons from southern Somalia.

In 2009 ONARS and the UNHCR completed a census of refugees at Ali Addeh refugee camp and distributed identification cards to adult refugees. However, orga-

nizational 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. In 2009 the government ceased, indefinitely, the registration of non-Somalis due to a public disturbance that occurred outside the ONARS office. This decision resulted in the denial of registration for individuals that UNHCR deemed to be in need of protection services access to the services of ONARS. The screening unit was moved to the Loyada Center, a primary checkpoint on the Djibouti-Somalia border, to accommodate the flow of refugees from Somalia.

Nonrefoulement.—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. However, the government did not routinely grant refugee or asylum status, and delays in the system for granting refugee status left persons at risk of expulsion to countries where they might be threatened. The government, working with the IOM and the ICRC, continued its efforts to properly differentiate refugees from illegal immigrants; however, a lack of manpower and other resources limited the success of the vetting effort, particularly in light of the large number of migrants transiting the country en route to Yemen.

Refugee Abuse.—Large numbers of illegal migrants were detained in occasional government efforts to reduce the number of illegal immigrants in the city. These migrants were given the opportunity to claim refugee status, but their applications were usually denied.

Access to Basic Services.—Ali Addeh camp was overcrowded, and basic services were inadequate.

Employment.—Refugees continued to report that although they could not obtain work permits, many, especially women, worked. Refugees who sought work without permits typically performed low-level tasks in construction, house cleaning, or baby-sitting. Due to the lack of permits, they were unable to challenge poor working conditions or ensure fair payment for their labor. Refugees at the Ali Addeh camp had access to a local primary school but not to a secondary school.

Temporary Protection.—During the year the government provided temporary protection to a limited number of individuals who may not qualify as refugees. However, illegal migrants identified as economic migrants attempting to transit Djibouti en route to Yemen were temporarily jailed and returned to their countries of origin. The government worked with IOM to provide adequate health services to these migrants while they awaited deportation. There also was a trend toward denying refugee status to Ethiopian applicants due to the government's position that most were economic migrants.

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, but many citizens were deprived of this right in practice by government measures to suppress opposition groups and the refusal of several opposition groups to participate in elections they considered unfair. The formal structures of representative government and electoral processes had little relevance to the real distribution and exercise of power.

Elections and Political Participation.—Recent Elections.—In April 2010 parliament amended the constitution to remove term limits, facilitating the April 8 re-election of President Ismail Omar Guelleh for a third term. The president won with 80 percent of the vote against independent candidate Mohamed Warsama Ragueh. Political opposition parties, claiming that the Guelleh administration had made it impossible to conduct a fair election, initially chose not to nominate candidates for the presidential election, effectively boycotting it. However, one week prior to election day, the Union of Democratic Movements, the most active opposition coalition, asked its supporters to vote for Ragueh, the former head of the Constitutional Council. The Union for a Democratic Change, the other coalition, did not participate in the election. International observers from the African Union, La Francophonie, the Arab League, and the Inter-Governmental Authority on Development declared the elections to be free, fair, and transparent. However, observers criticized pre-election planning and the number of security personnel at polling stations.

The government banned opposition rallies between March 25 and April 8 and harassed opposition leaders (see section 2.b.).

For example, on March 11, security forces detained four opposition leaders for approximately four hours while they were on their way to a planned demonstration.

The detained leaders were PND president Aden Robleh Awaleh, PDD president Mohamed Daoud Chehem, UDJ president Guedi Hared, and MRD president Souleiman Farah Lodon. The four leaders were loaded into a truck and driven around the outskirts of Djibouti, after which they were returned to the residence of UDJ president Guedi. The leaders said they were not mistreated but considered the government's action a clear effort to prevent them from organizing the demonstration. The demonstration planned for the day did not take place.

In March the government expelled Democracy International (DI) from the country after accusing it of being an "illegal organization" that supported the opposition's "seditious activities," according to Human Rights Watch and Freedom House. The international election monitoring organization had been working to assist the government in preparations for the election and training of both ruling and opposition parties in campaign methods. The expulsion followed campaign monitoring activities by DI during the February 18 unrest that the government perceived as a violation of unbiased participation in the process.

Political Parties.—The government arrested, harassed, and threatened opposition leaders, restricted the operations of opposition parties, and denied opposition groups permits to organize protests (see sections 1.a., 1.c., and 2.b.). According to Freedom House, opposition parties were also "disadvantaged by electoral rules and the government's abuse of the administrative apparatus."

Participation of Women and Minorities.—The 2008 legislative elections brought two more women into the National Assembly, raising to nine the number of female parliamentarians in the 65-seat body. There was one woman 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 41 percent Issa, 43 percent Afar, and 16 percent representatives of smaller minority groups. Elected from a single list (opposition parties did not contest the legislative elections in 2008 after the government declined to accept their conditions), the legislature's members reflected the governing coalition's intent to ensure balance. The cabinet was similarly balanced: there were six Afars, including the prime minister and the foreign minister. However, some Afars continued to claim they were not as well represented at lower governmental 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, the government did not implement such laws effectively, and officials engaged in corrupt practices with impunity. According to the World Bank's most recent Worldwide Governance Indicators, government corruption was a serious problem.

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. The law mandates the CAFD and IG to report regularly, although in practice their reports lagged behind an annual schedule. RTD continued to broadcast anticorruption public service announcements developed with the IG. The announcements were broadcast 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 that dealt with matters authorities did not consider politically sensitive generally were allowed to operate without government restriction, conducting limited investigations and sometimes publishing findings on human rights cases. Government officials were occasionally responsive to their views. Government officials regularly cooperated with local nongovernmental organizations (NGOs) offering training and education to citizens on such human rights issues as women's rights. However, many domestic NGOs had leaders who were also key officials of the government.

On February 9, LDDH president Jean Paul Noel Abdi was arrested without warrant along with five opposition journalists and charged with conspiracy (see section 2.a.). On February 21, Noel Abdi was released on probation, and on March 22, his probation was lifted. Charges against Noel Abdi from previous years remained pend-

ing, including those that resulted in his February 2010 arrest and those pertaining to his 2009 arrest for distributing materials that “insulted judicial authority.”

U.N. and Other International Bodies.—The government routinely allowed visits from international NGOs, including those dealing with human rights issues, and regularly received visitors from U.N. bodies.

The ICRC maintained a small office staffed with locally hired personnel. ICRC regional representatives based in Nairobi visited quarterly and were allowed to conduct visits in accordance with standard modalities.

Government Human Rights Bodies.—The government’s Human Rights Commission 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. The commission succeeded in having human rights subjects added to police and gendarmerie training.

There is a government ombudsman, who also served in the parliament, whose responsibilities included mediation between the government and citizens. Written records of the ombudsman’s activities were sparse, and it was unclear what actions he took during the year to promote human rights.

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

The constitution and law prohibit discrimination on the basis of race, gender, or language; however, the government did not enforce the law effectively. The constitution does not directly address discrimination based on disability or social status. The government took steps during the year to increase protection of women, including campaigns against female genital mutilation (FGM), but societal discrimination against women and ethnic minorities persisted.

Women.—Rape and Domestic Violence.—The law includes sentences of up to 20 years’ imprisonment for rape, but does not address spousal rape. The government did not enforce the law effectively. Rape cases, which often were not reported to the police, usually were settled informally between the families of the victim and the perpetrator. Reliable statistics on the prevalence of rape were not available.

Domestic violence against women was common, but few cases were reported. While the law does not specifically prohibit domestic violence, it prohibits “torture and barbaric acts” against a spouse and specifies penalties up to 20 years imprisonment for perpetrators. Families and clans, rather than courts, handled cases of violence against women. Police rarely intervened in domestic violence incidents, and the media reported only the most extreme cases, usually involving death of the victim.

The Union of Djiboutian Women ran a center which provided services including counseling to the victims of domestic violence. Of the 362 women assisted during the year, 26 percent reported physical violence, 28 percent reported psychological abuse, and more than 50 percent sought assistance in obtaining alimony or child support payments. In 2010 the counseling center opened a new station in the Ali Addeh refugee camp.

Female Genital Mutilation (FGM).—(see section 6, Children).

Sexual Harassment.—The law does not prohibit sexual harassment. Statistics were not available, but anecdotal information suggested such harassment was widespread, although seldom reported.

Reproductive Rights.—The government recognized the right of citizens to decide freely and responsibly the number, spacing, and timing of their children. Clinics under the Ministry of Health operated freely in disseminating information on family planning. There were no restrictions on the right to access contraceptives, and the government estimated in 2009 that approximately 33 percent of women had access to contraceptives. The government provided childbirth services, and increasing numbers of women delivered babies in a hospital or health clinic. A 2009 Ministry of Health report stated 78 percent of the population had access to prenatal care, 15 percent to obstetric care, and 36 percent to postpartum care. The U.N. Population Fund estimated the maternal mortality rate in 2008 at 300 deaths per 100,000 live births.

Discrimination.—The constitution provides for equal treatment of citizens without distinction as to sex, but custom and traditional societal discrimination, including in education, resulted in a secondary role for women in public life and fewer employment opportunities in the formal sector. Women did not possess the same legal rights as men. In accordance with Sharia law, men inherit a larger proportion of estates than women. Many women owned and ran small businesses, although most-

ly in the informal sector, where they did not receive the same benefits or access to credit available in the formal sector. The government continued to promote female leadership in the small business sector, including through expanded access to micro-credit.

A 2008 presidential decree requires women to be represented in at least 20 percent of all high-level public service positions, and the government enforced the law in practice. The Ministry for the Promotion of Women, Family, Welfare, and Social Affairs was responsible for promoting the rights of women.

Children.—Birth Registration.—Citizenship is derived from a child's parents. The government continued to encourage the immediate registration of births, and most births in Djibouti City were registered quickly. However, births in rural areas were often registered late or not at all. The birth registration fee of 2,000 DJF (\$11) deterred some parents from registering births. Lack of birth registration did not result in denial of public services, but lack of such documentation impeded the ability of adults to vote.

Education.—Primary education was compulsory. Primary and middle school were tuition free, but other expenses could be prohibitive for poor families. Although the educational system did not discriminate against girls, societal attitudes resulted in lower school enrollment rates for girls than boys.

Child Abuse.—Child abuse existed but was not frequently reported or prosecuted.

Harmful Traditional Practices.—According to previous estimates, 93 percent of the female population in the country had undergone FGM. However, a 2010 report by the Ministry of Health and the U.N. Population Fund showed that 51 percent of eight-year-old girls, 54 percent of seven-year-old girls, and 60 percent of six-year-old girls had not undergone the procedure, a marked decrease. Infibulation, the most extreme form of FGM, continued to be widely practiced, especially in rural areas. The law makes FGM punishable by five years' imprisonment and a fine of one million DJF (\$5,550), and NGOs are allowed to file charges on behalf of victims; however, the government has not convicted anyone under this statute. The law provides for up to one year's imprisonment and a fine of up to 100,000 DJF (\$565) for anyone convicted of failing to report a completed or planned FGM to the proper authorities.

During the year the government continued efforts to end FGM with an ongoing high-profile national publicity campaign, ongoing public support from the first lady and other prominent women, and outreach to Muslim religious leaders. The media featured frequent and prominent coverage of events organized to educate the public on the negative consequences of FGM. Efforts of the Union of Djiboutian Women and other groups to educate women were reportedly effective in lessening the incidence of FGM in the capital, according to government ministries and NGOs.

Child Marriage.—Child marriage occasionally occurred in rural areas, where it was considered a traditional practice rather than a problem. The Ministry for the Promotion of Women, Family, Welfare, and Social Affairs worked with women's groups throughout the country to protect the rights of girls, including the right to decide when and whom to marry.

Sexual Exploitation of Children.—The law provides for three years' imprisonment and a fine of one million DJF (\$5,650) for the commercial exploitation of children. The law does not specifically prohibit statutory rape, and there is no legal minimum age of consent. 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 DJF 200,000 (\$1,130).

Despite 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. Children were subject to commercial sexual exploitation after reaching Djibouti City or the Ethiopia-Djibouti trucking corridor. Occasionally child prostitution occurred with the involvement of a third party, most frequently an older child or group of older children. Of 2,430 prostituted persons apprehended by the police in 2009, 408 were between the ages of 10 and 17.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no established Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The constitution does not prohibit discrimination against persons with disabilities, although the labor code prohibits discrimination in employment against such persons. Persons with disabilities had access to education and public health services. The government did not mandate accessibility to buildings or government services for persons with disabilities, and such buildings were often inaccessible. There was societal discrimination against persons with disabilities. No government agency was charged specifically with protecting the rights of such persons. 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.

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, and the minority Afar peoples were marginalized. Discrimination based on ethnicity and clan affiliation remained a factor in business and politics.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law criminalizes consensual same-sex sexual conduct; however, the government took no actions against persons under the law, and there were no reported incidents of societal violence or discrimination based on gender identity or sexual orientation. Societal norms did not allow for the public discussion of homosexuality, and persons generally did not openly acknowledge being gay. There were no known organizations for lesbian, gay, bisexual and transgender persons.

Other Societal Violence or Discrimination.—There was no known societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The constitution and law provide for the right to form and join unions, with prior authorization. The government restricted the right to form and join unions. The law provides the right to strike after providing advance notification. The president has broad legal powers to requisition public servants whom he determines to be indispensable to the operation of essential public services. The labor code allows collective bargaining and fixes the basic conditions for adherence to collective agreements. The law prohibits antiunion discrimination and requires employers found guilty of discrimination to reinstate workers fired for union activities.

Most residents in rural areas worked as subsistence farmers, and there were no agricultural unions. The two civil, nongovernmental labor unions each had a government-appointed counterpart, which union leaders referred to as “shadow unions.” Union leaders alleged that the government suppressed independent representative unions by tacitly discouraging labor meetings and encouraging government-sponsored shadow unions. The government did not recognize the civil, nongovernmental labor unions, and only members of the government-approved labor unions attended international and regional labor meetings with the imprimatur of the government. The Labor Union of Djibouti (UDT) continued to operate as a civil-organized union without government recognition. All workers, citizens, and noncitizens with work permits were included in legal protections.

In 2010 the International Labor Organization (ILO) expressed its concern over several points of divergence between ILO Convention 87 and the country's labor laws, which (a) provide for a more or less automatic suspension of the employment contract when a worker holds trade union office; (b) in an overly broadly formulated form, prohibit access to any trade union because of any conviction (whether or not the conviction is prejudicial to the integrity required to exercise union office); (c) prescribe a lengthy and complicated trade union registration procedure; (d) require organizations to obtain authorization prior to their establishments as trade unions; and (e) confer upon the president broad powers to requisition public servants considered indispensable to the life of the nation and the proper operation of essential public services. The ILO also recommended that, where the representativeness of a workers' organization have not yet been established, no representation from the trade unions should be barred from the tripartite work of the National Council on Work, Employment, and Professional Training.

A 2010 ILO report noted substantial differences between the country's labor laws and the relevant ILO convention, including employment restrictions on those holding union office, a lengthy and complicated union registration procedure, and excessive presidential authority to requisition public workers.

The government neither enforced nor complied with the law on antiunion discrimination.

Workers exercised the right to strike in practice and occasionally disregarded the requirement for advance notification of strikes. However, the International Trade Union Confederation (ITUC) alleged that authorities have brutally repressed strikes. According to the ITUC, union leaders and members were subjected to constant harassment by authorities. The government accused trade union activists of being enemies of the nation, and activists were subjected to arrest, imprisonment, transfer, and dismissal.

According to a 2011 ILO report covering the previous year, security forces on two occasions in March 2010 arrested numerous UDT members who were peacefully protesting wage arrearages owed to railway workers and released them the same day without charges.

During the year collective bargaining sometimes occurred, and agreements were usually reached in short periods of time. 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.

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. There were no reports of instances of employers refusing to bargain with unions chosen by workers or measures taken by employers to avoid hiring workers with bargaining rights.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor. A small number of women and children transiting the country from Somalia or Ethiopia as well as local girls became victims of domestic servitude in Djibouti City and the Ethiopia-Djibouti trucking corridor.

For further information see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits all labor by, and employment of, children under age 16.

Government enforcement of child labor legislation was ineffective. The Ministry of Labor is responsible for monitoring workplaces and preventing child labor but conducted no inspections during the year. A shortage of labor inspectors and other resources such as vehicles reduced the likelihood that reports of child labor would be investigated. There was no government program to enforce the work of inspectors.

Child labor existed throughout the country, including the worst forms of child labor. Children engaged in the sale of the mild narcotic khat, legal under local law. 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 subsistence farming and with livestock, and other activities in the informal sector. Children of both sexes worked as domestic servants.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—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 legal 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 law provided for paid holidays. The government sets occupational safety and health standards. 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 Djibouti Free Zone, a commercial export processing zone near the Djibouti City port, other labor code provisions applied to all workers, including foreign workers and workers in the Free Zone.

The Ministry of Labor is responsible for enforcing occupational health and safety standards, wages, and work hours. Data on inspectors was unavailable. Enforcement was ineffective. There was almost no enforcement of labor inspectors due to drastically low resource availability. Workers across all industries or sectors some-

times faced hazardous working conditions. Workers rarely protested due to fear that others willing to accept the risks would replace them. Credible data on workplace fatalities and accidents were not available.

EQUATORIAL GUINEA

EXECUTIVE SUMMARY

Equatorial Guinea is nominally a multiparty constitutional republic. Since a military coup in 1979, President Obiang Nguema Mbasogo dominated all branches of government in collaboration with his clan and his political party, the Democratic Party of Equatorial Guinea (PDGE). In 2009 voters reelected President Obiang with a claimed 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. There were instances in which elements of the security forces acted independently of civilian control.

Major human rights abuses reported during the year included a disregard for the rule of law and due process, denial of basic political rights including freedom of speech and press, and widespread official corruption.

Other human rights abuses included: inability of citizens to change their government; arbitrary arrest, detention, and incommunicado detention; poor conditions in prisons and detention facilities; harassment and deportation of foreign residents with limited due process; constraints on judicial independence; official corruption at all levels of government; restrictions on the right to privacy; restrictions on freedoms of assembly, association, and movement; violence and discrimination against women; trafficking in persons; discrimination against ethnic minorities; and restrictions on labor rights.

The government did not take steps to prosecute or punish officials who committed human rights abuses and itself committed such acts with impunity. It did not maintain effective internal or external mechanisms to investigate security force abuses.

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 arbitrary or unlawful killings.

There were no further developments, and none were expected, in the August 2010 summary executions of four former military officers.

There were no further developments, and none were expected, in the December 2009 killing of a Malian immigrant, Bakary Konate, by uniformed men at a checkpoint in Bata after he failed to pay a bribe.

b. Disappearance.—Unlike in the previous year, there were no reports that the government or its agents carried out politically motivated abductions or kidnappings.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the law prohibits such practices, security officials abused persons during the year. Police officers and military personnel occasionally used excessive force to gather information about an individual's suspected crimes. Opposition leaders and international nongovernmental organizations (NGOs) continued to criticize the "government for its systematic use of torture," but there were no reliable reports that torture occurred.

No action was taken during the year against security officials at Black Beach Prison who reportedly tortured four former military officers until they confessed to the 2009 attack on the presidential palace.

Foreigners, primarily irregular immigrants from other African countries, were harassed, intimidated, and arbitrarily arrested and detained. Foreign diplomats, primarily those from African countries, also complained that police harassed and abused them and their family members, even after the victims displayed their diplomatic documents.

Prison and Detention Center Conditions.—Conditions in police station jails and other detention centers were harsh and sometimes life threatening. The government recently renovated three prisons in Bata, Evinayong, and Malabo, and while conditions improved, they remained inadequate. It was unknown if any prisoners or detainees died in prison or pretrial detention centers. Holding cells were overcrowded and dirty, and prisoners and detainees rarely had access to medical care, exercise, or mattresses. Provisions for sanitation, ventilation, lighting, and access to potable

water were inadequate. Diseases, including malaria and HIV/AIDS, were serious problems. The government provided medical care to some prisoners and detainees, but this access was not routine. The government began providing basic meals in the three main prisons and some holding centers, but it was generally insufficient and of poor quality. Food often had to be provided by families of prisoners or detainees or by fellow prisoners and detainees, and authorities restricted access to potable water. Some prisoners and detainees did not have access to toilets.

Detained undocumented immigrants pending deportation were held in police cells for lengthy periods. Foreign embassies reported that the government did not contact them when nationals were arrested and that at times legal immigrants were arrested with undocumented immigrants. For example, police rounded up several dozen Africans in Malabo in late May, accused them of having falsified papers, detained them at the Central Police Headquarters in Malabo, and released them a few days later after intervention by diplomats.

Although there were no reliable statistics on the total number or breakdown of prisoners in detention, the government-run news media reported that 269 prisoners were in the country's largest prison, Black Beach. Opposition sources claimed that approximately 15 of the 269 were women. No breakdown was available for juveniles or for the remaining two prisons, 12 detention centers, and other holding cells.

Female prisoners generally were separated from male prisoners, but juveniles were not separated from adults. Juveniles generally were imprisoned for only the most serious crimes; otherwise, they were given "provisional liberty" in some cases and monitored. Pretrial detainees were held together with convicted prisoners. Opposition sources reported that one child under the age of two was held while his mother was imprisoned.

In most cases prisoners had reasonable access to visitors and were permitted religious observances. The government appointed a local judge to serve as ombudsman to hear complaints about sentencing, but in general authorities did not permit prisoners and detainees to submit complaints to judicial authorities or to request investigation.

On March 29–30, Attorney General Carlos Mangue Elunku met with 90 percent of inmates in Black Beach Prison to determine their dates of imprisonment, legal situation, sentencing dates, and state of health.

Neither the judicial system nor police had a fully effective system to register cases or track prisoners. Prisons provided the Ministry of Justice with a monthly printout of prison inmate numbers, including releases, with full names, sentences completed, and release dates. However, the lists were not always reliable.

On January 25, the government signed a headquarters agreement with the International Committee of the Red Cross (ICRC) giving the international organization a permanent presence in the country. In October the regional ICRC representative met with the president, the local Red Cross, and other officials to discuss the logistics and staffing of the new headquarters. By year's end the ICRC had not requested to visit the local prisons.

In March the attorney general appointed a local judge as ombudsman for inmate complaints about sentencing. The government did not consider matters such as alternatives to incarceration for nonviolent offenders.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, security forces arrested or detained persons arbitrarily and without due legal process. Both police and gendarmes frequently ordered arrests and detentions without legal authorization.

Role of the Police and Security Apparatus.—The police generally are 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.

Corruption and impunity continued to be problems. Security forces extorted money from citizens and immigrants at police checkpoints. There was no internal investigation unit within the police, and mechanisms to investigate allegations of abuse were poorly developed. However, the Ministry of National Security reported that it was required to appear before the legislature to provide responses about abuses committed by individual police officers and that police officers were dismissed as a result.

The Ministry of National Security and the Ministry of Defense did not maintain effective control over security forces, and security forces sometimes committed abuses with impunity. The government did not maintain effective internal or external mechanisms to investigate security force abuses.

The government continued to invest in the professionalization of its security forces. In January six military officers attended an international humanitarian law training session funded by the ICRC in Congo-Brazzaville. In August the first naval cadets of the new regional naval academy graduated; the academy is the first international naval academy on African soil and seeks to become a regional center of excellence. Cadets from Equatorial Guinea and 10 other African countries were being trained to perform various technical positions, which will professionalize the military and support efforts to combat human trafficking.

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 code of ethics. Evidence and feedback from expatriates, citizens, and community leaders indicated improvements in performance in human rights and professional conduct, particularly among younger officers who received the training.

Arrest Procedures and Treatment While in Detention.—Although the constitution requires arrest warrants, except in cases in which a suspect is caught committing a crime, the government frequently arrested persons without a warrant. A detainee has the right to a judicial determination of the legality of the detention within 72 hours of arrest, excluding weekends and holidays, but detentions were often longer, occasionally several months.

Although the law provides for detainees to be informed promptly of the charges against them, 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. While a bail system and public defenders were supplied by the bar association, which received funding from the government, and were available upon request, the public largely was unaware of either, and neither system operated effectively. Detainees, particularly political detainees, occasionally were denied access to lawyers.

The law provides for family visits and prohibits incommunicado detention. In practice prisoners and detainees were sometimes allowed family visitors at the discretion of the local police chief.

Arbitrary Arrest.—Lawyers did not have access to police stations and could not contact detainees while they were held there; police superintendents when interviewed stated they did not see the need for or advisability of such access. Police raids on immigrant communities, local stores, and restaurants increased in the period preceding the African Union Summit in June. Reliable sources reported that many legal as well as irregular immigrants were abused, extorted, or detained during such raids. Police occasionally 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.

There were several reports of international businessmen being arbitrarily detained in conjunction with business disputes.

Several members of the largest opposition political party, the Convergence Party for Social Democracy (CPDS), were arrested, briefly detained, and released. They included Juan Manuel Nguema Esono, the national secretary of youth of the CPDS, and another party member, Vicente Nze, on April 25 and Marcial Abaga Barril, campaign manager, on November 2.

The government arbitrarily detained a foreign camera crew briefly during the year (see section 2.a.).

Pretrial Detention.—Lengthy pretrial detention remained a problem, and many of those incarcerated were pretrial detainees; the exact number was unavailable. Although prison authorities provided monthly lists of prisoners and detainees to the Ministry of Justice, such lists were not reliable. Inefficient judicial procedures, corruption, lack of monitoring, and inadequate staffing contributed to the problem.

Amnesty.—On June 4, the government pardoned 22 prisoners serving long jail terms and convicted of plotting against the regime. Those released included five members of the banned Partido Popular de Guinea Ecuatorial who were convicted of involvement in the 2004 plot to overthrow the government. Two were former army officers who had turned against the regime. The remaining freed prisoners were former soldiers, convicted in 2004 by a summary military tribunal and sentenced to 10 to 20 years in prison for conspiring with former army colonel Cipriano Nguema Mba to overthrow the government. Also pardoned were Florencio Ela

Bibang and Antimo Edu Nchama, who were specifically named by the 2008 U.N. Working Group on Arbitrary Detentions.

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 U.N. officials and local and international human rights advocates. Judges served 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 military justice system, based entirely on the 1945 system in Franco's Spain, did not provide defendants with the same rights as the civil criminal court system. The code of military justice states that 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 U.N. 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.—Although by law a defendant enjoys the presumption of innocence until proven guilty, the government suspended due process and the presumption of innocence for several detainees during the year. Most trials for ordinary crimes were 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, but there remained a 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. This right was seldom enforced in practice. Defendants do not have the ability to access government-held evidence. By law the accused has the right to appeal, but legal appeals were not common due to lack of adequate legal representation and ignorance of constitutional rights. The law extends these rights to all citizens.

Political Prisoners and Detainees.—In June the government pardoned and released the remaining 22 political prisoners.

Civil Judicial Procedures and Remedies.—Civil matters can be settled out of court, and in some cases tribal elders adjudicated local disputes. Courts increasingly were engaged in ruling on civil cases brought before them, some of which involved human rights complaints.

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 entered homes without authorization and arrested criminals, foreign nationals, and others—often without required 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, NGOs, and journalists. The government blocked employment of known members of opposition parties.

Individuals may hold property title to land, but the state has full power of eminent domain, which it has exercised in the interests of development. In past years scores of families were forcibly evicted from their homes to make room for roads and 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 in the prior year. No reports of displacement were received during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—Although the constitution and law provide for freedom of speech and press, the law grants extensive powers to authorities to restrict the activities of the media, and the

government continued to limit these rights in practice. The country's media remained weak and under government influence or control. Journalists were subject to surveillance and practiced self-censorship.

Freedom of Speech.—While criticism of government policies was allowed, individuals generally could not criticize the president, his family, other high-ranking officials, or the security forces without fear of reprisal. The government reportedly attempted to impede criticism by continuing to monitor the activities of the political opposition, journalists, and others.

Freedom of Press.—Print media outlets were extremely limited. In December 2010 the Ministry of Information approved *El Lector*, an independent newspaper that appeared at infrequent intervals throughout the year. Starting a new periodical required a complicated process governed by an ambiguous law and was often inhibited by government bureaucracy. In addition, with the exception of journalists covering the African Union Summit in June, accreditation was cumbersome for both local and foreign journalists, who had to register with the Ministry of Information. International newspapers or news magazines were generally not available in rural areas but were sold in grocery stores and hotels in Malabo and Bata.

Only one international news agency had a regular stringer present in the country, and government agents reportedly followed and observed stringers for foreign media, who generally were not able to operate freely in the country. The government owned the only national radio and television broadcast system, RTVGE. The president's eldest son owned the only private broadcast media. Satellite broadcasts were widely available, including the French language Africa24 television channel that occasionally carried opposition criticism.

Foreign channels were not censored, were broadcast throughout the country, and included Radio France International, the BBC, and Radio Exterior, the international shortwave service from Spain.

Violence and Harassment.—On June 18, security officials briefly detained a German television crew covering women's soccer and required the crew to delete previously recorded footage on social conditions.

Censorship or Content Restrictions.—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. International news reported that Juan Pedro Medene, a French language social program host, was terminated from his position on local television for mentioning Libya on a cultural show; however, the events of North Africa were widely discussed on radio, television, and in the newly approved independent newspaper, *El Lector*.

Libel Laws.—Libel is a criminal offense, but there were no instances of the government using such laws to suppress criticism during the year.

Actions to Expand Press Freedom.—The government approved the establishment of an independent newspaper that was published infrequently throughout the year.

Internet Freedom.—There were no government restrictions on access to the Internet or credible reports the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the 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 replaced broadcast media as the primary way opposition views were expressed and disseminated. Exiled citizens' sites were not blocked, and some Internet-based criticism of the government and its leaders was openly sourced without negative repercussions to individuals living inside the country.

Academic Freedom and Cultural Events.—There were no government restrictions on academic freedom or cultural events, although in past years some 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.

On March 8, the government canceled all International Women's Day celebrations in the mainland city of Bata because of rumors of planned demonstrations by opposition groups.

Members of opposition political parties, faculty members, and students 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, it denied requests by opposition parties to hold meetings outside of their meeting spaces.

On August 1, the government denied a request by the legally recognized Popular Union party to hold meetings in public buildings because “it was not during an election campaign.” 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.

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. As of year's end, only one labor organization had been registered (see section 7). The law prohibits the formation of political parties along ethnic lines, and several political parties remained banned. The registration process for NGOs was costly, burdensome, opaque, and sometimes took years to complete. However, there were no government restrictions that targeted specific groups.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 occasionally restricted these rights in practice.

During the year there were no cases in which the government cooperated with the U.N. High Commissioner for Refugees, which had no local office, or other humanitarian organizations in assisting refugees and asylum seekers.

In-country Movement.—Police at roadblocks routinely checked passing travelers and occasionally engaged in petty extortion. Frequent roundups of undocumented immigrants also occurred at roadblocks. The government claimed roadblocks impeded illegal immigration, mercenary activities, and attempted coups. The number of roadblocks increased in the period preceding the June African Union Summit.

Exile.—While the law prohibits forced internal or external exile, members of banned opposition parties stated that the government would prevent them from leaving the country if they attempted to do so. Several members of banned political parties remained in self-imposed exile.

Internally Displaced Persons (IDPs).—Unlike in the previous year, there were no reports that the government forcibly evicted families from their homes to make room for roads and luxury housing developments.

Protection of Refugees.—Access to Asylum.—The country's laws provide for the granting of asylum or refugee status, but the government has not established a system for providing protection to refugees.

Nonrefoulement.—In practice the government provided some 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. Reliable statistics were not available on the number of such refugees.

Temporary Protection.—The government also provided temporary protection to individuals who may not qualify as refugees. Reliable statistics were not available.

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, although this right was extremely limited, partly as a result of the dominance of the ruling PDGE party.

Elections and Political Participation.—Recent Elections.—In 2009 President Obiang was reelected, winning a claimed 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. The government's insistence on coordinating the movement

of election observers, prohibition on criticism of the elections, and control of media access to cover the elections limited the participation of international election observers at the 1,289 polling stations. 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 family voting was allowed, unregistered voters were allowed to vote, and ballot boxes were unsealed. Soldiers were deployed to all polling stations.

In October 2009 President Obiang announced the election would be on November 29, with campaigning to begin officially on November 5. 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 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 or underage 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 and lacked civil society representation. In addition, a majority of its members were ruling party officials. The opposition CPDS party claimed that one of its electoral officials was forced with a pistol held to his head to approve 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, inadequately financed, and unsupported by the public. 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 previous elections, no opposition members were arbitrarily arrested, detained, or tortured, but opposition candidates were harassed and intimidated during the presidential campaign.

Political Parties.—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. Opposition members contended government pressure precluded them 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 often were forced to dismiss those employees or face reprisals.

On January 27, the government appointed four deputy prime ministers from opposition parties. At least two serving ministers were also from the opposition.

The 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."

The president 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. On November 13, the government held a popular vote on a constitutional referendum to limit the president to two seven-year terms and create a vice president, a second chamber of the legislature, an anticorruption body, and a "Defender of the People" to serve as a human rights ombudsman. The referendum passed with 97.7 percent support. The margin of the positive vote and the lack of any credible oversight of the voting process raised doubts about the legitimacy of the referendum. International NGOs and local opposition parties claimed that the process was marred by reports of voting fraud, harassment of opposition supporters, and intimidation of voters. There were scattered confrontations between regime authorities and opposition activists in the continental city of Bata.

Because the ruling party overwhelmingly dominated the commissions established to review electoral practices and recommend reforms, few changes were made.

Participation of Women and Minorities.—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. Women constituted more than 10 percent of the 100-member parliament, including its vice president. There were two women in the 22 member cabinet, and four of the 24 vice ministers were women.

Section 4. Official Corruption and Government Transparency

While laws provide severe criminal penalties for official corruption, the government did not implement these laws effectively, and officials frequently engaged in corrupt practices with impunity, making corruption a severe problem. The presidency and prime minister's office were the lead agencies for anticorruption efforts. At the same time, the president and members of his inner circle continued to amass personal fortunes from the revenues associated with oil exports.

In February the president removed several high-level government officials from their offices due to corruption.

On September 28, French judges in Paris seized 11 luxury vehicles owned by the president's son and Minister of Agriculture and Forestry Teodoro Nguema Obiang Mangue due to a continuing investigation into suspected concealment and laundering of embezzled public funds abroad. The investigation began in 2010 as a result of a complaint filed by Transparency International France in 2008.

In October a foreign government filed two civil forfeiture complaints against Teodoro Nguema Obiang Mangue to recover \$70.8 million in real and personal property alleged to be proceeds of foreign corruption offenses.

Officials by law must declare their assets, although no declarations were made public. 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.

In May the government announced its intention to renew its candidacy in the Extractive Industries Transparency Initiative (EITI), a multinational civil society initiative to encourage transparency and accountability in extractive industries. The country had been delisted as a candidate country in April 2010 because of lack of consensus among EITI board members on whether there were extenuating circumstances that would allow the country an extension to complete all EITI requirements.

The law does not provide for public access to government information, and citizens and noncitizens, including foreign media, generally were unable to access government information. A lack of organized record keeping, archiving, and public libraries also limited access to government information.

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. Thus, there were no local groups dedicated to human rights; rather, there were groups that ostensibly worked on human rights as part of their overall brief. The government was suspicious of human rights activity, claiming that much of it was prompted by antiregime exile groups and critical foreign NGOs.

U.N. and Other International Bodies.—The government cooperated to varying degrees with international organizations such as the ICRC and U.N. In January the government signed a headquarters agreement with the ICRC and began preparations to open a headquarters (see section 1.c.).

Government Human Rights Bodies.—The parliamentary committee for complaints and petitions provided a forum for the public to register concerns and was active during the year. The committee accepted complaints and petitions whenever the parliament was in session. This committee is to be upgraded into an independent "Defender of the People" office, which was approved as part of the November 13 constitutional reform package. The sole opposition member in parliament vociferously and publicly denounced abuses.

The primary official in charge of human rights, the third vice prime minister for human rights, functioned more to defend the government from accusations than to investigate human rights complaints or keep statistics on such issues.

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

The constitution and law prohibit discrimination based on race, gender, or religion, language, or social status, but 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 and Domestic Violence.—Rape is illegal, and penalties date to the Spanish colonial-era penal code in existence as of 1968. Spousal rape is not specified in the law. Penalties for rape include 12 to 20 years in prison. An additional fine may be levied, but the law does not specify the amount. The government did not enforce the law effectively. Reporting rape was considered shameful to the families involved. Several cases were prosecuted in court during the year, but the exact number was not known.

Domestic violence was a widespread problem. Violence against women, including spousal abuse, is illegal, but the government did not enforce the law effectively. Depending on severity and circumstances, the penalty for assault can range from one to 20 years' imprisonment. Police and the 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. In accordance with a 2009 law, family courts were created to deal with cases of violence against women; however, domestic violence cases continued to be handled by district courts. On occasion, police organized workshops on family violence, and public marches against violence against women were authorized.

Female Genital Mutilation (FGM).—FGM is not criminalized, but it was not traditionally practiced in the country. No data existed to determine the possible practice, if any, of FGM among immigrant groups.

Sexual Harassment.—Sexual harassment is illegal; its extent was unknown. There were no known cases brought before the courts.

Reproductive Rights.—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. According to the U.N. Population Fund (UNFPA), less than 10 percent of the population used contraceptives. Statistics on maternal health, prenatal care, essential obstetric care, and postpartum care were dated and unreliable. In July the government launched a series of demographic and health surveys to provide accurate statistics including maternal mortality ratios. In September the Regional Director for Africa at the World Health Organization stated that Equatorial Guinea was one of seven countries on track to achieve its Millennium Development Goal to reduce maternal mortality. Government officials and international observers attributed this decline to government and private-sector efforts to reduce malaria and improved care in hospitals. Some prenatal and obstetric care was free in government clinics, but availability and quality was highly variable, and access was limited mostly to the two main cities. Women and men were equally diagnosed and treated for sexually transmitted infections.

Discrimination.—While the law provides for equal rights for women and men, including rights under family law, property law, and in the judicial system, the rights of women were limited in practice. According to the U.N. 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.

Women in rural areas 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 similar work.

The government continued to provide courses, seminars, conferences, and media programs to sensitize the population and government agencies to the needs and rights of women. The Ministry of Social Affairs and the Promotion of Women held several events during the year to publicize these rights and held public rallies for women's rights and against domestic violence.

Children.—Birth Registration.—Citizenship is derived from one's parents. Registration of births is the responsibility of the parents, and failure to register a child can result in the denial of public services.

Education.—Education is free and compulsory until age 13. The overwhelming majority of children attended school at least through primary grades. Boys generally completed an additional seven years of secondary school or attended 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 multi-million dollar school renovation program and work with a foreign country to reform outdated curriculum materials.

Child Abuse.—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.

Child Marriage.—While teenage pregnancies were common, the Ministry of Social Affairs and the Promotion of Women operated several programs to deter child marriage. There is no minimum age for marriage.

Sexual Exploitation of Children.—The law does not address child prostitution or child pornography. There was little evidence children engaged in prostitution for survival, and the country is not a destination for child sex tourism. The minimum age for sexual consent is 18.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community was extremely small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/tip>.

Persons With Disabilities.—The law does not provide persons with disabilities any protection 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 persons with mental or physical disabilities were limited. The local Red Cross, with financial support from the government, managed the country's school for deaf children. The government, through the Ministry of Social Affairs, and the Catholic Church worked together to provide care for persons with mental disabilities in the Virgin Madre Maria Africa facility. The country's first lady gave several highly publicized donations to help persons living with disabilities.

Although not written into the law, the Ministry of Education and the Ministry of Health worked to protect 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, harassment by security forces, and political marginalization of minorities were problems. Foreigners were often victimized. Undocumented 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. Foreigners routinely were stopped at checkpoints and asked to provide documentation.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws criminalizing sexual orientation; however, societal stigmatization and traditional discrimination against gay men and lesbians was strong, and the government made little effort to combat it.

Other Societal Violence or 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 of health risks, availability of testing, and the importance of practicing safe sex.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides workers the right to establish unions, affiliate with unions of their choice, bargain collectively, and engage in strikes. The law also allows unions to conduct activities without interference. The Union Organization of Small Farmers continued to be

the only legal operational labor union. Authorities continued to refuse to register the Equatorial Guinea Trade Union or recognize other existing unions. The law stipulates a union must have at least 50 members from a specific workplace to register; this rule effectively blocked union formation.

In practice the government placed practical obstacles before groups wishing to organize and did not protect the right of unions to conduct their activities without interference. Most often those seeking to organize were co-opted into existing party structures by means of pressure and incentives. Workers rarely engaged in strikes, in part because they feared losing their jobs and possible harm to themselves or their families. On several occasions during the year, both local and foreign workers engaged in temporary protests or “go slows” (work slowdowns and planned absences), which were resolved peacefully by Labor Ministry officials through negotiations and fines on employers.

There were few reports of organized, collective bargaining by any group; however, the Ministry of Labor mediated labor disputes. Dismissed workers, for example, could appeal to the ministry, first through their regional delegate, but there was little trust in the fairness of the system. Citizens have the 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, and there were no reports it occurred.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor. According to U.N. and other sources, there was no evidence of forced labor by adults.

Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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 of approximately 50,000 to 250,000 CFA francs (\$98 to \$490). Children younger than age 16 are prohibited from participating in work that may endanger their health, security, or morals. A limited number of children were recruited and transported from nearby countries, primarily Nigeria, Benin, Cameroon, and Gabon, and forced to work as domestic servants, market laborers, and ambulant vendors. Children involved in street work sold food, water, and clothes; transported water; and washed cars. Young women ages 15 to 18 reportedly were involved also in transactional sex, particularly girls studying in urban centers such as Malabo and Bata. There was no reliable data available on the extent of child labor, although observers believed it was not a major problem.

Law enforcement officials were stationed in market places, where they enforced laws prohibiting minors from working. Vendors who violated these laws could be forced to close down their stalls, heavily fined, or deported. No vendors were prosecuted during the year. During a recent campaign, the government asked guardians of foreign children to provide parental proof. All children had documentation, although the government suspected that some of the papers were forgeries. The government did not provide social services to children found working in markets. In general there was greater attention to local children, focusing on concern that they be in school; foreign children, mostly street vendors, were treated like foreign adults.

The Ministry of Labor is responsible for enforcing child labor laws, but inspectors focused mainly on the construction industry, not street vending.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—In September the government increased the monthly minimum wage from 95,400 CFA francs (\$188) to 129,035 CFA francs (\$255) for all workers in the country. Many formal-sector companies paid more than this, but workers in the informal sector and domestic workers were not covered under the minimum wage law. The law exempts domestic workers, except those working for business executives, and those working within the family or the informal sector from the minimum wage law. By law hydrocarbon industry workers received salaries many times higher than those in other sectors, worsening disparities within society and fueling inflation for some goods and services. The Ministry of Labor is responsible for enforcing minimum wage rules.

The Department of Labor employed approximately 100 labor inspectors who performed labor inspections and cited companies for violations. Enforcement of labor laws and ratified international labor agreements, however, were not effective, resulting in poor working conditions. Safety codes, for example, were not generally en-

forced. Most petroleum companies, on the other hand, exceeded minimum international safety standards.

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 always effectively enforced.

The law provides for protection of workers from occupational hazards, but the government did not effectively enforce this provision. The law does not provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment. The law does not provide for any exception for foreign or migrant workers. The Department of Labor does not publish the results of its inspections. There were a growing number of foreign workers in the construction industry who may be exposed to hazardous conditions. Violations may include long working hours and insufficient safety gear.

ERITREA

EXECUTIVE SUMMARY

The Government of Eritrea is an authoritarian regime under the control of President Isaias Afwerki. The People's Front for Democracy and Justice (PFDJ), headed by President Afwerki, is the sole political party. The PFDJ has controlled the country since 1991. Elections have not taken place since the country's independence from Ethiopia in 1993. Elements of the security forces frequently and with impunity acted independently of civilian control.

There were consistent and persistent reports of serious human rights violations. These abuses included, but were not limited to, harsh and life-threatening prison conditions that included torture and incommunicado detention, which sometimes resulted in death; forced labor of indefinite duration through the mandatory national service program; and the severe restriction of civil liberties including freedom of speech, press, assembly, association, and religion.

Other abuses included the following: unlawful killings by security forces; politically motivated disappearances; 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; the detention of political prisoners and detainees; and infringement of privacy rights. They also included a lack of due process and excessive pretrial detention, and severe limits on freedom of movement and travel for all citizens, residents, and humanitarian agencies. All remaining international nongovernmental organizations (NGOs) were forced to close during the year, and the activities of the U.N. were severely restricted. Societal abuse and discrimination against women, the Kunama ethnic group, gay men and lesbians, members of certain religious groups, and persons with disabilities occurred. Female genital mutilation (FGM) was prevalent in rural areas. The government limited worker rights. Child abuse and forced child labor were problems.

The government did not take steps to prosecute or punish officials who committed abuses, whether in the security services or elsewhere in the government. Impunity was the norm.

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

a. Arbitrary or Unlawful Deprivation of Life.—The government committed arbitrary killings. The government continued to subject detainees to harsh and life-threatening prison conditions, including torture that resulted in deaths during the year. For example, credible sources reported the death of three religious prisoners in Metier prison due to torture and complications from untreated diseases. Additional deaths resulted from the continued authorization of the use of lethal force against individuals resisting or attempting to flee military service or found in prohibited regions near the border or mining camps.

Persons detained for evading national service reportedly died from harsh treatment, and young men and women reportedly were severely beaten and killed during round-ups for national service. Widespread mistreating and hazing of conscripts sometimes resulted in deaths and suicides of national service members. The government continued summary executions and shooting of individuals on sight near mining camps and border regions for allegedly attempting to flee military service, interfering with mining activities, or attempting to leave the country without an exit visa.

In May and June the government rounded up approximately 3,000 religious workers from the government-approved Eritrean Orthodox, Evangelical (Lutheran), and Islamic faiths and sent them to the Wi'a military camp for national service. There were reports that lack of food and sanitary facilities at Wi'a resulted in illness among these religious workers. In previous years persons detained at Wi'a died from poor conditions. Reports continued that persons detained in Wi'a were tortured. Previously, religious workers from government-approved faiths were often not required to perform military service.

During the year a Jehovah's Witness member died while in detention. The government did not investigate or prosecute any reports of security force abuse.

b. Disappearance.—An unknown number of persons disappeared during the year; they were assumed to be in government detention or to have died while in detention. The government does not regularly notify family members or respond to information requests regarding the status of detainees. This included persons detained based on their political and religious beliefs, journalists, and those who were thought to have evaded national service.

Approximately 30 journalists in prison were considered to have disappeared (see section 2.a.). The government also held local staff employed by foreign diplomatic missions in incommunicado detention and did not provide information regarding their location.

Round-ups in Asmara preceding the annual May 24 Independence Day celebrations were more coordinated than in previous years. Authorities detained an estimated several thousand persons in the capital region; some were held temporarily, while an unknown number reportedly disappeared.

There was no additional information regarding the February 2010 report of 12 Eritreans deported from Libya who disappeared.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law and unimplemented constitution prohibit torture. However, torture and beatings are institutionalized within prison and detention centers. Reports of prisoners' deaths due to torture, poor sanitation, and inadequate medical treatment were common, although secrecy and lack of access make it impossible to determine the number of deaths.

Security forces tortured and beat army deserters, draft evaders, persons living near mining camps, persons attempting to flee the country without travel documents, and members of certain religious groups. Torture or mistreatment included prolonged sun exposure in temperatures of up to 120 degrees Fahrenheit; the binding of hands, elbows, and feet in contorted positions for extended periods of time; forcing inmates to walk barefoot on sharp objects; overcrowded conditions; exposure to extreme heat from confinement in crowded and unventilated metal shipping containers or in crowded cement-lined underground pits without ventilation or sanitation; suspension from trees with arms tied behind the back, a technique known as "almaz" (diamond); and being placed face down with hands tied to feet outside in the desert, a technique known as the "helicopter," while pouring sugar on detainees to attract biting insects. The government sanctioned these torture and abuse methods, and no known action was taken during the year to punish the perpetrators.

According to international NGO Human Rights Watch, Eritrean female refugees reported in 2009 that female conscripts in national service were often raped by their supervisors.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Severe overcrowding was common. Some prisoners were shackled in unventilated holding cells for long periods of time in extreme desert heat and died due to heat exhaustion and lack of medical care. Underground cells or shipping containers with little or no ventilation in extreme temperatures held prisoners. The shipping containers were reportedly not large enough to allow all of those incarcerated to lie down at the same time. The cement-lined underground bunkers held up to 200 prisoners each; prisoners reportedly lost consciousness from the extreme heat.

The government did not provide adequate provisions for basic and emergency medical care in prisons and detention centers, and detainees died due to lack of medical treatment during the year. Food was not adequate. Potable water was generally not available.

During the year Misghina Gebretinsae, a Jehovah's Witness, died while in prison. He was reportedly held in solitary confinement in a container the week before his death. Authorities arrested Gebretinsae in 2008 during the onset of arrests of many Jehovah's Witnesses.

There were numerous unofficial detention centers, most located in military camps and used as overflow detention centers following mass arrests and roundups. Deten-

tion center conditions for persons temporarily held for evading military service were also harsh and life threatening. During the year there were 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 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 open and close a cell door constantly, as if the prisoner were going to be taken for interrogation with beatings. 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.

The government did not investigate and monitor prison and detention center conditions. There are more than 300 prisons and detention centers, which were filled to capacity.

Although there was a juvenile detention center in Asmara, juveniles frequently were held with adults in prisons and detention centers, and some young children were held with their mothers. Juveniles were sometimes imprisoned with their mothers and other detainees in adult facilities. Pretrial detainees typically were not separated from convicted prisoners.

Prisoners and detainees did not have reasonable access to visitors and were not always permitted religious observance. Authorities commonly moved prisoners to locations far from their families to make family visits impossible. In some circumstances authorities permitted convicted criminals up to three visits per week by family members; however, this was only common for those who had relatives working within the government. Persons detained, arrested, or convicted for reasons of national security or for evading national service were denied family visits and often were held in solitary confinement. Those imprisoned were often interrogated about religious affiliation and were asked to identify members of religious groups that were not approved, such as Jehovah's Witnesses.

Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, which authorities did not investigate. There were no ombudsmen to serve on behalf of prisoners. There are no provisions for addressing the status and circumstances of confinement of juvenile offenders, pretrial detention, or bail. Recordkeeping procedures are not transparent, making it impossible to assure that prisoners do not serve beyond the maximum sentence for the charged offense.

During the year the government did not permit the International Committee of the Red Cross (ICRC) to monitor prison conditions; this included denying the ICRC access to Ethiopian prisoners of war detained in the country.

d. Arbitrary Arrest or Detention.—The law and unimplemented constitution prohibit arbitrary arrest and detention; however, arbitrary arrest and detention remained widespread.

Role of the Police and Security Apparatus.—Police were responsible for maintaining internal security, and the army was responsible for external security; however, the government utilized 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 armed forces have the authority to arrest and detain civilians. Police generally did not have a role in cases involving national security, but they were heavily involved in rounding up individuals evading national service.

During the year the police, armed forces, 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. Participation in the national service program, which is of indefinite duration and requires conscripts to perform a wide variety of military and nonmilitary activities, is mandatory. Impunity for abuse was the norm.

Arrest Procedures and Treatment While in Detention.—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.

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 suspects were detained for much longer periods without being brought before a judge, charged with a crime, or in some cases even understanding the reason for their detention. Authorities also often changed the charges against detainees during detention. The government argued that those detained without charge can be assumed to be charged under national security grounds.

There were credible reports that release from detention sometimes occurred in the following circumstances: after providing proof of completion of national service, after being threatened with death for continued religious or homosexual activity, after recanting religious faith or declaring allegiance to the Eritrean Orthodox Church, after paying a fine equivalent to hundreds or thousands of dollars or having another person put up their house as guarantee, after unpaid forced labor such as picking vegetables for several months, or just before imminent death caused by torture during detention.

The law provides for a bail system, except for persons charged with national security crimes or crimes that could carry the death penalty. In practice bail was arbitrary, not always used, and often involved paying a bribe after someone with government connections interceded. Detainees in prisons often did not have access to counsel. Detainees in police stations not held on national security grounds often had access to legal representation and family members. It was unclear whether indigent detainees were sometimes provided counsel, as occurred in previous years. Incommunicado detention was widespread.

Arbitrary Arrest.—Arbitrary arrest occurred frequently. Security force personnel detained individuals for reasons such as evading national service, criticizing the government, practicing one's religious beliefs, and for unspecified alleged national security reasons. Numerous persons were detained, even if they had valid papers showing they had completed or were exempt from national service. In practice most detainees were informally charged with violations relating to national service, effectively allowing authorities to incarcerate them indefinitely.

Security forces also continued to detain and arrest the parents and spouses of individuals who evaded national service or fled the country.

There were 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 and questioned them about their religious affiliation. These round-ups tended to coincide with the observance of Independence Day and also harvest season, when many of those detained were forced to pick vegetables for several months for no pay on government-controlled farms.

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 was at least one report of a Jehovah's Witness being arrested during the year.

Authorities reportedly arrested 41 evangelicals on New Year's Eve 2010 and 31 others on January 9. No further information was available as to the whereabouts of individuals detained.

The government does not recognize dual nationality, and during the year security forces arbitrarily arrested citizens holding other nationalities on national security charges.

Numerous reports also indicated that persons with connections to high-level officials instigated the arrest of individuals against whom they held grudges. In many instances these individuals were never formally charged.

Pretrial Detention.—The government held numerous other detainees without charge or due process. The percentage of the prison/detainee population in pretrial detention was not available. Some detainees were still in prison after a decade, and others died while in detention. Detainees included an unknown number of persons suspected of antigovernment speech or 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. During the year the deposed Abune Antonios patriarch remained under house arrest (see section 2.c.). There were also widespread reports that 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, in practice the judiciary was impotent. Judicial corruption remained a problem. 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 infrastruc-

ture. 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. 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 effect on the judiciary.

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.

Administered by the military, the special courts are overseen by the Office of the President. 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. They are used as a tool to silence dissent. 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.

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 approximately 200,000 enlisted personnel in the armed forces, the military courts have a significant and unregulated importance in the country.

Sharia (Islamic law) for family and succession cases may be applied when both litigants in civil cases are Muslims. The government allowed Muslim courts to apply sharia, but not in any cases where physical punishment was envisioned.

Trial Procedures.—Most detained persons were not ever brought to trial. No cases involving individuals detained for national security or political reasons were brought to trial.

The judicial system consists of regular courts and special courts. In regular courts defendants have the right to be present and to consult with an attorney; however, many could not afford a lawyer, and government legal aid was rarely provided. The government reopened the law school in 2010. New lawyers work for the government and do not go into private practice.

The regional court is generally the court of first instance and has civil, criminal, and sharia benches. The sharia bench adjudicates family law for Muslims 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 also has civil, criminal, and sharia benches. Only in the High Court do defendants have the right to confront and question witnesses, present their own witnesses, present evidence, gain access to government-held evidence, appeal a decision, and enjoy the presumption of innocence. However, the High Court adjudicated very few cases, trials were generally closed to the public, and the attorney general allowed High Court cases to be retried in special courts where defendants have none of the above rights in practice. There also is a five-judge bench that hears final appeals in lieu of a Supreme Court.

Rural courts followed customary law rather than constitutional law and were headed by rural elders or elected officials. Local administrators in rural areas encouraged citizens to reconcile outside the court system for less serious cases, and customary courts are widely used. More substantial cases were reserved for the courts. Some 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.—Persons were routinely arrested on political grounds, and the penal system lacked due process and transparency. There were reports that the government continued to hold without charge and sometimes torture 2,000 to 3,000 members of unregistered religious groups and numerous members of the Eritrean Liberation Front, an armed opposition group that fought against Ethiopia during the struggle for independence. The government did not permit access

to such persons by international humanitarian organizations. No new information was available regarding Eritrean diplomats and staff of embassies and international organizations detained in previous years. In 2010 a former prison official reported that 20 of a group of 35 high-ranking government officials, journalists, and staff of international organizations remained detained at Era-Ero prison; the other 15 had reportedly died.

In May and June, the government arrested 90 religious believers around Asmara, in addition to the approximately 3,000 religious workers detained during the same time period (see section 1.a.). Of the 90, six were reportedly released by year's end.

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 under the law.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law and unimplemented constitution prohibit arbitrary interference with privacy, family, home, or correspondence; however, the government did not respect these rights in practice.

The government entered homes without judicial authorization. There were reports that plainclothes agents of the National Security Office entered homes without warrants, carried out illegal searches, and threatened family members, including children. For example, there were reports that security forces targeted gatherings of unregistered religious groups, regularly searched their homes, and detained their members.

The government monitored mail, e-mail, text messages, and telephone calls without obtaining warrants as required by law. Government informers were present throughout the country. Many citizens believed the government particularly monitored cell phones; it requires a permit for the use of SIM cards, necessary for operating and storing information in mobile phones. The government allowed only one SIM card per person, although this rule was unevenly applied, and there was a black market for the sharing of SIM cards. 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 or used a cell phone while in military service. Mail was commonly opened and resealed before delivery. If mail was sent to the country containing religious material or other material deemed suspicious by the government, the government typically confiscated the mail and called in the person designated to receive the mail for interrogation.

The government deployed military and police personnel 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 and other family members of individuals who evaded national service or fled the country. There were reports that such parents were either fined 50,000 nakfa (\$3,333) or forced to surrender their children to the government. Government officials entered households and confiscated property and livestock of draft evaders.

Membership in the PFDJ, the only legal political party, was not mandatory for all citizens; however, 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, and the names of those not attending were reported to government officials. Reportedly citizens who did not attend were harassed, and their families in Eritrea were subject to harassment. Eritrean officials overseas also collected biographical and contact information on Eritreans living abroad.

It was reported that Eritrean military officials or proxies used access to persons in refugee communities in neighboring countries such as Kenya and Sudan to threaten them against becoming politically active in Eritrean politics without permission of their respective governments.

There were also reports of security forces arresting persons whose foreign family members did not pay their extraterritorial income tax of 2 percent of foreign earned income.

Military and other officials seized residences and businesses belonging to private citizens and registered and unregistered religious organizations and housed the families of senior military officers or other officials in the properties, used them for gov-

ernment or military functions, or transferred ownership to civilian and military officials. No compensation was given for such forced evictions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of 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.

Freedom of Speech.—The government severely restricted the ability of individuals to criticize the government in public or in private, and some who did were arrested or detained. Gatherings were considered illegal without prior approval, and the government routinely monitored religious gatherings. Most other gatherings took place through government-run organizations and thereby were implicitly monitored by government officials present. Public criticism about the government's inability to combat poverty and malnutrition was prohibited. The government actively monitored the Eritrean diaspora via agents.

Freedom of Press.—The private press remained banned. The government controlled all media, which included one newspaper that was published in three languages, three radio stations, and a television station. The law requires journalists to be licensed. The law does not allow private ownership of broadcast or other media. Satellite dishes were widespread in Asmara and allowed by the government. Throughout the year the government ordered restaurants and hotels to shut off television satellite feeds of international news organizations when stories were shown that they believed could incite unrest, particularly those relating to events in North Africa and the Middle East. The minority who could afford to purchase satellite dishes had access to uncensored international news.

The law restricts printing and publication of materials. The printing of a publication that does not have a permit and the printing or dissemination of prohibited foreign publications are both punishable by imprisonment. Government approval is required for distribution of publications from religious or international organizations.

During the government-sponsored annual book fair in Asmara, from March 18 to 25, those attempting to buy books were required to show their national identity cards. Supervisors of booths selling books logged the names and national identity numbers of purchasers.

Violence and Harassment.—Most independent journalists remained in detention. According to Reporters Without Borders, the government continued to detain more than 30 journalists during the year. The government did not provide information about their places of detention or health, rendering these cases of forced disappearance. Between June 1, 2010, and May 31, six journalists reportedly fled the country.

During the year authorities arrested at least four journalists. In February authorities arrested radio journalists Nebiel Edris, Ahmed Usman, and Mohamed Osman. In March the government arrested sports journalist Tesfalidet Mebrahtu, who worked with state-owned radio and television.

No new information was available regarding the disappearance of Dawit Isaac, founder of the now-closed weekly newspaper Setit. Isaac's brother and others reportedly submitted a writ of habeas corpus to the court requesting details on his location and a review of his detention.

Censorship or Content Restrictions.—Most independent journalists remained in detention or had fled the country, which effectively prevented any media criticism of the government. All other journalists practiced self-censorship due to fear of government reprisal. Journalists are required to obtain written permission to take photographs. The one foreign news organization operating had only one heavily censored stringer, who did not permanently reside in the country.

Libel Laws/National Security.—Although libel or national security laws were not used to prosecute persons, the government repeatedly asserted that national security concerns were at the root of suppressing free speech and criticism. Persons detained in relation to freedom of speech and press often were detained indefinitely without being brought to trial.

Internet Freedom.—There were government restrictions on access to the Internet, and the government monitored Internet communications.

The government monitored e-mail without obtaining warrants as required by law. All Internet service users were required to use one of the three Internet service providers owned directly by the government or controlled through high-ranking PFDJ party members. While Internet cafes with extremely limited bandwidth were available in Asmara and other major cities, the vast majority of persons in the country did not have access to the Internet. Those who wanted a larger bandwidth, such as some international mining corporations, paid exorbitant prices far beyond the reach of the local population. In rural areas of the country, there was no access to the

Internet. Government informants frequented Internet cafes, where they visually monitored customers' screens and occasionally demanded customers' records. 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.

Academic Freedom and Cultural Events.—The government restricted academic freedom, including by restricting or censoring course content and curriculum and censoring or sanctioning academic personnel for their teachings, writing, and research. Academic travel and contact with other academics at home and abroad was restricted, intimidating academics into practicing self-censorship and influencing academic appointments based on political affiliation.

The government systematically restricted the ability of persons to access education. In order to enroll their children in more selective primary schools, parents often paid bribes or provided favors to local authorities or staff at the school.

There were reports that schools separated students whose families included liberation fighters from students whose families did not include fighters. Students whose families included liberation fighters were sometimes required to serve only five months or less in the military and were often assigned to prized places in technical colleges, freeing them of indefinite military service. Students whose families did not include a liberation fighter often served indefinite military service with no opportunity for higher education.

With few exceptions students must finish their last high school year at the Sawa military and educational camp and were not permitted to choose their next course of study, instead being assigned to specific vocational programs based on their performance on the matriculation exam. Only those students who completed military training at Sawa or received a medical waiver were allowed to take the exam.

In 2002 the government reorganized the University of Asmara, closing the central campus and splitting it into seven undergraduate colleges spread throughout the country. It was commonly believed that this was done to avoid a concentration of students who might stage political protests.

The government denied exit visas to many students who wanted to study abroad. College academics who wished to travel abroad for further study or training were required to seek exit visas and permission in advance from the appropriate college president and the government. Many students chose to risk their lives by illegally crossing the border into Sudan or Ethiopia in hopes of attending a university abroad.

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 and attendees. There were few cultural events which were not directly sponsored by the government.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law and unimplemented constitution provide for freedom of assembly and association; however, the government did not permit either. For public gatherings, the government required those assembling to obtain a permit, although this requirement was enforced only sporadically.

Security forces disrupted public meetings and religious and cultural gatherings. Security forces typically photographed, interrogated, and recorded the names of participants.

On April 27, in the town of Segheneyti, police arrested 120 Catholic parishioners who were marching to the regional administrator's office to protest a government order for their priests to report to Sawa Military School. Those detained were later released.

Freedom of Association.—The law and unimplemented constitution provide for freedom of association; however, the government did not respect it in practice.

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.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law and unimplemented constitution provide for freedom of movement, foreign travel, emigration, and repatriation; however, the government restricted all of these rights in practice. For example, citizens participating in national

service were often denied internal travel permits, passports, and exit visas unless they received special privileges or paid bribes.

The government provided limited cooperation to the Office of the U.N. High Commissioner for Refugees (UNHCR) to provide protection and assistance to refugees recognized by the government. However, the government did not recognize refugees from Ethiopia or cooperate with the UNHCR on their behalf. The government's Office of Refugee Affairs managed the refugee camps, providing clinics, schools, and other resources. The camps were primarily composed of persons from Somalia and Sudan. Refugees from Ethiopia generally lived in the capital.

In-country Movement.—Citizens require government permission for most travel within the country and to change their places of residence. The government severely restricts travel to the border regions and even bans bus services to certain towns near the border with Ethiopia.

Military police periodically set up surprise checkpoints in Asmara and on roads between cities to find draft evaders and deserters. Police also stopped persons on the street and detained those who were unable to present identification documents or movement papers showing they had permission to be in that area.

Travel restrictions imposed in 2006 on noncitizens remained in effect. All diplomats, humanitarian organizations, U.N. staff, and foreign tourists were required to obtain advance permission from the government to leave Asmara. Travel restrictions were enforced at military checkpoints. Securing 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.

Prior to the closure of all international NGOs, the government prevented NGO travel by restricting fuel supplies and failing to respond to requests for travel permits.

Foreign Travel.—The government severely restricted foreign travel and continually modified its requirements to obtain passports and exit visas, sometimes suspending passport or exit visa services without warning. The prohibitive cost of passports deters many citizens from foreign travel. It costs a citizen in national service the equivalent of 40 percent of his or her gross yearly salary to obtain a valid passport. Some persons previously issued passports were not allowed to renew them, nor were they granted exit visas.

Citizens and some foreign nationals were required to obtain exit visas to depart the country. Persons routinely denied exit visas included men under the age of 54, regardless of whether they had completed national service; women younger than 47; members of Jehovah's Witnesses and other unregistered religious groups; persons who had not completed national service; and other persons out of favor with, or seen as critical of, the government. While not consistently implemented, some relaxation of exit visa requirements took place during the year, allowing an unknown number of persons below the described age cutoffs to leave the country without imposing additional bribes or favors to officials. Some females married more than 10 years and some persons released from national service received exit visas.

In 2006 the government began refusing to issue exit visas to children 11 years old and older. Increasingly, children of any age were denied exit visas either on the grounds that they were approaching the age of eligibility for national service or because their foreign-based parents had not paid the 2 percent income tax required of all citizens residing abroad. The government did not in general grant exit visas to entire families or both parents of children simultaneously in order to prevent families from fleeing the country. Some citizens were given exit visas only after posting bonds of approximately 150,000 nakfa (\$10,000) or more. Exit visa policies were frequently adjusted in nontransparent ways specifically to benefit the relatives of high-ranking government officials. For example, the government posted notices on current exit visa regulations in nondesignated, inconsistent, and inaccessible locations.

Emigration and Repatriation.—In general citizens had the right to return. However, citizens residing abroad 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 for future departures from the country. If the applicant had broken a law abroad, contracted a serious contagious disease, or was declared ineligible for political asylum by other governments, his or her application to return to the country was considered on a case-by-case basis.

In 2009 the government halted its repatriation program with the ICRC, preventing the repatriation of thousands of Ethiopians.

Citizenship.—The government does not recognize dual citizenship. It generally considered persons of Eritrean descent to be citizens. The government did not grant consular access to detained dual citizens. In 1994 the government revoked the citizenship of Jehovah's Witnesses due to their refusal to take part in the referendum on independence or participate in national service. Younger Jehovah's Witnesses who did not perform the compulsory military service were not able to obtain identification cards and thus were not eligible for any government sector jobs or for coupons to buy basic essentials (food and kerosene) at government-subsidized prices.

Internally Displaced Persons (IDPs).—While almost all IDPs from the conflict with Ethiopia were permanently resettled in previous years, hundreds of IDP families remained in the Gash Barka Region. The government allowed U.N. organizations and the ICRC to provide assistance to former IDPs.

Protection of Refugees.—Access to Asylum.—The country's laws do not specifically provide for the granting of asylum or refugee 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 did not grant Ethiopians asylum.

The government required noncitizens to pay an annual fee for a residency card; there was no discrimination regarding nationality in terms of protection of refugees, except for Ethiopians. The fee was 500 nakfa (\$33); the card was used to demonstrate that a foreigner was not indigent. If foreigners could not pay the fee, they were first referred to the ICRC for repatriation. If they refused repatriation, they were incarcerated for 60 days, at which point the cycle began again.

Refugee Abuse.—As in previous years the government systematically rounded up persons who had not performed military service and Ethiopians around the country's Independence Day (May 24). The Ethiopians were held in a camp until authorities verified they were not indigent or they paid a fine.

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 were harassed by government officials.

Temporary Protection.—The government provided temporary protection to 89 persons from Sudan, 3,865 persons from Somalia, and 77 persons from Ethiopia on a prima facie basis.

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.—Elections.—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.

Political Parties.—The country is a one-party state. Power rested with the PFDJ and its institutions. At times the government coerced persons to join the PFDJ. Although no other political parties operated in the country, citizens living abroad established several political parties and a shadow government in Ethiopia. During the year the government continued to label individuals as gay, traitors, rapists, pedophiles, and traffickers if they were deemed not loyal to the government.

Participation of Women and Minorities.—Almost all high-level government officials were former liberation fighters who had been in power since 1993. Women held four nominal ministerial positions in the government: justice, labor and human welfare, tourism, and health. Women also served in other government positions, such as mayors and regional administrators.

A few 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. The head of the navy was an ethnic Afar.

Section 4. Official Corruption and Government Transparency

The law does not provide criminal penalties for official corruption, and officials frequently engaged in corrupt practices with impunity.

Persons seeking executive and/or judicial services often must pay a “gift” or bribe through a system of patronage and cronyism to access services. There were reports of petty corruption within the executive branch, largely based on family connections. Judicial corruption was also a problem, and illegal acts such as property theft were not prosecuted when carried out by certain military officials or former fighters from the independence struggle who were in favor with the government. Officials involved in the penal system often manipulated the family members of those in detention for illegal bribes or other favors.

There were allegations of corruption among armed forces leaders involving illicit trade, the appropriation of houses, and the black market sale of goods such as diesel fuel and cement. Corruption was extensive for government services involving issuance of identification and travel documents, including in the passport office. Individuals requesting exit visas or passports often had to pay bribes.

Police, who often were conscripted, were paid 15 nakfa (\$1), and corruption was a problem. Reports were common of police and other security force members committing crimes to supplement their income, including breaking into homes to steal jewelry, money, and food. Police typically used their influence to assist friends and family, such as facilitating their release from prison. Reports were common that police demanded bribes to release detainees and that military personnel systematically accepted money to smuggle citizens from the country and cooperated with human trafficking groups. There were no mechanisms to address allegations of official abuse, and impunity was a problem.

Public officials were not subject to financial disclosure laws, and there was no government agency responsible for combating government corruption.

The government has a history of seizing successful private companies and transferring them to the PFDJ or the government. Individuals were not compensated for these seizures. The government provided privileges to former liberation “fighters” and their relatives by granting them access to business opportunities, licenses to import and export goods, education privileges, and property expropriated from “non-fighters.”

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

The government forced the closure of all remaining international NGO offices during the year (Oxfam, Lutheran World Federation, Irish Self-Help, Gruppo Missione Asmara of Italy, Refugee Trust International, and Norwegian Church Aid), and seized NGO property that it claimed belonged to the government. These NGOs filled gaps in essential services that the government did not provide, such as adequate access to food and water. Prior to the closure, the government sometimes prevented NGO travel by restricting fuel supplies and failing to respond to requests for travel permits.

Civil society organizations were few in number, lacked capacity, and were controlled by the government or fearful of government reprisal.

U.N. and Other International Bodies.—The government severely restricted U.N. operations in the country. The government did not permit the World Food Program, which maintained an office in the country, to conduct humanitarian food distribution, although it allowed UNICEF to continue its supplemental feeding programs under the supervision of the Ministry of Health. By requiring U.N. organizations to obtain permission for travel outside the capital, the government effectively controlled access to rural areas.

The government permitted only the ICRC to operate effectively, although it limited ICRC operations to repatriation, providing shelter to families displaced by the conflict with Ethiopia and providing assistance to IDPs. The government did not permit the ICRC to visit prisons or detention centers.

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

The law and unimplemented constitution prohibit discrimination against women, persons with disabilities, and discrimination based on race, language, and social status, but the government did not enforce these provisions.

Women.—Rape and Domestic Violence.—Rape is a crime punishable by up to 10 years of imprisonment. 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. Spousal rape is not specifically outlawed. No information was available on the prevalence of rape. Authorities often responded to reports of rape by encouraging the perpetrator to marry the victim. Allegations of women being raped while attending mandatory military and educational training at the Sawa camp were common.

Violence against women occurred and was pervasive in rural areas. Domestic violence is a crime; however, domestic violence cases were rarely brought to trial, and there were no legal penalties. 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.

Female Genital Mutilation (FGM).—(See section 6, Children—Harmful Traditional Practices).

Sexual Harassment.—Sexual harassment is illegal; however, cultural norms prevented women from reporting such incidents, and no one was known to have been charged or prosecuted for sexual harassment during the year.

Reproductive Rights.—Couples and individuals have 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. In January the government forced all private medical clinics to close. Maternal mortality was high due to lack of skilled medical personnel and supplies. The government runs a program for child and maternal health and funds contraception, but access to such programs in rural areas was limited.

Discrimination.—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, starting from grade 12, participate in national service, although girls already married were generally exempt. During the year the government continued efforts to detain female draft evaders and deserters. Women drafted for national service were often subjected to rape, sexual harassment, and other abuse.

The Ministry of Labor and Human Welfare and the Ministry of Health are the primary government offices responsible for ensuring legal rights of women along with the quasigovernmental National Union of Eritrean Women (NUEW).

Children.—Birth Registration.—Citizenship is derived from at least one parent being an Eritrean citizen. Registration of a new birth within the first three months of a child's life requires only a hospital certificate; after three months the parents must present themselves to the local (zoba) authorities with the child and three witnesses. If not registered a child cannot attend school but can receive medical treatment at hospitals. An increasing number of persons registered their children within the three-month period to avoid complications. Persons born abroad to at least one Eritrean parent are considered citizens. Some persons born to Eritrean parents in Eritrea were not able to obtain national identity cards and government services due to government discrimination—for example, members of certain religious groups.

Education.—Education through grade seven is compulsory and tuition-free; however, students were responsible for uniforms, supplies, and transportation, which were 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. Schools have two shifts, which reduces the amount of teaching time per student. Three students often have to share a single chair. In rural areas young girls usually discontinued school early to work at home.

The government requires all students (except girls already married, who were generally exempt) who reached the final year of secondary school to attend grade 12 at the Sawa military and educational camp 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. Many students repeated grades, dropped out of school after the 11th grade, or attempted to leave the country to avoid being forced to go to the camp. In addition, some female students married to avoid being forced to attend the camp. Women could earn an alternative secondary school certificate by attending night school after completing national service. There were reports that students whose parents were liberation fighters were favored over others in assignment of living accommodations, shorter terms of na-

tional service, more frequent approvals for temporary leave from military training, and greater opportunities for study.

Child Abuse.—There are no laws against child abuse and no government programs to combat the problem. Physical punishment was widespread and socially accepted.

Child Marriage.—The legal minimum age for marriage for both men and women is 18, although religious entities may bless marriages at younger ages. UNICEF reported in 2009 that 46 percent of girls were married before reaching 18.

Harmful Traditional Practices.—The law prohibits FGM. According to reliable sources, the practice of FGM has been largely eliminated in urban areas through the impact of government educational campaigns, but FGM continued among the majority rural population. Before recent campaigns largely eliminated FGM in urban areas, international organizations reported that 95 percent of girls had undergone FGM, and that figure was likely still accurate in rural regions. In the lowlands, infibulation—the most severe form of FGM—was practiced. The government and other organizations, including the NUEW and the National Union of Eritrean Youth and Students, continued to sponsor a variety of education programs that discouraged the practice.

Sexual Exploitation of Children.—The law criminalizes child prostitution, pornography, and sexual exploitation. The minimum age for consensual sex is 18. There were several known locations in the capital where prostitution, including child prostitution, took place.

Child Soldiers.—The law prohibits the recruitment of children under 18 into the armed forces; however, in practice younger children were conscripted by their forced attendance at Sawa military and educational camp. Those who did not attend remain at risk of arrest. Students at Sawa were typically 18 years old or older, although a fair percentage were as young as 16.

Displaced Children.—During the year humanitarian groups and interlocutors continued to anecdotally note 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 outstripped the program's ability to provide services.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were fewer than 10 Jews in the country. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/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. Reports of discrimination against persons with disabilities, especially in rural areas, were common. This was particularly the case for those who were not former liberation fighters. 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 later conflict with Ethiopia. There are no laws mandating access for persons with disabilities to public roads, public or private buildings, information, and communications. A few hotels and government offices provided such access or employed guards that would provide assistance as needed. The Ministry of Labor and Human Welfare was responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Discrimination against minorities was a problem. There were reports of government and societal discrimination against the Kunama, one of nine ethnic groups, who reside primarily in the northwest.

Web sites stated that the government ignored the impact of the June 12 Nabro volcano eruption on ethnic minorities who resided in the area near the volcano.

Governmental and societal abuse of Ethiopians occurred. Ethiopians were arbitrarily arrested and asked to pay bribes to be released.

Requests from citizens in rural areas (where ethnic minorities are concentrated) for basic services, such as an adequate number of schools, were routinely ignored by the government.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law criminalizes consensual same-sex sexual activity. Individuals continued to be detained for alleged consensual same-sex sexual activity. During the year there were unconfirmed reports that the government carried out periodic roundups of individuals considered gay or lesbian. Gay men and lesbians

faced severe societal discrimination. The government repeatedly accused foreign governments of promoting homosexuality to undermine the government. There were reports that known gay men and lesbians in the armed forces were subjected to severe abuse. There were no known lesbian, gay, bisexual, or transgender organizations in the country.

Other Societal Violence or Discrimination.—There was no known societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides workers with the legal right to form and join unions to protect their interests; and allows unions to conduct their activities without interference. However, some government policies severely restricted free association or prevented the formation of some unions, including within the civil service, armed forces, police, and other organizations providing essential services. The Ministry of Labor and Human Welfare must grant special approval for groups of 20 or more persons seeking to form a union. The law prohibits antiunion discrimination. While the law provides for the reinstatement of union leaders dismissed for union activity, it does not provide this same protection for other workers. The law also provides for collective bargaining and the right to strike. The law provides for a fine of 1,200 nakfa (\$80) as penalty for antiunion discrimination or acts of interference. According to the International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations, this fine did not constitute an adequate protection. There were no penal provisions specifically covering such violations.

In practice freedom of association and the right to collective bargaining continued to be restricted during the year. The government continued to fail to enforce applicable laws. The government ran all unions, including the Teachers' Union, Women's Union, Youth's Union, and Workers' Union. Membership in these unions was required as a precondition for working in their respective fields. Union leaders were typically government employees, and union activities were generally government sanctioned. While there were no reports that the government either opposed or approved the formation of labor associations during the year, the threat of disappearance for organizing without government permission prevented the formation of independent unions.

The only legal unions are government-controlled and typically acted to prevent workers from organizing. As all unions were subservient to the government, there was no free, independent collective bargaining during the year. The ability of government-backed industries to use national service conscripts as free or cheap sources of labor on nonmilitary projects prevented labor market competition. As all unions were closely aligned with the government, they did not exercise or promote the right to strike.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. However, the country's mandatory national service program of indefinite duration requires conscripts to perform a wide variety of both military and nonmilitary activities, including harvesting and work in the service sector. There were also reports that military officials used soldiers in national service to perform free labor for personal tasks such as construction of houses and crop harvesting. Conscription into mandatory, open-ended service begins at the senior year of high school for all students; they are required to spend their senior year at the Sawa military and education camp. Some students enter Sawa as early as the age of 16 or 17 and begin national conscripted labor while still under 18.

With few exceptions the government requires all men and women upon graduation from high school to participate in the national service program until demobilization, which includes 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 at below minimum wage rates with no prospective end date, no promotion or salary increases, and restricted freedom of movement. The government justified its open-ended draft on the basis of Ethiopia's occupation of some Eritrean territory. 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 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.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The legal minimum age for employment is 14, although this does not apply to self-employed workers. The minimum age for hazardous work is 18. The law prohibits minors from working in transport industries or working underground, such as in mines and sewers. However, children in apprenticeships may engage in these hazardous work assignments, provided they are supervised by a competent authority. It was unclear at what age a child may become an apprentice.

Labor inspectors from the Ministry of Labor and Human Welfare are responsible for enforcing child labor laws; however, laws were not enforced. Inspections, if conducted at all, were infrequent; and penalties, if imposed, were arbitrary. Although the government had a national plan of action to protect children from exploitation in the workplace, it was not enforced, and the government refused to provide information on what actions it was taking to protect children from exploitation.

The Ministry of Education continued *mahtot*, a national program by which schools designate students from ninth, 10th, and 11th grades to participate in summer work programs. News reports from state-run media indicated that these students engaged in various activities such as environmental conservation, road construction and maintenance, production and maintenance of school furniture, and laying power lines/telephone cables. In addition, the government requires all secondary school students to complete 12th grade at the Sawa military and educational camp.

Children were engaged in child labor, including the worst forms of child labor, many of them in agriculture, domestic service, and automotive repair; however, data on the extent of child labor was not available. Children in rural areas assisted with farming, fetched firewood and water, and herded livestock. In urban areas children worked in small-scale manufacturing, car and bicycle repair shops, tea and coffee shops, or the transportation of grain and other goods via donkey carts. Some children worked in the streets cleaning cars or selling cigarettes, newspapers, or chewing gum. Begging and prostitution among children in Asmara also occurred. Persons who fled the country reported that police arrested children and forced them into military service and other forms of national service despite their being younger than the minimum working age.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The government sets wages for union workers, employees of PFDJ-owned enterprises, and government employees. There is no national minimum wage for the private sector. The standard workweek was 44.5 hours, but forced overtime without fair compensation was often required by employers. There are no prohibitions against excessive overtime. Workers were legally entitled to overtime pay, except for those employed under national service, but this was not enforced. Workers were entitled to one rest day per week; most received one to one-and-one-half days off. There were no known occupational health and safety standards or enforcement mechanisms.

Civil service employees and national service recruits were paid according to a fixed scale, the most common salary being 500 nakfa (\$33) per month. For most professions wages had not increased for more than a decade despite high inflation. Inspection and enforcement were nonexistent or varied widely among work places. In practice some workers removed themselves from dangerous work sites without retaliation.

Abuses pertaining to wage, overtime, or safety and health standards were common in all sectors. During the year there was discrimination against foreign or migrant workers, especially Ethiopians, who could not receive food coupons and were periodically arrested without cause and not released until they paid a fine.

ETHIOPIA

EXECUTIVE SUMMARY

Ethiopia is a federal republic led by Prime Minister Meles Zenawi and the Ethiopian People's Revolutionary Democratic Front (EPRDF). In national parliamentary elections in May 2010, the EPRDF and affiliated parties won 545 of 547 seats to remain in power for a fourth consecutive five-year term. The EPRDF is made up of four ethnically based political organizations: the Tigrayan People's Liberation Front, Amhara National Democratic Movement, Oromo People's Democratic Organization, and Southern Ethiopian People's Democratic Movement. Although the rel-

atively few international officials allowed to observe the elections concluded that technical aspects of the vote were handled competently, some also noted that an environment conducive to free and fair elections was not in place prior to election day. Several laws, regulations, and procedures implemented since the 2005 national elections created a clear advantage for the EPRDF throughout the electoral process. Security forces generally reported to civilian authorities; however, there were instances in which special police and local militias acted independently of civilian control.

The most significant human rights problems included the government's arrest of more than 100 opposition political figures, activists, journalists, and bloggers. The government charged 14 of those arrested under the antiterrorism proclamation. In addition it charged another 17 persons outside the country in absentia under this proclamation. The government restricted freedom of the press, and fear of harassment and arrest led journalists to practice self-censorship. The Charities and Societies Proclamation (CSO law) continued to impose severe restrictions on civil society and nongovernmental organization (NGO) activities.

Other human rights problems included torture, beating, abuse, and mistreatment of detainees by security forces; harsh and at times life-threatening prison conditions; arbitrary arrest and detention; detention without charge and lengthy pretrial detention; infringement on citizens' privacy rights, including illegal searches; allegations of abuses in connection with the continued low-level conflict in parts of the Somali region; restrictions on freedom of assembly, association, and movement; police, administrative, and judicial corruption; 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; clashes between ethnic minorities; discrimination against persons based on their sexual orientation and against persons with HIV/AIDS; limits on worker rights; forced labor; and child labor, including forced child labor.

Impunity was a problem. The government did not take steps to prosecute or otherwise punish officials who committed abuses other than corruption.

The Ogaden National Liberation Front (ONLF), an ethnically based, violent, and increasingly fragmented separatist group operating in the Somali region, was responsible for abuses.

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 during the year.

Human Rights Watch reported that it received reports of five to six persons dying due to security force beatings in connection with the government's "villagization" program during the year (see section 1.f.).

In May gunmen linked to the ONLF killed a humanitarian aid worker (see section 1.g.).

Clashes between ethnic groups during the year resulted in dozens of deaths, as well as the displacement of persons (see sections 2.d. and 6, National/Racial/Ethnic Minorities).

b. Disappearance.—There were no reports of politically motivated disappearances; however, there were credible reports that security officials temporarily detained opposition activists and held them incommunicado.

The ONLF held two humanitarian aid workers for more than six weeks (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 credible reports that security officials tortured and otherwise abused detainees.

Authorities reportedly tortured Ethiopian National Unity Party president Zerihun Gebre-Egziabher and journalist Woubishet Taye, two of the nine persons arrested June 19-21 and accused of terrorist activity and involvement with the Oromo Liberation Front (OLF) (see section 1.e.).

In November 2010 the U.N. Committee Against Torture reported that it was "deeply concerned" about "numerous, ongoing, and consistent allegations" concerning "the routine use of torture" by the police, prison officers, and other members of the security forces—including the military—against political dissidents and opposition party members, students, alleged terrorists, and alleged supporters of violent separatist groups like the ONLF and the OLF. The committee reported that such acts frequently occurred with the participation of, at the instigation of, or with the consent of commanding officers in police stations, detention centers, federal prisons, military bases, and unofficial or secret places of detention. Some reports of such abuses continued during the year.

Numerous credible sources confirmed in 2009 that in Maekelawi, the central police investigation headquarters in Addis Ababa, police investigators often used physical abuse to extract confessions. Citizens widely believed that such treatment remained a common practice at Maekelawi. Authorities continued to restrict access by diplomats and NGOs to Maekelawi.

Prison and Detention Center Conditions.—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 (\$0.46) 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. Many prisoners had serious health problems in detention but received little treatment.

The country has three federal and 120 regional prisons. There also are many unofficial detention centers throughout the country, including in Dedessa, Bir Sheleko, Tolay, Hormat, Blate, Tatek, Jijiga, Holeta, and Senkele. Most are located at military camps.

At the end of 2010 there were an estimated 86,000 persons in prison, of whom 2,474 were women and 546 children incarcerated with their mothers. Juveniles sometimes were incarcerated with adults who were awaiting execution. Male and female prisoners generally were separated. Authorities generally permitted visitors. In some cases family visits to prisoners were restricted to a few per year. Some of those charged with terrorist activity reported that their families were not allowed to visit them in prison.

Prisoners generally were permitted religious observance, but this varied by prison, and even by section of prison, at the discretion of prison management. Prisoners may, during trial, make complaints about prison conditions or treatment to the presiding judge.

During the year the International Committee of the Red Cross (ICRC) visited regional prisons but, like all international organizations and NGOs, remained barred from visiting federal prisons, which held persons accused or convicted of crimes against national security, and all prisons in the Somali region. Regional authorities allowed NGO representatives to meet regularly with prisoners without third parties present.

The government and prison authorities generally cooperated with efforts of the Ethiopian NGO Justice for All-Prison Fellowship Ethiopia (JFA-PFE) to improve prison conditions. JFA-PFE was granted access to various prison and detention facilities, including federal prisons. It ran “model” prisons in Adama and Mekele, with significantly better conditions than those found in other prisons.

Because the government routinely failed to meet its accepted obligation to notify diplomatic missions of the arrest of foreign nationals, foreign representatives had only rare access to prisons and other detention facilities.

d. Arbitrary Arrest or Detention.—Although the constitution and law prohibit arbitrary arrest and detention, the government often ignored these provisions in practice.

Role of the Police and Security Apparatus.—The Federal Police Commission reports to the Ministry of Federal Affairs, which is subject to parliamentary oversight; however, this oversight was loose in practice. Each of the country’s nine regions has a state or special police force that reports to the regional civilian authorities. Local militias operated across the country in loose coordination with regional and federal police and the military, with the degree of coordination varying by region. In many cases these militias functioned as appendages of local EPRDF political bosses.

Security forces were effective, but impunity remained a serious problem. The mechanisms used to investigate abuses by the federal police were not known. Since 2010 regional police in the Somali region came under increasing control by the regional government and several members were subject to arrest for acts of indiscipline. The government rarely publicly disclosed the results of investigations into abuses by local security forces, such as arbitrary detention and beatings of civilians. In its November 2010 report, the U.N. Committee Against Torture noted that there were “numerous and consistent reports” about the government’s “persistent failure” to investigate allegations of torture and prosecute perpetrators, including Ethiopian National Defense Force (ENDF) or police commanders. The committee further noted the absence of information on cases in which soldiers and police or prison officers were prosecuted, sentenced, or subjected to disciplinary sanctions for acts of torture or mistreatment.

The government continued its efforts to provide human rights training for police and army recruits. During the year the government continued to accept assistance from the JFA-PFE and the Ethiopian Human Rights Commission (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. The JFA-PFE and the EHRC conducted human rights training for police commissioners, prosecutors, judges, prison administrators, and militia in Tigray; Amhara; Oromia; Afar; Southern Nations, Nationalities, and People's Region (SNNPR); Gambella; and Addis Ababa.

Arrest Procedures and Treatment While in Detention.—Although the constitution and law require that detainees be brought to court and charged within 48 hours of arrest, sometimes this requirement was not respected in practice. With court approval, however, persons suspected of serious offenses can be detained for 14 days without being charged and for additional 14-day periods if an investigation continues. Under the antiterrorism law, police may request to hold persons without charge for 28-day periods, up to a maximum of four months. The law prohibits detention in any facility other than an official detention center; however local militias and other formal and informal law enforcement entities used dozens of unofficial local detention centers.

A functioning bail system was in place. Bail was not available for murder, treason, and corruption. In most cases authorities set bail between 500 and 10,000 birr (\$29 and \$580), which was too costly for most citizens. Police officials did not always respect court orders to release suspects on bail. The government provided public defenders for detainees unable to afford private legal counsel, but only when their cases went to court. While detainees were in pretrial detention, authorities allowed them little or no contact with legal counsel.

Arbitrary Arrest.—Authorities regularly detained persons without warrants and denied access to counsel and in some cases to family members, particularly in outlying regions.

The government arrested more than 100 opposition political figures, activists, journalists, and bloggers.

In contrast with previous years, there were no reports that Ethiopian asylum seekers deported from Yemen were detained upon return to the country.

Pretrial Detention.—Some prisoners reported being detained for several years without being charged and without trial. Pretrial detention continued to decline during the year. Approximately 80 percent of those incarcerated during the year in Amhara, Benishangul-Gumuz, Oromia, SNNPR, and Tigray had been sentenced.

Trial delays were most often caused by lengthy legal procedures, the large numbers of detainees, judicial inefficiency, and staffing shortages.

Amnesty.—On June 1, after extensive lobbying by the Ethiopian Orthodox Church and other religious institutions, and despite the protests of the family members of victims of the Red Terror, the government commuted the death sentences of 23 officials of the previous military regime, known as the Derg (1974-91). The officials, convicted of genocide, had their sentences reduced to life imprisonment; 16 of those officials were released from prison on October 4 for good behavior.

On September 10, in keeping with a long-standing tradition of issuing pardons at the Ethiopian New Year, the government pardoned 2,620 prisoners. In addition the SNNPR government pardoned 5,671 prisoners.

On September 27, officials commuted the life sentence of Ginbot 7 member Tsige Habtemariam and released him. Tsige was more than 80 years old at the time of his release. Tsige is the father of Andargachew Tsige, the secretary general of Ginbot 7, who received a death sentence in absentia in 2009.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary. Although the civil courts operated with a large degree of independence, the criminal courts remained weak, overburdened, and subject to political influence. The upper house of parliament has sole responsibility for judging the constitutionality of proposed new laws, handling judicial appointments, and reviewing judicial conduct. Courts have the ability to convict defendants on charges not raised by the prosecution.

Regional offices of the federal Ministry of Justice, known as bureaus of justice, monitored developments in local courts, but the federal judicial presence in the regions was otherwise limited. Some regional courts had jurisdiction over both local and federal matters, as the federal courts in those jurisdictions were not operational. Many citizens residing in rural areas generally had little access to formal judicial systems and relied on traditional mechanisms of resolving conflict.

A severe lack of experienced staff in the judicial system sometimes made 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 this training.

The seventh criminal branch of the Federal Court of First Instance, 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 often were delayed significantly and given low priority.

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. Sharia (Islamic) courts may hear religious and family cases involving Muslims. In addition other traditional systems of justice, such as the Council of Elders, continued to function. These customary mechanisms resolved disputes for the majority of citizens who lived in rural areas. Some women complained of lack of access to free and fair hearings in the traditional justice system because they were excluded by custom from participation in the Council of Elders and because there was strong gender discrimination in rural areas.

Trial Procedures.—By 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. The law gives defendants the right to present witnesses and evidence in their defense, cross-examine prosecution witnesses, and access government-held evidence. However, in practice the government did not always respect the right of access to evidence it held. In some sensitive cases deemed to involve matters of national security, notably the Ginbot 7 and OLF trials, detainees stated that authorities initially denied them the right to see attorneys. The court system does not use trial by juries. Unlike in previous years, there were no reports that persons charged with corruption were denied access to evidence against them prior to their trials.

Judicial inefficiency and lack of qualified staff often resulted in serious delays in trial proceedings. The Public Defender’s Office provided legal counsel to indigent defendants, although its scope and quality of service remained limited due to the shortage of attorneys.

During the year 31 persons were charged with terrorist activities under the antiterrorism proclamation, including 12 journalists, opposition political figures, and activists based in the country; two foreign journalists; and 17 Ethiopians living abroad who were charged in absentia. The first formal charges in such cases were filed on September 6. Several international human rights organizations raised concerns over the law’s broad definition of terrorism, as well as its severe penalties, its broad rules of evidence, and the discretionary powers afforded police and security forces. In at least one case defense attorneys were not given access to the prosecution’s evidence before the start of the trial.

Political Prisoners and Detainees.—The government arrested more than 100 persons between March and September, including opposition political figures, activists, journalists, and bloggers. The government charged several of those arrested with terrorist or seditious activity, but observers found the evidence presented at trials to be either open to interpretation or indicative of acts of a political nature rather than linked to terrorism.

Estimates on the number of political prisoners varied. Domestic and international NGOs estimated that there were 200 to 300 political prisoners and detainees at year’s end. The government did not permit access by international human rights organizations.

From March 13 to 16, in the Oromia region the government arrested members of the Oromo Federalist Democratic Movement (OFDM) and the Oromo People’s Congress (OPC). The opposition parties stated that the government arrested 74 of their members and claimed that the arrests were politically motivated. The government stated that authorities arrested 120 persons, and that those arrested were affiliated with the OLF.

A second wave of arrests between June and September included a number of prominent journalists, political opposition figures, and activists, many of whom the government alleged were involved with terrorism. For example, on September 14, authorities arrested Andualem Arage, the vice chairman of the opposition front Medrek and a Unity for Democracy and Justice Party (UDJ) official; the well known blogger and journalist Eskinder Nega; and the UDJ official Natnael Mekonnen. Representatives of the opposition said that the arrests were politically motivated. The trial continued at year’s end.

Civil Judicial Procedures and Remedies.—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 police often ignored the law, and there were no records of courts excluding evidence found without warrants. Opposition political party leaders reported suspicions of telephone tapping and other electronic eavesdropping. In 2009 a former employee of the Ethiopian Telecommunication Corporation (ETC), the state-run monopoly telecommunications and Internet provider, reported from self-imposed exile that the government had ordered ETC employees to record citizens' private telephone conversations unlawfully. It was widely believed that this practice continued during the year. In at least one instance, a foreign diplomat received a communication from a service provider stating that the government had accessed the diplomat's private e-mail account.

The government reportedly used a widespread system of paid informants to report on the activities of particular individuals. During the year opposition members reported that ruling party operatives and militia members made intimidating and unwelcome visits to their homes, although the number of reports of such visits declined significantly compared with the previous year, when there was an election.

Human Rights Watch and some opposition parties alleged that the government politicized foreign donor assistance and that humanitarian assistance was used as an incentive to secure support for the ruling coalition. In 2010 the donor community based in the country, collectively known as the Development Assistance Group, conducted an assessment of the four largest donor-supported development programs. The assessment concluded that all four programs had accountability systems in place that provided effective checks against distortion for political purposes in the distribution of assistance.

Security forces continued to detain family members of persons sought for questioning by the government. There were credible reports that unemployed youths who were not affiliated with the ruling coalition sometimes had trouble receiving the "support letters" from their kebeles (neighborhoods or wards) necessary to get jobs.

The national government and regional governments continued to put in place "villagization" plans in the Gambella, Benishangul-Gumuz, and Somali regions. These plans involved the resettlement of scattered rural populations from arid or semiarid lands vulnerable to recurring droughts into designated clusters by regional governments. The stated purposes of villagization were to improve the provision of government services (i.e., health care, education, and clean water), protect vulnerable communities from natural disasters and attacks, and change environmentally destructive patterns of shifting cultivation. However, some observers stated that the purpose was to enable the large-scale leasing of land for commercial agriculture, a claim the government denied. The plan involved the resettlement of 45,000 households in Gambella and Benishangul-Gumuz and 70,000 in the Somali region from 2008-11. The government described the villagization program as strictly voluntary, and assessments by international donors found no systematic evidence to the contrary. These assessments found that communities and individual families appeared to have agreed to move based on assurances from authorities of food aid, services, and land, although in some instances communities moved before adequate basic services and shelter were in place in the new locations. They also noted that community members who objected to moving were allowed to stay, with consultations continuing, and some persons later returned to their original homes without hindrance. A Human Rights Watch report characterized the process as "far from voluntary." The report described a process in which security forces and local militia attended meetings with those communities that had initially indicated they did not want to move and later went with villagers to the new locations, where they oversaw the construction of tukuls (traditional huts) by the villagers. According to the report, security forces beat (sometimes leading to death), threatened, arrested without charge, and detained persons who were critical of planned villagization of their communities, and this caused persons to fear speaking out against the process.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Since 1994 the ONLF has engaged in armed conflict with the government. During the year scattered fighting continued between government forces, primarily regional government-backed militia, and residual elements of the ONLF. Allegations of human rights abuses committed by government forces (including regional police), government-aligned local militias, and ONLF forces continued. Often fighting was reported only well after the fact with the opposing sides alleging vastly differing and unverifiable

accounts of events. In June parliament declared the ONLF and four other entities as terrorist organizations.

Most allegations of human rights abuses involving government actors came from ONLF sources, typically conveyed via diaspora blogs, and could not be readily investigated. Some villagers continued to report that local authorities threatened to retaliate against anyone who reported abuses by security forces. The number of reports of such human rights abuses continued to decline. The “Admiral Osman faction” of the ONLF, consisting of hard-core fighters and supported by the Eritrean government, was believed to be responsible for an attack against aid workers on May 13 and attacks against the government. Deliveries of food and medicine were temporarily halted in the limited areas affected by fighting due to security concerns.

The 2010 peace agreements that the government signed with the United Western Somali Liberation Front and the Salahdin Ma’ow faction of the ONLF held.

Killings.—On May 13, gunmen affiliated with the ONLF attacked a vehicle belonging to the U.N. World Food Program (WFP), killed its driver, Farhan Hamsa, and injured one other staff member.

Abductions.—The persons responsible for the May 13 attack on the WFP vehicle also kidnapped two other WFP employees in the vehicle. The ONLF admitted that it had the two employees in its custody without taking responsibility for the attack. On June 30, the ONLF released the two WFP employees unharmed.

Child Soldiers.—There was no additional information regarding reports in past years that some local militias in the Somali region recruited child soldiers.

Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

Other Conflict-related Abuses.—Civilians, international NGOs, and other aid organizations operating in the Somali region reported that government security forces, local militias, and the ONLF committed abuses such as arbitrary arrest to intimidate the civilian population. In contrast with the previous year, there were no reports that special police and or militias forcibly relocated whole villages believed to be supportive of the ONLF.

Restrictions that limited the access of NGOs and journalists to conflict regions continued, although these were relaxed significantly in comparison with previous years and large portions of the region were opened to diplomatic visitors. At year’s end no areas of the region were officially off-limits, and the government generally encouraged travel in the region as a means of spurring potential investment. The government continued strongly to advise caution in areas of recent fighting. Journalists must register before entering conflict regions. NGOs had to request permission to enter the Fik zone in the Somali region. There were isolated reports of regional police or local militias blocking NGO access to particular locations on particular days, citing security concerns as the reason for this. NGO workers generally turned back and did not press the point. Several foreign missions and other groups continued to exercise caution in traveling to the area.

Authorities arrested and convicted two Swedish journalists who entered the Somali region after crossing the border from Somalia illegally; the journalists were in the company of ONLF fighters when they were arrested (see section 2.a.). The government continued to ban the ICRC from the region, having previously alleged that it cooperated with the ONLF. During the year some humanitarian groups reported roadblocks manned by insurgent groups that occasionally briefly detained them. These same humanitarian groups reportedly were interrogated by the ENDF on their encounters with insurgents at the roadblocks.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of 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.

Freedom of Speech.—Authorities arrested and harassed persons for criticizing the government.

Freedom of Press.—Approximately 20 private Amharic- and English-language newspapers with political and business focuses were published, with a combined weekly circulation in Addis Ababa of more than 150,000. Most newspapers were printed on a weekly basis with the exception of the state-owned Amharic and English dailies.

The government controlled the only nationally broadcast television station which, along with radio, was the primary source of news for much of the population. Apart from three private FM radio stations in the capital city and community radio stations in the regions, the government controlled all radio broadcasting.

Government-controlled media mostly reflected the views of the government and the ruling EPRDF coalition. The government periodically jammed foreign broadcasts. For example, Voice of America's Amharic-language programs experienced periodic jamming throughout the year. Deutsche Welle also reportedly experienced jamming in early April. The broadcasting law prohibits political and religious organizations or foreigners from owning broadcast stations.

Violence and Harassment.—The government continued to arrest, harass, and prosecute journalists, publishers, and editors. During the year the government arrested nine journalists, five of whom remained in custody at year's end. Two journalists fled the country, citing fear of arrest; one of the two reported having his accreditation revoked prior to departure.

On February 8, the Ministry of Justice filed approximately 130 charges against Temesgen Dessalegn, editor in chief and owner of the private Amharic weekly newspaper Feteḥ. The charges included 35 criminal offenses and approximately 100 other allegations. Dessalegn was charged with inciting public violence and protests in order to boost sales. Reportedly, the charges cited articles in 13 issues of the newspaper published between September and December 2010 as "defaming the EPRDF and the government, inciting the public against the government and the constitution, and dishonoring the flag."

In November Dawit Kebede, editor in chief of the Awramba Times, reportedly fled the country due to harassment and intimidation by government officials. Following his departure the Awramba Times ceased publication. Its license was in Dawit's name and was essentially nontransferable.

Censorship or Content Restrictions.—Government harassment of journalists caused them to fear reporting on sensitive topics. Many private newspapers reported informal editorial control by the government through article placement requests and calls from government officials concerning articles perceived as critical of the government. Private-sector and government journalists routinely practiced self-censorship. In contrast with previous years, there were no reports that the government used its licensing authority to censor the media indirectly.

Libel Laws/National Security.—The government used the antiterrorism law to suppress criticism. Journalists feared reporting on the five groups designated by parliament in June as terrorist organizations (Ginbot 7, the ONLF, the OLF, al-Qaida, and Al Shabaab), citing ambiguity on whether reporting on these groups might be punishable under the law. From June through September, the government arrested and charged five journalists under the antiterrorism proclamation. Several journalists, both local and foreign correspondents, reported an increase in self-censorship.

On June 19 and 21, authorities arrested nine persons under the antiterrorism proclamation, including two journalists—Woubishet Taye, deputy editor of the Awramba Times, and Feteḥ columnist Reyot Alemu—as well as Zerihun Gebre-Egziabher, president of the Ethiopian National Unity Party. Reports indicated that Woubishet and Reyot were not allowed to receive visitors and did not have access to counsel while awaiting formal charges, although they had counsel once their trial began. The families of Zerihun and Woubishet stated that the two men had been tortured. On September 6, Woubishet, Reyot, and Zerihun were charged formally with terrorist activity. The trial continued at year's end. Four others of those arrested were later released.

On June 30, Swedish freelancers Johan Persson and Martin Schibbye, a photographer and a journalist, respectively, were arrested in the Somali region. Reports indicated that they were found with a group of ONLF rebels and that prior to their capture the rebels and government troops were in a firefight. The journalists admitted to embedding themselves with the ONLF and entering Ethiopia illegally but otherwise denied actual involvement with or support for the organization. On December 21, they were found guilty of rendering support to a terrorist organization and illegally entering the country. They each received sentences of 11 years in prison.

The government did not use libel laws during the year to suppress criticism.

Publishing Restrictions.—The government owned the only high-quality newspaper printing press and regularly increased costs to publishers. Reports indicated that this practice influenced the circulation numbers of the private newspapers, forcing them to adjust their printing runs according to what they could afford. One private publisher claimed to have purchased and imported a news printing press but cited government-imposed obstacles that prevented delivery and installation.

Internet Freedom.—The government restricted access to the Internet and blocked several Web sites, including news sites, blogs, opposition Web sites, and Web sites of domestic groups designated as terrorist organizations by parliament (Ginbot 7,

the OLF, and the ONLF). Several news blogs and Web sites run by opposition diaspora groups, such as Addis Neger, Nazret, Ethiopian Review, CyberEthiopia, Quatero Amharic Magazine, Tensae Ethiopia, and the Ethiopian Media Forum, were not accessible. In general blog sites were not accessible. The news Web site for VOA News was only available periodically, although users could generally access their proxy Web sites.

On September 14, authorities arrested the journalist and blogger Eskinder Nega (see section 1.e., Political Prisoners and Detainees).

Academic Freedom and Cultural Events.—The government restricted academic freedom, including the curriculum, teachers' appointments, and student enrollment decisions. Speech, expression, and assembly frequently were restricted on university and high school campuses.

Students in schools and universities were indoctrinated in the core precepts of the ruling EPDRF party's concept of "revolutionary democracy." According to credible sources, the ruling party "stacks" student enrollment at Addis Ababa University, which is the nation's largest and most influential university, with students loyal to the party to ensure further adherence to the party's principles and to forestall any student protest.

The government also restricted academic freedom in other ways. Authorities did not permit teachers at any level to deviate from official lesson plans and actively prohibited partisan political activity and association of any kind on university campuses. Numerous anecdotal reports suggested that non-EPRDF members were more likely to be transferred to undesirable posts and bypassed for 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.

Some college students reportedly were pressured to pledge allegiance to the EPDRF in order to secure enrollment in universities or government jobs after graduation. According to multiple credible sources, teachers and high school students in grade 10 and above were required to attend training on the concepts of revolutionary democracy and EPDRF party ideology. Many students reportedly believed that they needed EPDRF membership to gain admission to a university and consequently became members.

During the year the Ministry of Education relaxed some restrictions in its 2010 directive prohibiting private universities from offering degree programs in law and teacher education. The directive also requires private universities to align their curriculum offerings with the previously announced ministry's policy of a 70-to-30 ratio between science and social science academic programs. Private university curricula had focused heavily on the social sciences. Ministry officials originally cited a need to maintain quality standards as the reason for the directive.

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. On one occasion during the year, authorities injured and arrested protestors who were reportedly demonstrating without a permit.

Organizers of large public meetings or demonstrations must notify the government 48 hours in advance and obtain a permit. Local government officials, almost all of whom were affiliated with the EPDRF, controlled access to municipal halls, and there were many complaints from opposition parties that local officials denied or otherwise obstructed the scheduling of opposition parties' use of halls for lawful political rallies.

Regional governments, including the Addis Ababa regional administration, were reluctant to grant permits or provide security for large meetings.

In September the All Ethiopia Unity Party and Ethiopia Unity Democratic Organization stated that they were not granted permission by the Addis Ababa city administration to hold a peaceful demonstration.

Freedom of Association.—Although the law provides for freedom of association and the right to engage in unrestricted peaceful political activity, the government limited this right in practice.

In accordance with the CSO law, anonymous donations to NGOs are not permitted. All donors are therefore aware that their names will be public knowledge. The same is true of all donations made to political parties.

The Ministry of Foreign Affairs screens registration applications from international NGOs and submits a recommendation on whether to approve or deny registration.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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.

The government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and returning citizens.

In-country Movement.—The government relaxed but did not completely remove restrictions on the movement of persons into and within the Ogaden area of the Somali region, continuing to argue that the ONLF posed a security threat (see section 1.g.).

Exile.—The law prohibits forced exile, and the government did not employ it. Several citizens sought political asylum in other countries or remained abroad in self-imposed exile, including prominent human rights advocates. For example, during the year Awramba Times editor Dawit Kebede fled the country after receiving information that he was going to be imprisoned (see section 2.a., Violence and Harassment).

Internally Displaced Persons (IDPs).—The total number of IDPs in the country during the year was not known. Many persons who had been displaced due to conflict in Gambella, Oromia, SNNPR, and the Somali region remained displaced. Drought also caused displacements during the year.

The government did not recognize IDPs as a distinct group, and there was no specialized office charged with managing matters such as IDP protection, return, resettlement, or durable solutions. The government did not maintain data on IDPs. The Federal Disaster Risk Management and Food Security Sector, under the authority of the Ministry of Agriculture and Rural Development, is the main government agency responsible for emergencies, in collaboration with the Ministry of Health and the Ministry of Water and Energy.

Government restrictions on the access of human rights organizations, the media, humanitarian agencies, and diplomatic missions to conflict-affected areas significantly decreased in comparison with previous years. There were isolated reports of regional police or local militias blocking NGO access to particular locations on particular days, citing security concerns as the reason for this. NGO workers generally turned back. Access to conflict-affected IDPs often was difficult and limited; hence assistance provided to them was often inadequate.

During the year drought caused displacements in the Somali region, a situation exacerbated in some cases by the continuing conflict (see section 1.g.). The government limited humanitarian access to the Fik zone of the Somali region.

In Oromia religious violence caused temporary displacement. In March between three thousand and four thousand evangelical Protestants were displaced temporarily when Muslims attacked and burned more than 60 homes and churches in Asendabo, a small town near Jimma, the principal city of western Oromia. The federal police quelled the violence. Virtually all of those who left had returned to their homes by year's end.

Protection of Refugees.—*Access to Asylum.*—The law provides for the granting of asylum or refugee status and the government has established a system for providing protection to refugees.

According to the UNHCR, the country hosted 290,304 refugees at year's end. The majority of refugees were from Somalia (185,473), with others coming from Sudan and South Sudan (46,129) and Eritrea (55,085). New arrivals from Somalia increased significantly during the year, most being women and children who were not in good health. Most Somali refugees went to camps in the Dollo Ado area. Deaths of Somali refugee children increased significantly compared with previous years, mainly due to severe malnutrition. Mortality rates peaked in July and August. In August the UNHCR reported that an average of 10 children under age five died every day in Kobe camp (located in the Dollo Ado area) since it opened in June.

The UNHCR, the government, and humanitarian agencies activated contingency plans to care for Sudanese arrivals who fled from conflict in Sudan's Blue Nile State.

Eritrean asylum seekers continued to arrive at the rate of approximately 1,000 new arrivals per month, according to the UNHCR. Hundreds of Eritrean refugees reportedly departed monthly on secondary migration through Egypt and Sudan to go to Israel, Europe, and other final destinations. The UNHCR assisted in the reception and transportation back to My Ayni or Adi Harush camps of more than 723 Eritrean refugees who had been detained in Egypt and deported by the Egyptian authorities. The UNHCR reported that the population of unaccompanied minors who fled Eritrea was 1,197 at year's end. Unaccompanied minors in the 15- to 17-

year-old age group represented more than 75 percent of the total population of such minors, who stated they fled Eritrea to avoid military conscription.

Refugee Abuse.—The out-of-camp policy for Eritrean refugees, which permits Eritrean refugees to live outside the camps, remained in place. Prior to this policy, such permission was given primarily to attend higher education institutions, undergo medical treatment, or avoid security threats at the camps. Officially, the out-of-camp policy is not extended to refugees from places other than Eritrea. However, in practice such persons were not prevented from moving in and out of camps.

Employment.—The government does not grant refugees work permits.

Access to Basic Services.—Refugees in camps were provided with schooling and health services. For those outside of camps, there were no reports of discrimination in access to public services.

Durable Solutions.—During the year, the International Organization for Migration processed 4,746 refugees who departed for resettlement and family reunification abroad.

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. In practice the country has never had a peaceful change of government.

Elections and Political Participation.—Recent Elections.—In the May 2010 national parliamentary elections, the EPRDF and affiliated parties won 545 of 547 seats to remain in power for a fourth consecutive five-year term. In simultaneous elections for regional parliaments, the EPRDF and its affiliates won 1,903 of 1,904 seats. The EPRDF and its affiliates received approximately 79 percent of total votes cast but won more than 99 percent of all seats at all levels. Independent observation of the vote was severely limited due to government restrictions. Although the relatively few international officials allowed to observe the elections concluded that technical aspects of the vote were handled competently, some also noted that an environment conducive to free and fair elections was not in place prior to election day. Several laws, regulations, and procedures implemented since the 2005 national elections created a clear advantage for the EPRDF throughout the electoral process. There was ample evidence that unfair government tactics—including intimidation of opposition candidates and supporters—influenced the extent of the EPRDF victory. In addition voter education was limited in scope to information about technical voting procedures and done only by the National Electoral Board, and then only days before voting began.

The African Union, whose observers arrived one week before the vote, pronounced the elections as free and fair. The European Union, some of whose observers arrived a few months before the vote, concluded that the elections fell short of international standards for transparency and failed to provide a level playing field for opposition parties. Overall the EU observed a “climate of apprehension and insecurity,” noting that the volume and consistency of complaints of harassment and intimidation by opposition parties was “a matter of concern” and had to be taken into consideration “in the overall assessment of the electoral process.”

Political Parties.—Political parties were predominantly ethnically based. Membership in the EPRDF conferred advantages upon its members; the party directly owned many businesses and was broadly perceived to award jobs and business contracts to loyal supporters. The opposition reported that in many instances local authorities told its members to renounce their party membership and join the EPRDF if they wanted access to subsidized seeds and fertilizer; food relief; civil service job assignment, promotion, or retention; student university assignment and post-graduate 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 such as the OFDM and the OPC, the Oromia regional government continued to threaten to dismiss opposition party members—particularly teachers—from their jobs. At the university level, however, members of Medrek and its constituent parties were able to teach.

Registered political parties must receive permission from regional governments to open and occupy local offices.

In early 2010 a system of public campaign finance was announced. Under this system parties are to receive public funds based in part on the number of parliamentary seats they hold.

Participation of Women and Minorities.—No laws or cultural or traditional practices prevented women or minorities from voting or participating in political life on the same basis as men or nonminority citizens.

The government policy of ethnic federalism led to the creation of individual constituencies to provide for representation of all major ethnic groups in the House of People's Representatives. There were more than 80 ethnic groups, and small groups lacked representation in the legislature. There were 24 nationality groups in six regional states (Tigray, Amhara, Beneshangul-Gumuz, SNNPR, Gambella, and Harar) that did not have a sufficient population to qualify for constituency seats based on the 2007 census result; however, in the May 2010 elections, individuals from these nationality groups competed for 24 special seats in the House of People's Representatives. Additionally these 24 nationality groups have one seat each in the unelected, largely ceremonial House of Federation.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; despite the government's prosecution of numerous officials for corruption, some officials continued to engage in corrupt practices. Corruption, especially the solicitation of bribes, remained a problem among low-level bureaucrats. Police and judicial corruption also continued to be problems. Some government officials appeared to manipulate the privatization process, and state- and party-owned businesses received preferential access to land leases and credit.

The Ministry of Justice has primary responsibility for combating corruption, largely through the Federal Ethics and Anti-Corruption Commission.

A large number of arrests for corruption were made during the year, including of significant regional politicians and government officials. For example, in May authorities arrested the deputy head of the Bureau of Land Administration and Environmental Protection for the Oromia region, Mohammed Ebrahim Mussa, on corruption charges. The Oromia Ethics and Anti-Corruption Commission arrested more than 60 government officials in the first half of the year.

On August 16, eight team leaders and staff members of the Department of Trade, Industry, and Transport in two Oromia cities, Adama and Bishoftu, received fines and prison terms of up to five and a half years. They were convicted of misusing their offices for illicit gain in the importation of duty-free vehicles; the financial loss to the government was reportedly 1,755,585 birr (\$101,950). In addition 26 other individuals convicted of benefiting from the scheme received similar sentences.

The law requires that all government officials and employees officially register their wealth and personal property. The president, prime minister, and all cabinet-level ministers registered their assets by the end of 2010, and by the next September a total of 9,102 elected officials, political appointees, and public servants had registered their assets, according to the Federal Ethics and Anti-Corruption Commission.

There was progress in the 2008 case of former ETC managing director Tesfaye Birru and 12 other senior management staff accused of approving an equipment and technology contract that violated government bid regulations and cost 1.52 billion birr (\$88.3 million). On August 24, the federal high court convicted five of the 13 defendants and sentenced them to five to nine years in prison and fines of 7,000 to 40,000 birr (\$406 to \$2,323).

The law provides for public access to government information, but access was largely restricted in practice. The law included freedom of information provisions.

The government publishes its laws and regulations in the national gazette prior to their taking effect. The Government Communications Affairs Office managed contacts between the government, the press, and the public; however, the private press reported that the government rarely responded to its queries.

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

A few domestic human rights groups operated, but with significant government restriction. The government was generally distrustful and wary of domestic human rights groups and international observers. State-controlled media were critical of international human rights groups such as Human Rights Watch. The government strongly criticized Human Rights Watch on several occasions during the year for what it described as biased and inaccurate reporting.

The CSO law prohibits charities, societies, and associations (NGOs or CSOs) that receive more than 10 percent of their funding from foreign sources from engaging in activities that advance human and democratic rights or promote equality of nations, nationalities, peoples, genders, and religions; the rights of children and persons with disabilities; conflict resolution or reconciliation; or the efficiency of justice

and law enforcement services. There were 3,522 organizations registered before the CSO law was adopted, although not all were active, and as of June 2,059 CSOs—old and new—were registered under the law. Of these, 262 were foreign charities, 1,330 were “resident” charities, 371 were “local” charities, 62 were adoption agencies, and 34 were consortia. The government maintained that the majority of organizations that did not reregister were not functional organizations prior to the passage of the law. In December the government participated in the first session of a civil-society sector working group with donor countries and resident CSOs. Some human rights defender organizations adjusted by registering either as local charities, meaning that they could not raise more than 10 percent of their funds from foreign donors but could act in the enumerated areas, or as resident charities, which allowed foreign donations above 10 percent but prohibited activities in the enumerated areas.

Two prominent human rights defender organizations—the Human Rights Council (HRCO) and the Ethiopian Women Lawyers’ Association (EWLA)—registered as local charities to preserve their mission and adjust to the law. However, due to the restrictions of the CSO law, both the HRCO and the EWLA cut most of their staff in 2010, drastically reducing the services they provided. In 2010 the Charities and Societies Association (CSA), set up by the government to oversee NGOs, froze the accounts of these two and four other organizations, claiming that funds raised in 2009 would have to be cross-checked against the annual work plan for the year. The funds remained frozen during the year. On October 25, the Federal High Court 11th Civil Bench upheld the CSA’s decision to block the funds. Both the EWLA and the HRCO signed agreements with the government-run EHRC that allowed them to gain access to some limited funding through the EHRC. The EWLA’s agreement with the EHRC allowed it to establish legal aid centers in tandem with the government-run agency, which effectively began to expand the organization again during the year.

The government denied NGOs access to federal prisons, police stations, and political prisoners.

Restrictions that limited access of NGOs and journalists to conflict regions continued, although these were relaxed significantly compared with previous years. Journalists must register before entering conflict regions. NGOs had to request permission to enter the Fik zone in the Somali region. There were isolated reports of regional police or local militias blocking NGOs’ access to particular locations on particular days, citing security concerns as the reason for this (see section 1.g.).

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 allegations of abuse.

On August 27, authorities jailed Bekele Gerba, an Addis Ababa University professor and deputy chairman of the opposition OFDM, as well as OPC member Olbana Lelisa. Representatives of Amnesty International had met with Bekele and Olbana several days prior to their arrest. Bekele and Olbana were accused of involvement with the OLF. At the same time, 20 Addis Ababa University students were arrested under similar allegations, and several remained incarcerated at year’s end. The government also expelled the Amnesty International staff from the country. Court proceedings against Bekele and Olbana were beginning at year’s end.

U.N. and Other International Bodies.—The government generally cooperated with international organizations such as the U.N.

Government Human Rights Bodies.—The government-established EHRC, which is funded by the parliament and subject to parliamentary review, investigates human rights complaints and produces both annual and thematic reports, although it did not release any reports during the year. The commissioner reported that 11 investigative reports were issued. He also stated that the commission established 106 legal aid centers, 16 of which were affiliated with universities and 31 with the EWLA, pursuant to an agreement that enables the EWLA branches to access EHRC funds. The EHRC itself also reviewed more than 1,400 complaints submitted to it during the year, the vast majority of which were not directed against the government or government bodies. The EHRC, however, is not a body independent of government influence, as it is controlled by parliament.

The Office of the Ombudsman has the authority to receive and investigate complaints with respect to administrative mismanagement by executive branch offices. The agency received hundreds of complaints during the year, mainly focused on delays or denials in services, improper institutional decisions, promotions or demotions, and pension matters. It was not known which complaints were investigated or acted upon.

In September the government launched a steering committee for its National Action Plan on Human Rights; however, no action took place by year's end.

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

The constitution 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.—Rape and Domestic Violence.—The law criminalizes rape and provides for 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. Recent statistics on the number of abusers prosecuted, convicted, or punished were not available.

Domestic violence, including spousal abuse, was a pervasive social problem. The government's 2005 Demographic and Health Survey (DHS) 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 SNNPR 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, but government enforcement of laws against rape and domestic violence was inconsistent. Depending on the severity of damage inflicted, legal penalties range from small fines to imprisonment for up to 10 to 15 years.

Domestic violence and rape cases often were delayed significantly and given low priority (see section 1.e.). On December 17, Fisseha Tadesse was convicted of attempted murder after gouging out his ex-wife's eyes. On December 30, he was sentenced to 14 years' imprisonment. In the context of gender-based violence, significant gender gaps in the justice system remained, due to poor documentation and inadequate investigation.

During the year the Ministry of Health began the expansion of the rape crisis center at Gandhi Hospital into a training center for health workers, law enforcement personnel, and others. Police officers were required to receive domestic violence training from domestic NGOs and the Ministry of Women's Affairs. There was a deputy commissioner of women's and children's rights in the EHRC.

Women and girls experienced gender-based violence, but it was underreported due to cultural acceptance, shame, fear, or a victim's ignorance of legal protections.

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. During the year the commission focused its efforts on workshops and seminars, and not on investigations.

Female Genital Mutilation (FGM).—One of the most prevalent harmful traditional practices, FGM, is illegal, but the government did not enforce this prohibition or punish those who practiced it. The practice was still widespread but declining. The 2000 DHS found that 80 percent of all women surveyed had undergone FGM, while the total dropped to 74 percent of all women surveyed in 2005. In addition the number of younger women subjected to FGM was declining more rapidly; in 2005, 81 percent of women ages 35-39 had been subjected to FGM, compared with 62.1 percent of women ages 15-19. 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 (see Children, Harmful Traditional Practices).

Other Harmful Traditional Practices.—The most prevalent harmful traditional practices, besides FGM, were uvulectomy (cutting or removal of the uvula, the piece of flesh that hangs down at the rear of the mouth), tonsillectomy (cutting or removal of the tonsils), and marriage by abduction.

Marriage by abduction is illegal, although it continued in some regions, including Amhara, Oromia, and SNNPR, 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. Ethiopia Goji Limadawi Dirgitoch Aswogaj Mahibar (EGLDAM), an NGO that combats harmful traditional practices, reported in June 2010 that there were significant decreases in this practice in all regions over the past decade. Over-

all, 25 percent of women ages 60 and above reported marriage by abduction, but only 8 percent of women under age 30 reported this practice.

Sexual Harassment.—Sexual harassment was widespread. The penal code prescribes penalties of 18 to 24 months' imprisonment; however, harassment-related laws generally were not enforced.

Reproductive Rights.—Neither law nor practice curtailed the right of individuals to decide freely and responsibly the number, spacing, and timing of children, and to have the information and means to do so free from discrimination, coercion, and violence. The 2011 DHS Preliminary Report indicated a contraceptive prevalence of 29 percent nationwide among married women, a twofold increase from five years ago. A 2009 modeling study by the World Health Organization indicated that the maternal mortality rate was 590 per 100,000 live births. The principal causes of maternal mortality were excessive bleeding, infection, hypertensive complications, and obstructed labor, and the underlying cause for these was the prevalence of home births. Only 9 percent of women reported delivering in a health facility or with a skilled birth attendant.

Discrimination.—Discrimination against women was most acute in rural areas, where an estimated 82 percent of the population lived. 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, 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. Land law varies among regions. All 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.

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 the opportunity to own or manage a business was further limited by their low level of education and training and by traditional attitudes.

The Ministry of Education reported that female participation in undergraduate and postgraduate programs increased to 123,706 during the 2010-11 academic year, compared with 90,938 in 2008-09, continuing the trend of rising female participation in tertiary education.

Children.—Birth registration.—Citizenship is derived from one's parents. The law requires that all children be registered at birth. In practice children born in hospitals were registered while most children born outside of hospitals were not. The overwhelming majority of children, particularly in rural areas, were born at home.

Education.—As a policy, primary education was universal and tuition-free; 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. The number of students enrolled in schools expanded faster than trained teachers could be deployed.

Child Abuse.—Child abuse was widespread. A 2009 study conducted by the African Child Policy Forum revealed that prosecuting offenders for 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 the victim's family to drop the charges.

Harmful Traditional Practices.—Societal abuse of young girls continued to be a problem. Harmful practices 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 abused sexually and 84 percent had been abused physically.

The majority of girls in the country had undergone some form of FGM. FGM was much less common in urban areas, where only 15 percent of the population lived. Girls typically experienced clitoridectomies seven days after birth (consisting of an excision of the clitoris, often with partial labial excision) and faced infibulation (the most extreme and dangerous form of FGM) at the onset of puberty. A 2008 study

funded by Save the Children Norway reported a 24 percent national reduction in FGM cases over the previous 10 years, due in part to a strong anti-FGM campaign. The campaign continued to have an effect in SNNPR and Afar during the year. The penal code criminalizes practitioners of clitoridectomy, with imprisonment of at least three months or a fine of at least 500 birr (\$29). 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, the Health Extension Program, and broader mass media campaigns (see Women, Female Genital Mutilation (FGM)).

Child Marriage.—The law sets the legal marriage age for girls and boys at 18; however, this law was not enforced uniformly. In several regions it was customary for older men to marry young girls, although this traditional practice continued to face greater scrutiny and criticism. Child marriage was a problem, particularly in Amhara and Tigray, where girls were married routinely as early as age seven, despite the legal minimum age of 18 for marriage. Regional governments in Amhara and Tigray ran programs to educate young women on issues associated with early marriage. There were some signs of growing public awareness in communities of the problem of abuse of women and girls, including early marriage.

Sexual Exploitation of Children.—The minimum age for consensual sex is 18 years, but this law was not strictly enforced. The law provides for three to 15 years in prison for sexual intercourse with a minor. The law provides for one year in prison and a fine of 10,000 birr (\$580) for trafficking in indecent material displaying sexual intercourse by minors. The law prohibits profiting from the prostitution of minors and inducing minors to engage in prostitution; however, commercial sexual exploitation of children continued, particularly in urban areas. Girls as young as age 11 reportedly were recruited to work in brothels and often sought by customers who believed them to be free of sexually transmitted diseases. Young girls were trafficked from rural to urban areas. They also were 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.

Infanticide.—Ritual and superstition-based infanticide continued in remote tribal areas, particularly the South Omo Valley. Local government worked to educate communities against the practice.

Displaced Children.—According to a 2010 report by the Ministry of Labor and Social Affairs, approximately 150,000 children lived on the streets, and 60,000 of these children lived in the capital. The ministry's report stated that families' inability to support children due to parental illness and insufficient household income exacerbated the problem. 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.

Institutionalized Children.—There were an estimated 5.4 million orphans in the country, according to a 2010 report by the Central Statistics Authority. The vast majority lived with extended family members. 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. There were multiple international press reports that parents received payment from some adoption agencies to relinquish their children for international adoption, and that some agencies concealed the age or health history of children from their adoptive parents and also misled birth parents about the conditions of adoption. The government had begun to investigate the allegations.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community numbered approximately 2,000; there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The constitution does not mandate equal rights for persons with disabilities. However, two laws prohibit discrimination against persons with physical and mental disabilities in employment and mandate access to buildings. It is illegal for deaf persons to drive.

The Right to Employment of Persons with Disabilities Proclamation prohibits employment discrimination on the basis of disability. It also makes employers responsible for providing appropriate working or training conditions and materials to persons with disabilities. The law specifically recognizes the additional burden on

women with disabilities. The government took limited measures to enforce the law, for example, by assigning interpreters for hearing-impaired civil service employees.

The Ethiopian Building Proclamation mandates building accessibility and accessible toilet facilities for persons with physical disabilities, although specific regulations that define the accessibility standards have not been adopted. Buildings and toilet facilities were usually not accessible. 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 with disabilities in education and employment. An Addis Ababa University study from 2008 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 girls without disabilities.

There were approximately seven million persons with disabilities, according to the Ethiopian Federation of Persons with Disabilities. There were 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 prohibits organizations receiving more than 10 percent of their funding from foreign sources from promoting the rights of persons with disabilities. Several domestic associations, such as the Ethiopian National Association of the Blind, Ethiopian National Association of the Deaf, and Ethiopian National Association of the Physically Handicapped continued to be affected negatively by the legislation.

National/Racial/Ethnic Minorities.—The country has more than 80 ethnic groups, of which the Oromo, at 35 percent of the population, is the largest. 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.

Clashes between ethnic groups during the year resulted in deaths. Water shortages contributed to interethnic conflict.

On January 2, a territorial dispute in SNNPR between members of the Guji Oromo and the Sidama ethnic groups left five persons dead and 11 injured.

On April 4, a dispute in SNNPR over land ownership between members of the Geweda and Kolme ethnic groups resulted in the death of three persons and the injury of seven others. The federal police and local administration intervened quickly to bring calm to the area.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Consensual same-sex sexual activity is illegal and punishable by imprisonment under the law. There were some reports of violence against lesbian, gay, bisexual, and transgender (LGBT) individuals; however, reporting was limited due to fears of retribution, discrimination, or stigmatization. Persons did not identify themselves as LGBT persons due to severe societal stigma and the illegality of consensual same-sex sexual activity.

In early December Christian and Muslim religious leaders attempted to derail a seminar on sexual health that was targeted at men who have sex with men. The government intervened, and the seminar went ahead, although at a different location.

The AIDS Resource Center in Addis Ababa reported that the majority of self-identified gay and lesbian callers, the majority of whom were male, requested assistance in changing their behavior to avoid discrimination. Many gay men reported anxiety, confusion, identity crises, depression, self-ostracism, religious conflict, and suicide attempts.

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. Freedom of Association and the Right to Collective Bargaining.—The law provides most workers with the right to form and join unions. However, the law specifically excludes managerial employees, teachers, and civil servants (including judges, prosecutors, and security service workers) from organizing unions.

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. The law stipulates that a trade union organization may not act in an overtly political manner. Seasonal and part-time agricultural workers cannot organize into labor unions. The law prohibits antiunion discrimination by employers and provides for reinstatement for workers fired for union activity.

The law protects the right of collective bargaining for most workers.

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 when the case is referred to a court or a labor relations board. The law requires aggrieved workers to attempt reconciliation with employers before striking and includes a lengthy dispute settlement process. These provisions 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 a case has not already been referred to a court or labor relations board, workers retain the right to strike without resorting to either of these options, provided they give at least 10 days' notice to the other party and the Ministry of Labor and Social Affairs 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.

The government permits unions in practice. Approximately two-thirds of union members belonged to organizations affiliated with the Confederation of Ethiopian Trade Unions. There was no reported government interference in trade union activities during the year, although the major trade unions were government-established entities. There were no reports that the government used its authority to refuse to register trade unions during the year. Approximately 400,000 workers were union members. Based on a 2008 Council of Ministers' regulation, the government sued the Workers' Association of the National Bank of Ethiopia (central bank) in the federal High Court, claiming that the bank was a nonprofit government agency and that the labor union should be dissolved. In 2009 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; however, the worker's association was not functional.

The government allowed citizens to exercise the right of collective bargaining freely. Labor experts estimated that collective bargaining agreements covered more than 90 percent of unionized workers. Representatives negotiated wages at the plant level. It was common for employers to refuse to bargain. Unions in the formal industrial sector made some efforts to enforce labor regulations.

Despite the law prohibiting antiunion discrimination, 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. While the law prohibits retribution against strikers, 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. Prohibition of Forced or Compulsory Labor.—The law prohibits most forms of forced or compulsory labor, including by children; however, the law also permits courts to order forced labor as a punitive measure. The government did not effectively enforce the forced labor prohibition.

Forced labor occurred in practice. Both adults and children were forced to engage in street vending, begging, traditional weaving, or agriculture work. Children also worked in forced domestic labor. Situations of debt bondage also occurred in traditional weaving, pottery, cattle herding, and other agricultural activities, mostly in rural areas.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—By law the minimum age for wage or salary employment is 14 years. The minimum age provisions, however, do not apply to self-employed children. 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 or between 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 passenger transport, electric generation plants, underground work, street cleaning, and many other sectors.

The government did not effectively enforce these laws in practice. The resources for inspections and the implementation of penalties were extremely limited. Child labor issues are covered by the Ministry of Labor and Social Affairs, with support from the Ministry of Women, Youth, and Children. Cooperation, information sharing, and coordination between and among the ministries improved during the year. 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 in cases of the violation of children's rights was minimal.

Child protection units, which the NGO Forum for Street Children (FSCE) had sponsored, ceased child protection activities at the end of 2010 due to restrictions in the CSO law and did not resume them during the year. The FSCE changed its name to Forum on Sustainable Child Empowerment and piloted a child-labor-free zone at the subcity level in Addis Ababa. In this zone the FSCE worked with child protection officers, labor inspectors, and police to reintegrate child laborers.

During the year the government continued to invest in modernizing agricultural practices as well as in constructing schools to combat the problem of children in agricultural sectors.

Child labor remained a serious problem, both in urban and rural areas. According to the Ministry of Labor and Social Affairs, many children worked for their families without pay. In both rural and urban areas, children often began working at young ages. The Ministry of Labor and Social Affairs reported that two of five working children were below the age of six. Child labor was particularly pervasive in subsistence agricultural production, traditional weaving, and small-scale gold mining. Children in rural areas, especially boys, also engaged in activities such as cattle herding, petty trading, plowing, harvesting, and weeding, while other children, mostly girls, collected firewood and fetched water. Children in urban areas, including orphans, also worked in domestic service, often working long hours, which prevented many from attending school regularly. Children in urban areas also worked in construction, manufacturing, shining shoes, making clothes, portering, directing customers to taxis, parking, public transport, petty trading, and occasionally herding animals. Child laborers often faced physical, sexual, and emotional abuse at the hands of their employers.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilib/programs/ocft/tda.htm>.

d. 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 420 birr (\$24); employees in the banking and insurance sector had a minimum monthly wage of 336 birr (\$20).

Wages in the informal sector were generally below subsistence levels. 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 was concentrated in urban areas.

The 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. The country has 13 paid public holidays per year. The law entitles employees in public enterprise and government financial institutions to overtime pay; civil servants receive compensatory time for overtime work.

The government, industries, and unions negotiated occupational health and safety standards. Workers have the right to remove themselves from dangerous situations without jeopardizing their employment. However, due to lack of resources, the Ministry of Labor and Social Affairs inspection department did not effectively enforce occupational health and safety standards. Lack of detailed, sector-specific health and safety guidelines also precluded enforcement. The country had 130 labor inspectors. Penalties were not sufficient to deter violations. Compensation, benefits, and working conditions of seasonal agricultural workers were far below those of unionized permanent agricultural employees. Although the government did little to enforce the law, in practice most employees in the formal sector worked a 39-hour workweek. However, many foreign, migrant, and informal sector workers worked more than 48 hours per week.

Despite the law providing for the right to remove themselves from dangerous situations without jeopardizing their employment, most workers feared losing their jobs if they were to do so. The Ministry of Labor and Social Affairs did not have an effective mechanism for receiving, investigating, and tracking allegations of violations.

Hazardous working conditions existed in the agricultural sector, which was the most primary base of the country's economy. There also were reports of hazardous and exploitative working conditions in the fledgling construction and industrial sectors. The Ministry of Labor and Social Affairs attempted to enforce occupational health and safety laws, but its investigative and administration capacity was severely limited.

GABON

EXECUTIVE SUMMARY

Gabon is a republic dominated by a strong presidency and the Democratic Party of Gabon (PDG), which has held power since 1968. In 2009 President Ali Bongo Ondimba was elected in a poll characterized by international observers as generally free and fair, although irregularities and post-election violence occurred. Security forces reported to civilian authorities.

The most important human rights problems in the country were ritual killings, harsh prison conditions, and lengthy pretrial detention.

Other major human rights problems included: police use of excessive force; an inefficient judiciary subject to government influence; restrictions on privacy and the press; harassment and extortion of African immigrants and refugees; widespread government corruption; violence against women; societal discrimination against women, noncitizen Africans, Pygmies, and persons with HIV/AIDS; trafficking in persons, particularly children; and forced child labor.

The government sometimes took steps to prosecute and punish officials who committed abuses, but impunity was a problem.

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 a police officer was sentenced to 20 years in prison for the November 2010 killings of his girlfriend and another man.

Ritual killings, in which limbs and/or genitals were amputated, occurred. Most victims were children. Although authorities condemned the killings, there were no known investigations or prosecutions of such cases. The local nongovernmental organization (NGO) Association to Fight Ritual Crimes (ALCR) reported that 62 victims of ritual killings were identified during the year. The actual number of victims was probably higher, according to the ALCR, which noted that many ritual crimes were not reported or were incorrectly identified. The government has an anonymous call line for reporting possible ritual crimes.

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, security forces sometimes employed them. There were reports in recent years that security forces beat 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 round up and deport irregular immigrants. Refugees continued to complain of harassment and extortion by security forces.

Children were injured and killed by practitioners of ritual crimes (see section 1.a.).

Prison and Detention Center Conditions.—Prisons were old and overcrowded, and conditions were harsh. Food, sanitation, and ventilation were poor, although basic medical care was provided. Prisons had adequate lighting and access to potable water, but there were no air conditioners in prisons or jails, and temperatures often exceeded 95 degrees Fahrenheit. Onsite nurses provided medical care, and prisoners needing emergency medical care were transported to hospitals. NGOs, family members, and private citizens occasionally made contributions to augment prisoners' poor food rations.

At least eight prisoners died during the year due to poor hygiene or malnourishment.

For example, two days after their June arrival in Bitam detention center, three irregular immigrants died due to dehydration. The cause of the dehydration was unclear. After an investigation was conducted, the government announced that their deaths resulted from cholera. There were other reports suggesting that the deaths resulted from insufficient food and water. Three high-level gendarmerie officials were suspended in connection with the incident.

Prison authorities did not keep records, and it was unknown how many prisoners were in the country's nine prisons, which held an estimated 2,750 inmates and detainees in 2006. Libreville's central prison held an estimated 1,500 prisoners, although the prison was built to hold 300. Pretrial detainees were held with convicted prisoners, and juveniles were held with adults. There were reports that adult prisoners sexually abused juvenile prisoners.

Conditions in jails and detention centers were harsh and mirrored those in prisons. Overcrowding was pervasive.

Prisoners and detainees were allowed to worship without hindrance, and Catholic, Protestant, and Muslim services were regularly held in the prisons. Family visits were permitted in both prisons and jails.

Prisoners and detainees could submit written complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. However, no such complaints were submitted during the year.

During the year the Ministry of Justice took control of prisons from the Ministry of Interior. In November 2010 the minister of justice visited Libreville's central prison and characterized conditions there as harsh.

The government encouraged independent monitoring of prison conditions by human rights organizations and NGOs. The International Committee of the Red Cross and the NGO Cri de Femmes visited prisons during the year. They reported noticeable efforts by the government to improve prison conditions despite budget constraints. For example, medical supplies and more nutritious food rations were increased in Libreville's central prison, and floor mats were supplied after the first lady noted that inmates often slept on the ground. The government also prohibited the common practice by prison guards of cutting the hair of female inmates, a cultural taboo.

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

Security forces arbitrarily arrested a journalist, irregular immigrants, and opposition members during the year (see sections 2.a., 2.d, and 3).

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. Elements of the armed forces and the Republican Guard, an elite unit that protects the president, sometimes performed internal security functions. The Inspector General's Office was responsible for investigating police abuse and conducted several investigations during the year (see section 4).

Police were inefficient and corrupt. Security force members sought bribes to supplement their salaries, often while stopping vehicles at legal roadblocks to check vehicle registration and identity papers. During the year the minister of interior implemented an internal sanction system meant to combat such extortion. Police officers were required also to wear a badge with an ID number to aid citizens seeking to report extortion attempts. In a public statement during the year, the president reminded citizens that any fees associated with being stopped by the police were to be paid directly to the Treasury Department. The government also hired approximately 3,000 security force members, including gendarmes and police.

The Ministry of Interior collaborated with the local NGO Croissance Saine Environnement to conduct human rights training for police and prison guards.

Arrest Procedures and Treatment While in Detention.—Although the law requires arrest warrants based on sufficient evidence and issued by a duly authorized official, security forces frequently disregarded these provisions. The law allows authorities up to 48 hours to detain initially a suspect without charge, but police often failed to respect this time limit. Detainees were usually informed promptly of charges against them, although authorities often did not file charges expeditiously. Conditional release was possible after charges had been announced if further investigation was required. Detainees were allowed prompt access to family members and a lawyer or, if indigent, to one provided by the state. There was a functioning bail system.

Pretrial Detention.—The law limits pretrial detention to six months for a misdemeanor and one year for a felony charge, with six-month extensions if authorized by the examining magistrate. Nevertheless, prolonged pretrial detention was com-

mon as a result of overburdened dockets and an inefficient judicial system. Approximately one-third of inmates were held in pretrial detention, which sometimes lasted up to three years.

Amnesty.—During the year the president granted amnesty to 53 nonviolent prisoners.

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 was accountable. Corruption was a problem.

During the year the president signed into law a new penal code to increase judicial efficiency, enhance the rights of defendants, and incorporate modern crimes—such as trafficking in persons and drugs—into the law. The president also appointed the country's first judge who specializes in juvenile cases.

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 traditional chief, particularly in rural areas, but the government did not always recognize such decisions.

Trial Procedures.—The constitution provides for the right to a public trial and to legal counsel, and the government generally respected these rights. 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 are presumed innocent and have the right to be present. Indigent defendants in both civil and criminal cases have the right to an attorney provided at state expense; however, this right was seldom respected in practice. Defendants have the right to confront witnesses against them, present witnesses or evidence on their behalf, have access to government-held evidence against them through their lawyer, and appeal. The government generally respected these rights, which were extended 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 system to seek civil remedies, but it was susceptible to government influence and corruption. Persons seeking damages for, or cessation of, human rights violations could seek relief in the civil court system. Corruption was also a problem in the enforcement of domestic court orders.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—Although the constitution and law prohibit such actions, the government did not always 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 irregular immigrants and criminals. Authorities also reportedly monitored private telephone conversations, personal mail, and the movement of citizens.

Beginning in August, the government began a bulldozing campaign to remove illegal structures, including homes, built on or infringing on public property. The campaign resulted in homelessness for numerous citizens. Since most of the targeted homes were unlawfully constructed, their owners were not compensated for the loss. In most cases the individuals evicted were not the property owners and had nowhere else to go. The government defended the action by saying that illegal structures close to utilities and the street impeded traffic and violated zoning laws. Noting the country's housing shortage (160,000 homes are reportedly needed in Libreville alone), President Bongo Ondimba claimed the bulldozing campaign was part of a necessary urban planning effort. Critics charged that the government provided little or no advance notice of the bulldozing campaign (a claim disputed by the government) and that alternate lodging was not offered to evicted residents. Observers also noted that new housing projects to address the housing shortage had been paralyzed due to pervasive corruption at the Ministry of Habitat and Urban Planning (see section 4).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press, and the government generally respected these rights, although the government suspended a private newspaper and television station during the year.

Freedom of Speech.—Individuals could criticize the government, including the president, publicly or privately, without reprisal.

Freedom of Press.—The only major daily newspapers were the government-affiliated l'Union and Gabon Matin. Approximately 23 privately owned weekly or monthly newspapers represented independent views and those of various political parties, but some 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.

The government owned and operated two radio stations that broadcast throughout the country. Seven privately owned radio stations were operating at year's end. International radio stations also broadcast locally.

The government owned and operated two television stations. Six privately owned television stations also operated.

Violence and Harassment.—On June 2, the publication director of the pro-opposition newspaper Echos du Nord was escorted to a police station and questioned about an article that included a picture of a purported birth certificate of President Ali Bongo Ondimba as evidence the president was born outside of Gabon. The editor was released after two hours, but on June 10, Echos du Nord was suspended. The National Council for Communication (CNC) claimed the newspaper had violated the communication code by publishing information that could cause public panic or unrest. The newspaper, which reopened 30 days later, continued to publish at year's end.

On January 26, the CNC suspended private television channel TV+, owned by opposition leader Andre Mba Obame. The CNC charged TV+ with violating the communication code for broadcasting a ceremony in which Mba Obame declared himself president and swore himself in (see section 3). On April 18, the CNC lifted the suspension nine days before it was due to expire.

Censorship or Content Restrictions.—Some journalists continued to practice occasional self-censorship.

Libel Laws.—Libel can be either a criminal offense or a civil matter. Editors and authors of libelous articles can be jailed for two to six months and fined 500,000 to five million CFA francs (\$1,037 to \$10,370). Penalties for libel and other offenses also include a one- to three-month publishing suspension for a first offense and a three- to six-month suspension for repeat offenses.

Internet Freedom.—There were no government restrictions on access to the Internet or credible 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.

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 January 29, security forces used tear gas to disperse a crowd of between 200 and 300 persons. There were no reports of injuries, and no arrests were made.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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 in practice.

The government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

In-country Movement.—Although there were no legal restrictions on internal movement, military and police personnel and gendarmes continued to stop travelers at checkpoints to check identity, residence, or registration documents and to solicit bribes.

Security force members harassed expatriate Africans working legally as merchants, service sector employees, and manual laborers, as well as irregular immigrants. Some members of the security forces extorted bribes by threatening imprisonment or the confiscation of residency documents.

Protection of Refugees.—Access to Asylum.—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.

Refugee Abuse.—Despite efforts by the government and UNHCR to reduce discrimination, refugees continued to complain about sporadic harassment, extortion,

and detentions by security forces. Beginning in 2010 the government replaced UNHCR-issued identity cards with government-issued cards and provided them to more than 90 percent of refugees. Card holders have many of the same rights as citizens, including the right to work, travel, and access public services. Although the cards—along with a UNHCR-led information campaign—helped reduce discrimination against refugees, some refugees remained without cards at year's end, either because they could not be reached or because they chose not to regularize their status in the country.

On July 31, the refugee status expired of 9,500 persons from the Republic of Congo who had lived in the country since the late 1990s. In 2010 a trilateral agreement was implemented between the U.N. and the governments of Gabon and the Republic of Congo to ensure that refugees could either return home, regularize their status in Gabon, or resettle to a third country. By year's end, 708 Congolese were voluntarily repatriated and 34 awaited repatriation pending the resolution of medical issues or personal obligations. All seeking repatriation—excluding the 34—had been accommodated by year's end. Of those seeking resettlement in Gabon, 1,566 Congolese families regularized their status during the year, 209 families were awaiting final documentation, 21 families had been resettled, and 266 families were awaiting resettlement. Approximately 2,300 Congolese families had chosen none of the preceding options and were presumably still in Gabon.

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. The government was 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.

In January Andre Mba Obame, the secretary general of the former National Union (UN) political party, swore himself in as president, established a parallel government, and occupied the U.N. Development Program headquarters in Libreville for a month. Mba Obame considered himself the rightful winner of the 2009 presidential election despite coming in third, according to the official count. On January 27, security forces briefly detained seven members of the U.N. party and charged them with disturbing the peace for refusing to move out of the street during morning traffic. An eighth U.N. member, Paulin Obiang Ndong, also was briefly detained for distributing videos of Mba Obame's "investiture." In response to Mba Obame's self-proclamation, the government dissolved the U.N. party for violating the country's unity. On May 5, the National Assembly voted to remove Mba Obame's immunity as a member of parliament. Mba Obame subsequently departed the country for medical treatment.

Elections and Political Participation.—Recent Elections.—President Ali Bongo Ondimba was elected in August 2009 with 41 percent of the vote. The president succeeded his father, former president Omar Bongo, who died in 2009 after a 41-year rule. The two leading opposition candidates each received approximately 25 percent of the vote. International observers characterized the election as largely free and fair, although the election was marred by post-election violence, significant restrictions on human rights, and accusations of political tampering with the electoral process. Irregularities included problems with voter lists and registration, polls that opened late, improperly secured ballot boxes, and armed security personnel in or near voting sites. Authorities censored news coverage and harassed the press. Numerous candidates contested the election results, which were subsequently validated by the Constitutional Court.

In legislative elections held on December 17, the ruling PDG won 144 of 120 seats in the National Assembly. Regional and local observers deemed the election generally free and fair despite minor irregularities. Voter abstention was estimated at 65 percent. Opposition and civil society leaders who had called for a boycott claimed victory for the low voter turnout. Other observers noted that abstention rates during legislative elections were generally high, primarily due to lack of interest.

On June 17, parliament passed the Personal Data Protection Law, which provides for the introduction of biometrics by 2013 to increase transparency in future elections. Critics viewed the law, which includes criminal penalties for the unlawful handling of personal information, as a significant step toward reducing electoral irregularities. No identity document using the proposed new technology had been produced by year's end.

Political Parties.—The PDG has dominated the government since its creation by former president Omar Bongo in 1968. PDG membership conferred advantage in obtaining government positions.

Participation of Women and Minorities.—Women held governmental positions, including at the ministerial level, in all branches of government. In the 31-member cabinet, five were women. The president of the Senate and the head of the Constitutional Court also were women.

Members of the president's Bateke ethnic group and other southerners held a disproportionately large number of key positions in the security forces, although members of all major ethnic groups continued to occupy prominent government positions. Indigenous Pygmies rarely participated in the political process.

Section 4. Official Corruption and Government Transparency

Although the law provides criminal penalties for official corruption, officials often engaged in corrupt practices with impunity. The most recent World Bank Worldwide Governance Indicators reflected that corruption was a severe problem. During the year the government continued its efforts to curb corruption.

For example, in January the president announced a major reshuffling of his cabinet to remove corrupt officials from high-level positions. Several ministers were transferred to less important ministerial positions.

The National Infrastructure Agency, created in 2010 to address the country's struggling infrastructure, introduced international tendering for large infrastructure projects. The government hired a foreign company to provide technical support and manage its construction projects, which included the completion of a stadium during the year and the initiation of several large projects in transportation, housing, tourism, and ports sectors.

Investigations conducted by the Inspector General's Office resulted in police dismissals, including the removal of a few high-level officers (see section 1.c.).

In April the government restructured the agency responsible for school scholarships and canceled many scholarships after discovering evidence of mismanagement of a budget of more than 380 billion CFA francs (\$79 million).

In June the president removed all civil servants responsible for urban planning after an investigation revealed corruption throughout the Ministry of Habitat. After 18 months into a program to construct 5,000 new homes each year, no homes had been built, and the government could not even provide developers with land titles to proceed.

The Commission Against Illegal Enrichment is the primary body responsible for combating official corruption. During the year the commission conducted several investigations, although specific information on those investigations had not been released, nor was it likely to be released.

Although the law provides that civil servants disclose their financial assets within three months of assuming office to the Commission Against Illegal Enrichment, this did not always occur. In March the commission fined each of eight former government officials 100,000 CFA francs (\$207) per month for a delay in declaring their personal assets; none of the eight had complied by year's end.

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

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 more responsive to their views than in the previous year, when officials took no known actions on their recommendations.

For example, after the release of a report on 2009 post-election violence conducted by the domestic NGO Croissance Saine Environment, the government followed up on recommendations to conduct human rights training for prison guards and police. After local NGO Cri de Femmes and UNICEF alerted the government to problems faced by children without birth documentation, the government announced a program to provide documents free of charge. Both government initiatives occurred during the year.

Local human rights NGOs included ALCR (ritual crime), Cri de Femmes (women's rights), EBANDO (pygmy rights), AVOGAB (women's and orphan's rights), Groupe Conscience (victims of sexual exploitation), Association Jeunesse Sans Frontieres (Good governance), AGAFI (Indigenous Population Protection), Sifos (Service International de la Formation des Enfants victime de la Traite et de l'exploitation), Fawe

Gabon (Forum for African Women Educationalists), Liebe Handicap, and Réseau de Défense des Droits Humains du Gabon (an association of human rights NGOs).

Government Human Rights Bodies.—The independent National Human Rights Commission, which had been inactive since its 2006 inception, began operating during the year. In May the commission appointed 12 new members to the body from civil society, the media, religious community, and judiciary. In September the commission held its first meeting to develop an action plan for the promotion and protection of human rights.

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 and Domestic Violence.—The law criminalizes rape and provides penalties of five to 10 years' imprisonment for convicted rapists. Nevertheless, rape cases seldom were prosecuted. The law does not address spousal rape. There were no reliable statistics on the prevalence of rape. Discussing rape remained taboo, and women often opted not to report rape out of fear or shame. Only limited medical and legal assistance for rape victims were available.

Although the law prohibits domestic violence, 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. Women virtually never filed complaints with civil authorities, although the government operated a counseling group to provide support for abuse victims.

Sexual Harassment.—There is no law that prohibits sexual harassment, and it was a widespread problem. NGOs reported that sexual harassment against women in the military was pervasive.

Reproductive Rights.—The government recognizes the basic right of couples and individuals to decide freely the number and spacing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Access to reliable contraception has increased slowly since the 2009 repeal of a parliamentary measure prohibiting the use of contraceptives. Health clinics and local health NGOs operated freely in disseminating information on the use of contraceptives and family planning.

The government provided free childbirth services, including prenatal care and obstetrical care. According to the World Bank, the infant mortality rate was approximately 58 out of 1,000 births. Although the maternal mortality rate was reported to be 260 deaths for every 100,000 live births, the U.N. Population Fund suggested the rate was probably higher and that most incidents of maternal mortality were connected to the inadequate quality of health care providers. The Ministry of Health suggested that the common practice of not seeking prenatal care also played a role. Men and women received equal access to diagnosis and treatment for sexually transmitted infections.

Discrimination.—The law provides women with equal rights to education, business, investment, access to employment and credit, and pay for similar work, and women owned businesses and property, participated in politics, and worked in government and the private sector. Nevertheless, women continued to face considerable societal and legal discrimination, especially in rural areas. The law requires that a woman obtain her husband's permission to travel abroad, although this was rarely enforced.

Children.—Birth Registration.—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, and children without birth certificates cannot attend school or participate in most government-sponsored programs. Many mothers could not obtain birth certificates for their children due to isolation, poverty, or lack of understanding of the law. In September the Ministry of Social Affairs, in partnership with local NGOs and UNICEF, launched a month-long registration campaign, registering the births of 3,347 children of all ages.

Education.—Education is compulsory and tuition-free until age 16. Students were required to pay for their supplies, including school uniforms. The country had a shortage of classrooms and teachers, and education often was unavailable after sixth grade in rural areas.

Child Abuse.—Child abuse occurred, but most cases were not reported, particularly if the abuse occurred within the family. When reports of abuse surfaced, the accused abusers generally were arrested, but an inefficient judicial system resulted in long delays and slow convictions.

Child Marriage.—The minimum age for consensual sex and marriage is 15 for girls and 18 for boys. Child marriage was rare.

Harmful Traditional Practices.—Although illegal, female genital mutilation was believed to occur among the resident population of noncitizen Africans.

Ritual killings of children also occurred and went unpunished (see section 1.a.).

Sexual Exploitation of Children.—The law prohibits the commercial sexual exploitation of children. If convicted, perpetrators can be sentenced to between two and five years.

Some children participated in prostitution for economic reasons, but the problem was not widespread. Third party involvement was rare.

The law prohibits lewd pictures and photographs “against the morals of society.” The penalty for possession of pornography includes possible imprisonment from six months to one year and/or fines up to 222,000 CFA francs (\$461).

International Child Abductions.—On March 1, Gabon acceded to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no significant Jewish community in the country, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State’s Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The law prohibits discrimination against persons with “physical, mental, congenital, and accidental” disabilities and requires access to buildings and services, although most public buildings did not provide adequate access. There were no reports of official discrimination against persons with disabilities, but societal discrimination occurred, and employment opportunities and treatment facilities for persons with disabilities were limited. In August the Ministry of Health funded income generation projects for 194 persons with disabilities.

Indigenous People.—Pygmies are the earliest known inhabitants of the country. Small numbers of Pygmies continued 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 post-independence 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 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.—Although there were no reports of violence against lesbian, gay, bisexual, and transgender (LGBT) persons, discrimination was a problem, and LGBT individuals often kept their status secret.

Other Societal Violence or Discrimination.—Local NGOs reported that discrimination against persons with HIV/AIDS occurred. NGOs worked closely with the Ministry of Health to combat both the associated stigma and the spread of the disease.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law protects the right of workers to form and join independent unions and bargain collectively, but the right to strike was limited. Unions must register with the government to be recognized officially, and registration was granted routinely. The law prohibits antiunion discrimination and provides for reinstatement for workers dismissed for union activities. Strikes may be called only after eight days’ advance notification and only after arbitration fails. Public sector employees were not permitted to strike if public safety could be jeopardized. The law prohibits government action against individual strikers who abide by notification and arbitration provisions, and no groups were excluded from this protection. There are no special laws or exemptions from regular labor laws in the country’s two export processing zones.

Freedom of association and the right to collective bargaining were respected in practice, and the government generally enforced applicable laws, although enforcement procedures were sometimes delayed. Unions were generally not only politically active and influential, but also independent of the government and political parties. Nevertheless, some unions were created and controlled by employers. Agreements negotiated by unions also applied to nonunion workers.

There were labor violations during the year. For example, in January the Ministry of Education suspended the salaries of nine striking members of Conasysed, the

teachers union. The teachers, who had complied with the law in announcing the strike, appealed the salary suspensions to the prime minister. In September the prime minister announced that the suspensions had been lifted; however, the teachers had not received their back pay by year's end.

Although antiunion discrimination is illegal, trade unions in both the public and private sectors occasionally faced discrimination, including blacklisting union members, unfair dismissal, threatening workers who unionized, and creating employer-controlled unions.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. However, the government did not effectively enforce the law. Boys, many of whom were trafficking victims from inside the country as well as from neighboring countries, were forced to work as street hawkers or mechanics, as well as in agriculture, animal husbandry, fishing, and mining. Girls and women, many of whom were trafficking victims from inside the country as well as from neighboring countries, were forced to work in domestic servitude, market vending, restaurants, and commercial sexual exploitation. Conditions included very low pay and forced long hours. Such children generally did not attend school, received only limited medical attention, and were often exploited by employers or foster families. In an effort to curb the problem, police often fined the parents of children who were not in school. Laws forbidding child labor covered these children, but abuses often were not reported. Some children also participated in prostitution for economic reasons.

The Ministry of Labor's lack of sufficient vehicles, budget, and personnel impeded the ability of labor inspectors to investigate allegations of forced labor. In addition, labor inspectors found it difficult to access family-owned commercial farms and private households due to inadequate road infrastructure.

See also the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits employment of children below the age of 16 without the expressed consent of the ministries of labor, education, and public health. The law provides for fines of between 290,000 and 480,000 CFA francs (\$602 to \$996) and prison sentences of up to two years 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 worked in the formal wage sector. The law was not enforced in rural areas and within the informal sectors, however, primarily because the inspection force was inadequate.

Child labor was a problem, particularly in rural areas, where the law was seldom enforced. Noncitizen children were more likely to work in informal or illegal sectors of the economy, where laws against child labor were less rigorously enforced. An unknown number of children, primarily noncitizens, worked in marketplaces or performed domestic work. Many of these children were reportedly the victims of child trafficking (see section 7.b.).

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.

Labor inspections were conducted of construction projects for the Africa Cup of Nations to ensure that child labor was not being used. Labor inspection teams were also sent upcountry to hold meetings on the use of child labor in the home and to encourage residents to report cases of child domestic servitude.

During the year the government worked closely with a foreign embassy on a media campaign to educate the populace about trafficking in persons and child labor. In conjunction with the media outreach, the government also initiated a door-to-door program to educate citizens in isolated communities about trafficking and child labor.

See the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—During the year the national monthly minimum wage was increased from 80,000 CFA francs (\$166) to 150,000 CFA francs (\$311). Government workers received an additional monthly allowance of 20,000 CFA francs (\$41) per child and transportation, housing, and family benefits. There was no minimum wage in 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, which is determined by collective agreements or government regulations. According to the law, the daily limit for compulsory overtime can be extended from 30 minutes to two hours to perform specified preparatory or complementary work, such as starting

machines in a factory or supervising a workplace. It also can be extended for urgent work to prevent or repair accidents. 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, guarding, security, medical establishments, domestic work, and the press.

The Ministry of Health establishes occupational safety and health standards but did not enforce or regulate them. In the formal sector, workers may remove themselves from dangerous work situations without fear of retribution.

The Ministry of Labor is responsible for enforcing minimum wage standards in the formal sector and generally did so effectively. However, the ministry did not enforce overtime or health and safety standards.

The government reportedly did not enforce labor code provisions in sectors where the majority of the labor force was foreign, such as in the mining and timber sectors. Foreign workers, both documented and undocumented, were obliged to work under substandard conditions, were dismissed without notice or recourse, and were often physically mistreated. 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

EXECUTIVE SUMMARY

The Gambia is a multiparty democratic republic. On November 25, voters re-elected President Alhaji Yahya Jammeh to a fourth term in a peaceful, orderly election that was neither free nor fair. President Jammeh's party, the Alliance for Patriotic Reorientation and Construction (APRC), continued to dominate the political landscape. There were instances in which elements of the security forces acted independently of civilian control.

The most serious human rights problem in the country was the government's harassment and abuse of its critics, which resulted in a muzzled press and the death, torture, arrest and detention, and sometimes enforced disappearance, of citizens.

Other human rights problems included poor prison conditions; denial of due process, prolonged pretrial detention, and incommunicado detention; restrictions on privacy and freedoms of speech, press, and assembly; violence against women and girls, including female genital mutilation; forced child marriage; trafficking in persons; child prostitution; discrimination against lesbian, gay, bisexual, and transgender (LGBT) individuals; and child labor.

The government sometimes took steps to prosecute or punish officials who committed abuses; however, impunity was a problem.

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 or unlawful killings.

For example, on January 28, in the village of Numuyel, Upper River Region, officers of the local detachment of the Police Intervention Unit (PIU) tied Dembo Sibi to a tree and beat him to death. The Daily News, a local newspaper, reported that Sibi was accused of stealing a motorbike and quoted his father as saying that police officers demanded 3,000 dalasi (\$105) for his release, a sum Sibi was unable to pay. Authorities arrested five PIU officers in connection with the case. On May 30, a judge convicted two of the five—Demba and Modou Colley—and sentenced them to death; he acquitted the remaining three officers.

On April 15, Cherno Alieu Suwareh of Bakau Sanchaba, West Coast Region, died following a confrontation with five officers of the National Drug Enforcement Agency (NDEA). On March 25, the officers raided Suwareh's compound, reportedly found cannabis in his room, and struck Suwareh's head against a wall, resulting in injuries to the forehead, according to Yerro Mballow, the police public relations officer. Suwareh was admitted to the Royal Victoria Teaching Hospital in Banjul where he died 11 days later. Suwareh's niece, Isatou Jallow, claimed she was present during the beating and testified in court on July 12 that her uncle was unable to climb into the vehicle that took him away due to his injuries. On June 13, the court released three of the five officers arrested in connection with the incident for lack of evidence. On December 5, a judge acquitted the remaining two—Eku P. L. Grant and Ebou Lowe—and discharged them. The magistrate said there was no direct evidence that Suwareh died as a result of acts perpetrated by the accused persons, noting that Suwareh's relatives had refused an autopsy.

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

During the year the government provided conflicting accounts of the whereabouts of missing journalist “Chief” Ebrima Manneh, who was arrested by security officers in 2006 and subsequently disappeared. During a March 16 press conference, President Jammeh said that his government had nothing to do with “the death of Chief Manneh,” the first admission by a government official that Manneh had died. During an October 6 interview with the Daily News, Minister of Justice Edward Gomez claimed Manneh “was alive and was somewhere to be disclosed later.” On October 19, during a meeting in Banjul with officials of the Federation of African Journalists, the justice minister said that Manneh had “stage-managed his disappearance for mischievous reasons.” He went on to say that Manneh had left the country and that the government had evidence from Interpol that he went to the United States. Manneh’s family publicly denied the claim. In October Reporters Without Borders called on Gomez to quickly produce evidence of his claim that Manneh was still alive out of respect for Manneh, his family, and colleagues, as well as those who had been waiting for news of him for more than five years. In December the government agreed to an independent, outside investigation into Manneh’s death.

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 (see also section 1.a.).

On January 2, villagers in Foni Kampasa witnessed two members of the Gambia Armed Forces (GAF) assaulting two timber dealers and their drivers, according to Foroyaa newspaper. The victims—Habib Babu, Gibi Sonko, Pa Ousman Ceasay, Ansumana Kinteh and Lamin Kassama—required medical attention and were taken to Bwiam Hospital by officers from Kalagi police station. The victims later told a Foroyaa reporter that the army officers stole their money and cell phones.

On December 16, officers of the NDEA arrested Alpha Omar Jobe on suspicion of cannabis trafficking. According to the Daily News newspaper, Jobe was subsequently tortured and released; he died six days later as a result of his injuries. An angry mob carried Jobe’s body to Manjai police station, which they attacked with stones and sticks. Police arrested 21 youths in connection with the attack on the station and charged them with causing willful damage to property and taking action causing a breach of peace. Their trial continued at year’s end. No action was taken against the officers who allegedly tortured Jobe.

During the year there were reports that Venezuelan national George Sanchez, who was one of nine men convicted of drug trafficking following the May 2010 seizure of more than two tons of cocaine in the village of Bonto, was subsequently tortured during detention. During his December 2010 trial, Sanchez alleged that security officers put a plastic bag over his head and beat him, burned his waist and genitals with cigarettes, and forcefully removed one of his toenails. Police denied the allegations.

There were no developments in the March 2010 alleged torture by members of the National Intelligence Agency (NIA) of Ensa Badjie, former inspector general of police. Badjie testified during his 2010 trial for corruption, abuse of office, drug crimes, and other offenses that NIA members severely beat him after NIA operative Omar Cham covered his head with a black plastic bag. Badjie showed the scars on his mouth to the courtroom.

The Indemnity Act, which allows the president to grant amnesty to any person, including security force members, accused of misconduct during unauthorized gatherings, continued to deter victims from seeking redress for torture during the country’s 1994-96 military rule. The army requires victims to file formal complaints with the courts regarding alleged torture that occurred at other times. During the year there were no known prosecutions in civil or military courts of security force members accused of mistreating individuals.

Prison and Detention Center Conditions.—Prison conditions were poor with overcrowded, damp, and poorly ventilated cells. Inmates complained of poor sanitation and food. Inmates occasionally slept on the floor. Detainees were allowed to receive food from outside prior to conviction, but not afterwards. Medical facilities in prisons were poor, and sick inmates were taken to the Royal Victoria Teaching Hospital in Banjul or nearby health centers for examination and treatment. Water supply was adequate, but lighting in some cells was poor. During the summer months temperatures were extremely high, and there were no ceiling fans or other measures to reduce heat. During his October 13 treason trial, former information minister Amadou Janneh complained in court that the roof of his cell at Jeshwang Prison leaked (see section 1.e.).

At year's end there were approximately 1,000 inmates in the country's prisons, more than double the intended capacity.

In late October inmates in the security wing of Mile 2 Central Prison went on a hunger strike to protest overcrowding, poor hygienic conditions, poor diet, restrictions on the number of visits by family members, failure by prison authorities to comply with medical recommendations from doctors, and denial of access to television and radio. Prison authorities denied any hunger strike occurred.

Pretrial detainees occasionally were held with convicted prisoners.

Prisoners generally had access to visitors, although there were occasional reports of lawyers and family members being denied access to detainees at Mile 2 Central Prison. Prisoners were permitted religious observance. Prisoners and detainees could transmit complaints to judicial authorities through their lawyer, if they could afford one, or relatives.

Authorities sometimes investigated credible allegations of inhumane conditions. A Prisons Visiting Committee, which includes representatives of several government agencies, is empowered to monitor detention center conditions. Ousman Sonko, the minister of interior, claimed that the committee visited the prison weekly and submitted reports on substandard conditions. Claims of weekly committee visits could not be verified.

The Office of the Ombudsman can investigate all complaints brought before it, including bail conditions, pretrial detention, and confinement of juvenile offenders. However, it cannot negotiate alternatives for detainees or convicts. The Office of the Ombudsman did not publish findings of any investigations it conducted during the year.

The government did not permit the International Committee of the Red Cross or the media access to monitor prison conditions during the year.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, there were instances of police and other security forces arbitrarily arresting and detaining citizens.

Role of the Police and Security Apparatus.—The GAF 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 NIA, which reports directly to the president, is responsible for protecting state security, collecting intelligence, and conducting covert investigations. The NIA is not authorized to investigate police abuses but often assumed police functions, such as detaining and questioning criminal suspects. During the year the NDEA, which was initially mandated to investigate narcotic crimes, was given sweeping powers to protect state security, largely marginalizing the NIA.

Security force members were frequently corrupt and ineffective. Impunity was a problem, and police sometimes defied court orders.

For example, on June 24, Mansa Bah, who was acquitted by a magistrate in Banjul, was rearrested and returned to prison after the prosecutor informed the court that he was "going to appeal" the acquittal. Bah was charged with drug trafficking and conspiracy, but the court upheld the no-case-to-answer submission filed by his lawyer and ordered his release. Bah remained in prison pending appeal at year's end.

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; however, no complaints were filed during the year.

Arrest Procedures and Treatment While in Detention.—The law requires that authorities obtain a warrant before arresting a person; however, in practice individuals often were 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 informed promptly of charges against them. There was a functioning bail system; however, prosecutors often opposed applications for bail for detainees charged with misdemeanors and ordered lengthy adjournments to allow additional time to prepare their cases. Judges and magistrates sometimes set bail bonds at unreasonably high amounts. 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, sometimes to provide the prosecution more time to prepare cases. Detainees were not allowed prompt access to a lawyer or family members, although convicted prisoners were generally permitted to meet privately with an attorney. Indigent persons accused of murder or manslaughter were provided lawyers 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 it no longer enforced the decrees; however, such detentions occurred.

For example, on April 30, in Banjul, security forces arrested Mouctar Diallo, a Guinean citizen visiting the country while studying at the American University in Cairo. Diallo, who came to The Gambia to study the relationship between West African nomads and globalization, was charged with “threatening national security” but later cleared by the NIA and allowed to leave the country.

Arbitrary Arrest.—Security forces arbitrarily arrested journalists, an Islamic scholar, human rights activists, and other citizens during the year (see sections 1.e., 2.a., and 5).

Lamin Mboge, a lawyer known for his commitment to human rights, was arrested and prosecuted under spurious charges. On January 26, Mboge, a former magistrate and leading counsel in the Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP) case (see section 5), was arrested and charged with “false swearing” and “uttering false documents” and remanded to Mile 2 Central Prison. The arrest followed a criminal complaint lodged by one of Mboge’s clients over land he allegedly sold without lawful authority. Mboge denied the charges and was released on bail; his trial was ongoing at year’s end.

Pretrial Detention.—Backlogs and inefficiency in the justice system resulted in lengthy pretrial detention. Approximately 27 percent of inmates in the prison system were in pretrial detention, and some had been incarcerated for several years awaiting trial.

Amnesty.—Several detainees were released without charge or pardoned during the year, including Moses Richards, a former high court judge (see section 1.e.).

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the courts lacked independence and were inefficient and corrupt. Amnesty International noted that the president’s power to remove a judge, nominally in consultation with the Judicial Service Commission, impeded judicial independence. Judges presiding over “sensitive” cases who made decisions not considered favorable to the government risked being fired. Frequent delays and missing or unavailable witnesses, judges, and lawyers often impeded trials. Many cases also were delayed because of adjournments to allow the police or NIA time to continue their investigations.

To alleviate the backlog, the government continued to recruit judges and magistrates from other Commonwealth countries with similar legal systems. Foreign magistrates and judges, who often presided over sensitive cases, were particularly subject to executive pressure.

In April 2010 high court judge Moses Richards was dismissed without explanation amid reports he criticized the domination of the bench by Nigerian judges and magistrates. In December 2010 Richards, who had gone into private legal practice, was arrested, denied bail, and charged with sedition and “giving false information to the public servant,” a reference to a letter he addressed to the sheriff of the High Court regarding a land dispute in the village of Jabang. On September 19, Richards was convicted and sentenced to two years’ imprisonment with hard labor by the Nigerian-born magistrate who presided over the case. On October 14, Richards was released from prison by presidential pardon following an apology and plea for mercy he addressed to President Jammeh.

Trial Procedures.—The law provides for the presumption of innocence. Trials were public, unless closed-court sessions were necessary to protect the identity of a witness. Juries were not used. Defendants can consult with an attorney and have the right to confront witnesses and evidence against them, present witnesses and evidence on their own behalf, and appeal judgment to a higher court. 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 Amnesty International.

Military tribunals cannot try civilians. Court-martial proceedings are presided over by a judge advocate assisted by a panel of senior military officers.

The judicial system also recognizes customary law and sharia (Islamic law).

Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. District chiefs preside over local tribunals that administer customary law at the district level. Customary law recognizes the rights of all citizens regardless of age, gender, and religion; however, it requires women to show respect for their husbands, and children to demonstrate respect for their parents.

Sharia applies in domestic matters, including Muslim marriage, divorce, and inheritance. Islamic, or Cadi, courts discriminated against women. Cadi courts and

district tribunals do not offer standard legal representation to the parties in a case, since lawyers are not trained in Islamic or customary law.

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. There were nearly 30 political prisoners in detention at year's end. Most were former military personnel accused of involvement in plots to overthrow the government. They were held in the security wing of Mile 2 Central Prison, but were occasionally allowed visits from family members. The government did not allow regular access to such persons by international human rights organizations.

During the year the trial of former minister of information Amadou Scattered Janneh and three of his alleged collaborators—Modou Keita, Ebrima Jallow, and Michael C. Uche Thomas—continued. In June they were arrested and held for 42 days without charge. They were charged in July with treason, conspiracy to commit treason, and seditious acts in connection with the printing and distribution of 100 T-shirts bearing the inscriptions “Coalition for Change-The Gambia” and “End Dictatorship Now.” Three Gambian journalists living in exile—former Gambian Press Union (GPU) president Ndey Tapha Sosseh, columnist Mathew Jallow, and Famara Demba—also were charged with treason and sedition.

On May 11, the Special Criminal Court in Banjul acquitted and discharged 12 of 16 persons standing trial on terrorism charges. Those acquitted included Gambian citizens Kemo Conteh, army Staff Sergeant Sam Kambai, NIA officer Kebba Seckan, Samsudeen Jammeh, and eight Senegalese citizens. Trials of the remaining four of the 16 accused—Alasana Thomas Jarju, Maulud Badjie, Lasana (Prosper) Sambou, and Ousman Jarju—continued at year's end. In 2009 there were reports that all four had been held incommunicado for three or four years on terrorism charges in an unknown location.

On April 14, the Court of Appeal dismissed the appeals of seven of eight men convicted of plotting to overthrow the government in 2009 and sentenced to death in July 2010. The seven were former GAF chief of defense staff General Lang Tombong Tamba; former GAF director of operations and training Brigadier General Omar Bun Mbye; the commander of the army unit in the president's home village, Lieutenant Colonel Kawsu Camara; the head of GAF intelligence, Major Momodou Lamin Bo Badjie; former deputy inspector general of police Momodou Gaye; former diplomat Ngorr Secka; and real estate dealer Abdoulie Joof. The eighth man, businessman Yusuf Ezziden, appealed separately but did not appear in court and reportedly left the country. Tamba and his six colleagues filed an appeal in August with the Supreme Court, which was pending at year's end.

On May 23, Tamba, who was already serving a death sentence for allegedly plotting a coup, and former chief of naval staff Rear Admiral Sarjo Fofana were convicted of concealment of treason and sentenced to 20 years' imprisonment in connection with an unsuccessful coup plot in 2006. Tamba, who originally was credited with foiling the plot when he alerted the president and mobilized loyal forces to arrest officers said to be involved, was charged with concealment of treason in June 2010.

Two of the detainees held after the disclosure of the 2006 abortive coup plot—Alieu Lowe, nephew of the fugitive coup leader, and Abdoulie Njie—were still being held at Mile 2 Central 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, continued at year's end.

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 his lawyer or international humanitarian organizations. In 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. In 2009 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 reportedly was sighted by a relative in 2008 at the Royal Victoria Hospital, where he was being escorted by wardens from Mile 2 Central Prison.

During the year the government provided conflicting accounts of the whereabouts of missing journalist “Chief” Ebrima Manneh, who was arrested by security officers in 2006 and subsequently disappeared (see section 1.b.).

In January 2010 former NIA director Ousman Sowe, who was arrested in 2009 for “delaying a document of national security interest,” was released unconditionally.

Civil Judicial Procedures and Remedies.—The high court has jurisdiction to hear cases concerning civil and human rights violations, although it may decline to exercise its powers if it is satisfied that other adequate means of redress are available. The Indemnity Act continued to prevent victims from seeking redress in some cases.

The government did not comply with the 2008 ruling of the Economic Community of West African States (ECOWAS) Court to release missing journalist “Chief” Ebrima Manneh and pay compensation of \$100,000. The government also refused to comply with a 2010 ruling by the same court to pay \$200,000 in compensation to exiled journalist Musa Saidykhan, who alleged that security agents tortured him during his detention in 2006.

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 generally enforced 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.—Status of Freedom of Speech and Press.—The constitution and law provide for freedom of speech and press; however, the government restricted these rights. According to the Observatory for the Protection of Human Rights Defenders, “the environment for independent and opposition media remained hostile, with numerous obstacles to freedom of expression, including administrative hurdles, arbitrary arrest and detention, intimidation and judicial harassment against journalists, and the closure of media outlets, leading to self-censorship.”

Freedom of Speech.—Individuals who publicly or privately criticized the government or the president risked government reprisal.

For example, on June 18, security forces arrested without charge Alhaji Ismaila Manjang, a prominent Islamic scholar and imam in the coastal town of Gunjur. The arrest followed Manjang’s graduation speech given at his Islamic institute in which he condemned practices that could be considered idolatrous, such as visits to shrines to seek blessings. Manjang was subsequently held incommunicado at NIA headquarters for four days. At year’s end Manjang had not been charged with any offense but was required to report frequently to the NIA.

Freedom of Press.—Constitutional protections were undermined by laws that impose excessive bonds on media institutions, require newspapers to reregister annually, and mandate harsh punishment for the publication of false information. According to Freedom House, these provisions gave authorities great power to silence dissent.

On March 16, President Jammeh warned independent journalists that he would “not compromise or sacrifice the peace, security, stability, dignity, and the well being of Gambians for the sake of freedom of expression.” Accusing some journalists of being the “mouthpiece of opposition parties,” he vowed to prosecute any journalist who offended him.

The government published The Gambia Info newspaper, formerly called The Gambia Daily. The privately owned Daily Observer newspaper 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.

The government-owned Gambia Radio and Television Services (GRTS) and nine private radio stations broadcast throughout the country. GRTS gave limited coverage to opposition activities. 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.

Violence and Harassment.—Media restrictions tightened during the year, and the government continued to harass and detain journalists. Numerous journalists remained in self-imposed exile as a result of government threats and harassment. On March 16, police arrested and detained Dodou Sanneh, a journalist who petitioned the president during the year to request reinstatement at GRTS following Sanneh’s 2006 dismissal from his position there. On September 15, Sanneh was convicted of “giving false information to a public servant” and fined 500 dalasi (\$17) or six months in prison. The GPU paid the fine.

On June 27, Ahmed Alota, the executive director of the GPU, was arrested and detained overnight at PIU headquarters following the transmission by Skype of a statement made by Ndey Tapha Sosseh, the union’s exiled former president, at the GPU Congress. On July 1, journalist Madi S. Njie, the newly elected secretary gen-

eral of the GPU, was arrested at the offices of the Standard newspaper. Njie was reportedly questioned about a report on Alota's arrest sent to the Ghana-based media watchdog Media Foundation for West Africa and the underground civil society organization The Coalition for Change, of which Sosseh was a member. Both Alota and Njie were released without charge.

Journalists from news outlets perceived to be critical of the government were routinely denied access to public information and were excluded from covering official events at certain venues.

Censorship or Content Restrictions.—Private media outlets generally practiced self censorship for fear of reprisal by the government, and many avoided content deemed contrary to the principles of Islam or offensive to other religions and sects. Nevertheless, opposition views regularly appeared in the independent press, and there was frequent criticism of the government in the private media.

On several occasions during the year, NIA authorities ordered community radio station Taranga FM to stop broadcasting news in local languages or face closure. Taranga was the only private radio station in the country that broadcast national news in local languages, a valued service to the large illiterate segment of the population. The station was forced off the air for 32 days in January and February but was subsequently allowed to broadcast on condition that the station not review opposition newspapers. Referring to the government's action, the Committee to Protect Journalists issued a statement in August noting that it "condemned the illegal act of political censorship to silence Taranga FM ahead of the November presidential elections." At year's end Taranga FM continued its local language broadcasts but avoided sensitive or controversial stories.

Libel Laws/National Security.—In previous years the NIA was involved in arbitrary closures of media outlets and the extrajudicial detention and torture of journalists; however, there were no such reports 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 chat rooms. Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail. However, Internet users reported they could not access the Web sites of the foreign online newspapers Freedom and The Gambia Echo, which criticized 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; however, police occasionally refused to issue permits to opposition parties wishing to hold political rallies.

In October police denied a permit to members of the Gambia Bar Association seeking to protest the conviction and imprisonment of lawyer Moses Richards (see section 1.e.). The inspector general of police said he denied the permit on grounds of public security and safety.

Unlike in the previous year, there were no reports that opposition leaders were imprisoned for organizing political rallies without permits.

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.—See the Department of State's International Religious Freedom Report at <http://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.

The government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations to assist 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.

Foreign Travel.—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.

Protection of Refugees.—Access to Asylum.—Neither the constitution nor the law provides for the granting of asylum or refugee status, but the government has estab-

lished a system for providing such protection to refugees and granted refugee status during the year.

The UNHCR reported 9,415 refugees in the country, of whom 8,359 were Senegalese who fled the Casamance conflict in Senegal. The UNHCR provided assistance with basic needs and services and implemented livelihood programs. The refugee status of the second largest group—709 refugees from Liberia—was scheduled to expire in June 2012, except for compelling cases in which individuals still felt threatened. During the year the number of refugees from Cote d'Ivoire increased from 70 to 305 as a result of the post-election crisis in that country. The country also hosted smaller numbers of refugees from Togo, the Democratic Republic of Congo, Somalia, Eritrea, Sudan, Guinea-Bissau, Rwanda, and Cameroon.

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, citizens were unable to exercise this right in the November 24 presidential election due to the government's intimidation of voters and ruling party control of the media.

Elections and Political Participation.—Recent Elections.—On November 24, voters reelected President Jammeh to a fourth term with 72 percent of the vote. The election was peaceful and orderly, and more than 83 percent of voters participated. UDP leader Ousainu Darboe came in second with 17 percent, and independent candidate Hamat Bah received 11 percent. Prior to the election, ECOWAS said its investigations found “an opposition and electorate cowed by repression and intimidation.” Explaining its decision not to send election observers, ECOWAS added that the preparations and political environment were not conducive to the conduct of free, fair, and transparent polls. Mustapha Carayol, the chairman of the Independent Electoral Commission, characterized the ECOWAS criticism as lies. Other government sources claimed the ECOWAS boycott was the result of a personal dispute rather than based on fact. The opposition criticized government control of the state-owned media, a shortened official campaign period, use of state resources by the ruling party, and the overt participation in political activity by government officials and members of the security forces. However, the UDP and its alliance partners did not challenge election results in court, claiming that they were not given sufficient time to do so.

Political Parties.—President Jammeh's party, the APRC, held 42 of 48 seats in the National Assembly and continued to dominate the political landscape. APRC membership conferred advantages, such as expediting government transactions, facilitating access to certain documents, and securing employment contracts.

Participation of Women and Minorities.—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 16-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 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 most recent worldwide governance indicators reflected that corruption was a serious problem.

The president spoke against corruption on numerous occasions during the year and in July 2010 formally enunciated a policy of “zero tolerance for drugs and corruption.” The financial intelligence unit, which was established in 2009, is responsible for combating corruption. There were no new prosecutions for corruption of senior police, military, or civilian officials during the year.

On July 29, a court sentenced former inspector general of police Ensa Badjie to life imprisonment for armed robbery, abuse of office, and other crimes. Former chief superintendent of prisons Ali Ceesay, also accused in the case, was fined 30,000 dalasi (\$1,050), which he paid.

The trial in a separate case against Ensa Badjie, former commander of the military police unit of the army Lieutenant-Colonel Mam Matarr Secka, and Major Kuluteh Manneh continued at year's end. The three defendants were charged with corruption, abuse of office, involvement in drug-related crimes, and armed robbery.

At year's end the trial continued of four NDEA senior officers, including Director General Ebrahim Bun Sanneh; his deputy, Karamo Bojang; and former director of operations Ousman Sanneh. In March 2010 the four were dismissed and charged with corruption, drug-related offenses, and abuse of office.

Public officials were subject to financial disclosure laws, but these laws were seldom enforced.

The constitution and law do not provide for public access to government information. Under the law civil servants are not allowed to divulge information about their departments or 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 despite government restrictions, investigating and publishing their findings on human rights cases. However, government officials were seldom cooperative or responsive to their views. According to Annual Report 2011 of the Observatory for the Protection of Human Rights Defenders, the legal and institutional environment in the country continued to limit nongovernmental organizations (NGOs) and human rights monitoring activities. The NGO Decree of 1996 imposes a cumbersome registration process, allows the government to reject valid NGO registration, and requires annual submissions of budgets and work programs. The 2010 decision to place supervision of NGO activities under the Office of the President resulted in increased restrictions. Human rights organizations censored themselves and focused on nonsensitive issues. Several groups expressed concern over detainees held incommunicado, but the government did not respond.

The government harassed, arrested, and detained human rights workers.

There were reports during the year that in February 2010 the Immigration Department arrested and detained for three days Edwin Nebolisa Nwakaeme, the founder and program director of Africa for Democracy and Good Governance (ADG), for allegedly lying about the category of his organization on a registration form. In March 2010 the Serious Crimes Unit of police headquarters in Banjul summoned and rearrested him. Nwakaeme was subsequently charged with “giving false information to public officials” for claiming in a letter to the Office of the President that ADG was an NGO, despite the fact that it was registered as a charity. In the letter Nwakaeme had requested President Jammeh’s daughter to accept her nomination as an ADG ambassador. In September 2010 Nwakaeme was sentenced to six months’ imprisonment with hard labor and a fine of 10,000 dalasi (\$350). The court also banned him from running ADG in the country and ordered him to surrender all the documents including the license pertaining to the organization. In December 2010 the Banjul High Court upheld Nwakaeme’s conviction on appeal. On January 14, Nwakaeme was released from jail and deported to Nigeria, his native country.

At year’s end the trial continued of two prominent gender activists and campaigners against female genital mutilation (FGM)—Isatou Touray, executive director of the NGO GAMCOTRAP, and the agency’s program coordinator, Amie Bojang Sissoho. Touray and Sissoho, who were arrested in October 2010, were charged with mismanaging 30,000 euros (\$40,200) granted by the Spanish NGO Yolocamba Solidaridad. The two were subsequently denied bail and spent eight days in prison before their trial could proceed. The charges of theft were reportedly based on the findings of an investigative panel that looked into GAMCOTRAP’s management of the Yolocamba grant. A previous panel set up by the Office of the President in May 2010 concluded that the allegations of mismanagement were unfounded. On January 31, during a hearing at Banjul Magistrate’s Court, the director of the Spanish NGO denied accusing anyone associated with GAMCOTRAP of theft. Both Touray and Sissoho continued their work with GAMCOTRAP during the year.

U.N. and Other International Bodies.—The government allowed visits during the year by the U.N. and other international governmental organizations, such as ECOWAS and the Commonwealth Secretariat; however, the government offered no public response to reports issued after the visits.

Government Human Rights Bodies.—The Office of the Ombudsman, which was established and funded by the government, operated a national human rights unit (NHRU) to promote and protect human rights and to support vulnerable groups. During the year the unit received and addressed complaints regarding unlawful dismissals, termination of employment, unfair treatment, and illegal arrest and detention. According to the 2010 report from the Office of the Ombudsman, which was released on October 17, the organization received 83 complaints, most of which involved the police force. Of the 83 complaints, 38 were resolved in favor of complainants, 19 were dismissed, 15 were discontinued, and the remainder were pending.

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. However, discrimination against women remained a problem.

Women.—Rape and Domestic Violence.—The penalty for rape is life imprisonment; however, rape, including spousal rape, was a widespread problem. The maximum penalty for attempted rape is seven years' imprisonment. A small number of cases reported to police were prosecuted; most prosecutions resulted in conviction. At least six rape cases were brought to the courts during the year. The law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it. Police generally considered reports of spousal rape to be domestic issues outside of their jurisdiction.

The law prohibits any form of violence against women; however, domestic violence was a problem. Domestic violence was underreported due to the stigma attached to it. Cases were seldom prosecuted and usually settled through counseling and dialogue with family elders.

On January 26, Ebrima Drammeh of Brikama Gidda was convicted of common assault for slapping his wife and fined 5,000 dalasi (\$175) or in default to serve one year in prison.

GAMCOTRAP, one of the leading women's rights NGOs in the country, included gender-based violence in its training modules for combating FGM. Another group, the Female Lawyer's Association of The Gambia, educated women on their rights and represented them, often pro bono, in domestic violence cases.

Sexual Harassment.—The law prohibits sexual harassment and provides for a one-year mandatory prison sentence for offenders. No cases were reported during the year, but sexual harassment remained a problem.

Sex Tourism.—The law prohibits sex tourism, but the problem was occasionally reported in tourist resort areas.

Reproductive Rights.—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. The maternal mortality rate during the year was 378 per 100,000 live births.

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.

Discrimination.—The law provides equal rights to men and women and prohibits discrimination on grounds of gender; however, women experienced a wide range of discrimination in matrimonial rights, property ownership, and inheritance rights. Employment in the formal sector was open to women at the same salary rates as men, and no statutory discrimination existed in other kinds of employment, access to credit, or owning and managing a business; however, societal discrimination lingered, and women generally were employed in such pursuits as food vending or subsistence farming.

Sharia law is applied in marriage, divorce, and inheritance cases for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than men. 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 by their husbands. 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.—Birth Registration.—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. Birth certificates were often required to enroll in school, but they could easily be obtained.

Education.—The constitution and law mandate compulsory, tuition-free primary education from ages six to 12, but families often had to pay tuition as well as fees for books, uniforms, lunch, school fund contributions, and exam fees. During the year the government estimated that 75 percent of children were enrolled in primary schools. Another 15 percent were enrolled in Islamic schools, called madrassas. Girls constituted approximately 51 percent of primary school students and one-third of high school students. The enrollment of girls was lower 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 initiative to increase the numbers of girls in school, the government ensured that tuition for female students was consistently waived.

Child Abuse.—Child abuse occurred. Serious cases of abuse and violence against children were subject to criminal penalties, and authorities generally enforced laws when cases of child abuse or mistreatment were brought to their attention.

The penalty for rape is life imprisonment. However, because of the difficulty of proving rape of minors, particularly very young children, the charge was generally defilement or having carnal knowledge, both of which carry a prison sentence of 14 years.

That was at least one conviction for rape during the year. On October 17, Yankuba Njie, a resident of Fajikunda in Kanifing Municipality, was sentenced to life imprisonment with hard labor for raping and kidnapping a teenager. Other cases involving child rape that remained before the courts included Italian national Regnoni Renato, charged with raping a 13-year-old child; Landing Sanneh of Kololi, accused of raping a seven-year-old girl; Koranic teacher Alhagie Faal, accused of raping a 10-year-old student; and Dutch national Handre Van Roye, who was charged with rape and abuse of underage children.

Harmful Traditional Practices.—The law does not prohibit FGM, and the practice remained widespread. A 2005-06 survey by the U.N. Children's Fund found that approximately 78 percent of girls and women had undergone FGM, and seven of the nine major ethnic groups practiced FGM on girls from shortly after birth until age 16. FGM was less frequent among educated and urban groups. Some religious leaders publicly defended the practice. There were 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.

During the year several district chiefs, ward councilors, members of the Council of Elders, religious leaders, female leaders, and female circumcisers attended GAMCOTRAP seminars on the harmful effects of FGM. GAMCOTRAP continued its campaign for a law banning FGM.

Child Marriage.—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 age 12. There are no laws against forced marriage, and in many villages, young girls were forced to marry at a young age.

Sexual Exploitation of Children.—The law provides for 14 years' imprisonment for commercial sexual exploitation of children and a five-year prison term for child pornography. The minimum age for consensual sex is 18. Children in prostitution worked in some brothels, often to support their families or because they were orphans. A small number of children were also trafficked for forced commercial sexual exploitation. NGOs believed that some tourists living in remote guesthouses and motels were involved in the sexual exploitation of children. Security forces in the tourism development area were instructed to turn away all minors who approached the main resort areas without an acceptable reason.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The constitution prohibits exploitation of and discrimination against persons with disabilities in access to health services, education, and employment; however, 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 law requires that judicial proceedings involving a person with disabilities take into account the disability. There were no laws or programs to ensure that persons with disabilities had access to information or communications.

Persons with severe disabilities experienced discrimination and subsisted primarily through private charity. Persons with less severe disabilities encountered less discrimination, including in employment for which they were physically and mentally capable.

The Department of Social Welfare is responsible for protecting the rights of persons with disabilities and worked with the Gambia Organization for the Visually Impaired and the School for the Deaf and Blind to help educate children with disabilities and to promote relevant skills. The department also worked with international donors to supply wheelchairs to some persons with disabilities. Several NGOs sought to improve awareness of the rights of persons with disabilities and encouraged their participation in sports and other 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 election days.

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 man who commits in public or private “any act of gross indecency,” engages a male sex worker, or has actual sexual contact with another man; however, to date, no one has been prosecuted. There was no similar law targeting women. There was strong societal discrimination against LGBT individuals, some of whom were shunned.

In a January speech to army officers, President Jammeh announced he wanted a professional army “free of gays and saboteurs.” In a 2009 speech before the National Assembly, President Jammeh called homosexual conduct “strange behavior that even God will not tolerate.” Despite such statements, there were no reported incidents of physical violence against LGBT individuals during the year. 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 provided for care, treatment, and support to persons living with or affected by HIV/AIDS. The plan also included HIV prevention programs for high-risk populations. Throughout the year the Ministry of Health urged persons to undergo voluntary HIV/AIDS counseling and testing.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides that workers are free to form and join independent unions, conduct legal strikes, and bargain collectively. Military personnel, police officers, and other civil service employees are prohibited from forming unions or going on strike. Unions must register to be recognized.

The government places restrictions on the right to strike by requiring unions to give the commissioner of labor written notice 14 days before beginning an industrial action (28 days for essential services). Police and military personnel had access to a complaints unit, and civil servants could take their complaints to the public service commission or the government’s personnel management office. 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 law provides for reinstatement of workers fired for union activity. The law also sets minimum contract standards for hiring, training, and terms of employment and provides that contracts may not prohibit union membership. No category of workers is excluded from relevant legal protections.

Although there was minimal contentious union activity or labor disputes, the government effectively enforced the law when necessary. Enforcement procedures were subject to lengthy delays and appeals.

Freedom of association and the right to collective bargaining were respected in practice. Worker organizations are independent of the government and political parties. There were no instances of government interference in union activities, including the targeted dissolving of unions or the use of excessive force to end strikes or protests. There were no cases in which registration was denied to a union that applied. There were no incidents of violence, threats, or other abuses targeting union leaders and members by government or employers.

Although trade unions were small and fragmented, collective bargaining took place. 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. Union members' wages, which generally exceeded legal minimums, were determined by collective bargaining, arbitration, or agreements reached between unions and management. Most collective agreements were registered with the Department of Labor and remained valid for a period of three years before being renewed.

The government intervened to assist workers whose employers fired them or discriminated against them. For example, the Department of Labor and the Gambia Workers Union supported the case of a female employee of a local company, Shyben A. Madi and Sons Limited, who took the company to court for wrongful termination, claiming damages of 9.3 million dalasi (\$325,500). The employee, Ida Suso-Fay, claimed that her supervisor repeatedly harassed her after she became pregnant in 2010 and fired her without explanation while she was on maternity leave. The case continued at year's end.

There were no reports of violations of collective bargaining rights or of employers refusing to bargain, bargaining with unions not chosen by workers, or using other hiring practices to avoid hiring workers with bargaining rights. There were no occurrences of antiunion discrimination.

b. Prohibition of Forced or Compulsory Labor.—The constitution and law prohibit forced or compulsory labor, including by children, and the government enforced these laws; however, forced labor occurred. Women and children were subjected to trafficking, including forced labor and prostitution.

During the year a few Koranic teachers known as "marabouts" forced their students known as "Almudus" to sell items on the streets; however, the practice rarely occurred after police began intervening and ordered marabouts to stop.

See also the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The constitution prohibits economic exploitation of children under 16 years of age, and the law prohibits exploitive labor or hazardous employment of children under the age of 18; however, the government did not effectively enforce the law. The Children's Act 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. The law implicitly applies only to the formal sector.

Child labor in the informal sector was difficult to regulate. Rising costs of school fees combined with stagnating incomes prohibited some families from sending their children to school, contributing to child labor. In urban areas some children worked as street vendors, domestics, or taxi and bus assistants. There were a few instances of children begging on the street. Other sectors where children between the ages of 14 and 17 were known to work include carpentry, masonry, plumbing, tailoring, and auto repair. Children in rural areas worked on family farms.

The Department of Labor is responsible for enforcing child labor laws and conventions on the worst forms of child labor; however, the government took no action to prevent or combat child labor during the year. Employee labor cards, which include a person's age, were registered with the labor commissioner, who was authorized to enforce child labor laws. Nevertheless, enforcement inspections rarely took place.

Also see the Department of Labor's Finding on the Worst Forms of Child Labor at <http://dol.gov/llab/programs/ocft/tda/htm>.

d. Acceptable Conditions of Work.—The minimum wage was 50 dalasi (\$1.75) per day, although this only covered the 20 percent of the workforce employed in the formal sector. The government considered the national poverty baseline to be 38 dalasi (\$1.33) per person per day. Most workers were paid above the minimum wage. The Department of Labor is responsible for enforcing the minimum wage. 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 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 of 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 pay 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 the 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. 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. 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.

The Department of Labor effectively enforced the wage law and workweek standards when cases were brought to its attention.

In April 2010 the National Assembly passed an amendment to the payroll tax act that prohibits employers from hiring noncitizens in excess of 20 percent of their workforce except in the specialized professional category. The amendment was designed to encourage employers to train and employ more local citizens. In October the Department of Labor, working with the six Joint Industrial Councils, submitted recommendations for national minimum wage levels for each of the occupations represented by the councils, namely commerce, artisans, transport, port operations, agriculture, and fisheries. The recommendations were being reviewed by the Ministry of Trade, Industry, Regional Employment and Employment at year's end.

There was no specific government action during the year to prevent violations of workers' rights or to improve working conditions, particularly for hazardous sectors or vulnerable groups.

In practice workers could not refuse to work in dangerous working conditions without risking loss of employment.

During the year there were no reports of violations of wage, overtime, or health and safety standards; no particular group of workers was subject to hazardous or exploitative working conditions; and there were no occurrences of workplace fatalities and accidents or major industrial accidents in which workers were injured or killed.

GHANA

EXECUTIVE SUMMARY

Ghana is a constitutional democracy with a strong presidency and a unicameral, 230-seat parliament. In late 2008 the opposition National Democratic Congress (NDC) won both the presidency and a small majority in parliament in an election deemed generally free and fair by domestic and international observers. NDC candidate Professor John Evans Atta Mills was inaugurated president in early 2009 for a four-year term. There were instances in which elements of the security forces acted independently of government authorities.

The most important human rights problems included trafficking in persons; exploitive child labor, including forced child labor; and harsh and life-threatening prison conditions.

Other human rights problems included use of excessive force by police, resulting in deaths and injuries; prolonged pretrial detention; arbitrary arrest of journalists; corruption in all branches of government; violence against women and children, including female genital mutilation (FGM); societal discrimination against women, persons with disabilities, and persons with HIV/AIDS; ethnic killings and vigilante violence; ethnic discrimination and politically motivated violence; and societal discrimination against lesbian, gay, bisexual, and transgender (LGBT) individuals.

The government took steps to prosecute and punish officials who committed abuses; however, police impunity remained a problem.

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, use of excessive force by security forces resulted in the deaths of several armed criminal suspects and other persons 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, there were credible reports that police beat and otherwise abused suspects, prisoners, and other citizens. Severe beatings of suspects in police custody reportedly occurred throughout the country but generally were unreported in official channels. Police generally denied allegations or claimed that the level of force used was justified. Military officials also reportedly mistreated persons during the year. During the year several non-

governmental organizations (NGOs), lawyers, and civil society organizations publicly criticized police use of excessive force. In 2009 these organizations called for the inspector general of police (IGP) to take action against security force members involved in abuse. As a result, awareness-raising campaigns were conducted and internal disciplinary actions were taken against offending security officials in 2010 and 2011.

On June 27, investigators from police headquarters in Accra were dispatched to the Volta Region to investigate the death of a trader at Hohoe. Allegedly the trader died of multiple wounds inflicted by police at the Hohoe police station after the police allegedly sexually assaulted her and some of her relatives. Police allegedly detained the victim and other members of her family when they questioned why the police should collect money from a relative before granting her bail. Reports indicated other members of the family were injured. A directive was issued to the IGP to produce a report on the incident, but it had not filed a report at year's end.

There were no new developments in the 2010 case of an inmate in Koforidua Prison, Eastern Region, who died en route to the hospital.

In October 2010 police and other security personnel in Nakpanduri, Northern Region, allegedly ransacked and burned homes, injured civilians, and repeatedly fired their guns during an operation to arrest an escaped convict; the interior minister subsequently issued an apology on behalf of the government. The Commission on Human Rights and Justice (CHRAJ) noted that investigations into police culpability continued at year's end.

Violence between soldiers and police, often due to internal rivalries, resulted in injuries during the year.

For example, in November eight soldiers allegedly beat three policemen and a community protection assistant of the National Youth Employment Program while they were directing traffic in Tamale. The incident was under investigation. The Northern Regional Police Commander and the Airborne Force official met to discuss a plan of action.

In June 2010 in Kumasi, soldiers from the Fourth Garrison allegedly attacked and beat 12 police officers stationed at various duty posts throughout the city. One officer was allegedly hit on the head with a hammer and hospitalized. Soldiers also vandalized property at police stations and forced officers to flee their posts. In July 2010 a committee composed of three top-ranking military officers, three senior police officers, and a retired appeals court judge who served as committee chair opened an investigation, but the committee had not filed a report at year's end.

In 2009 "Operation Calm Life," a joint military and police effort, was created to bridge the divide between military and police throughout the country. During the year the operation was underway in Accra.

Prison and Detention Center Conditions.—Prison conditions generally were harsh and sometimes life threatening. Police have been known to beat suspects in custody. 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 and light. Many prisoners slept on bare floors or took turns using beds. According to the 2010 Prisons Service Annual Report (its most recent available report), 13,507 prisoners (average daily lockup) were held in prisons designed to hold approximately one-third that number.

In 2010, 78 prisoners died in custody. The CHRAJ noted the most common ailments (including tuberculosis, malnutrition, dysentery, HIV/AIDS, and skin disease) affecting prisoners stemmed from overcrowding, poor nutrition, and a lack of ventilation. 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. According to the CHRAJ, the daily food stipend for prisoners was 60 Ghana pesewa (\$0.40), which the CHRAJ deemed too low. Shortages of food, bedding, clean water, and clothing for prisoners persisted.

For example, in February 2010 two inmates in a police cell in Ashaiman, Greater Accra Region, allegedly suffocated to death. The cell in which the two were incarcerated was built to accommodate 10 persons but held 43 prisoners on remand and 19 convicted prisoners at the time of the deaths.

On average there were 187 female and 115 juvenile inmates in the 42 prisons and prison camps. Juvenile detainees were not housed separately from adults, and pre-trial detainees were held with convicted prisoners. In 2011 Amnesty International reported that access to legal aid was inadequate, which resulted in some prisoners spending more than 10 years awaiting trial. It also stated that 123 people, including three women, were on death row at year's end; however, no executions had been carried out since 1993. The Constitutional Review Commission recommended abolishing the death penalty in its final report on the amendment of the 1992 Constitution.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions and treatment; however, submission of complaints by prisoners was not common practice. Authorities investigated credible allegations of inhumane conditions and treatment and documented the results. Whenever allegations of inhumane treatment are made, the accused officer is asked to respond. If prison authorities are unsatisfied with the response of the officer, an internal inquiry is launched and recommendations for disciplinary action are submitted to the director general of the prisons service.

The government permitted independent monitoring of prison conditions by the CHRAJ, which served as the official ombudsman, and the welfare unit of the prisons service. During the year the CHRAJ monitored 28 of the 42 prisons and prison camps. The CHRAJ and other NGOs worked on behalf of prisoners and detainees to help alleviate inhumane overcrowding, address the status and circumstances of confinement of juvenile offenders, and improve pretrial detention, bail, and record-keeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offenses.

The government permits independent monitoring of prison conditions by local and international human rights groups, including the International Committee of the Red Cross; however, no such visits were conducted during the year.

During the year 1,150 inmates were discharged under the “Justice for All” program, which was begun in 2008 to ease prison overcrowding and to accelerate judicial processes; another 727 inmates were released on bail.

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 Ministry of Interior, were responsible for maintaining law and order. However, the military continued to participate in law enforcement activities. A separate entity, the Bureau of National Investigations (BNI), handled cases considered critical to state security and answered directly to the Ministry of National Security. Police maintained specialized units in Accra for homicide, forensics, domestic violence, trafficking in persons, visa fraud, narcotics, and cybercrimes. Such services were unavailable nationwide due to lack of office space, vehicles, and other equipment outside the capital. In May 2010 the police unveiled a five-year strategic plan to increase police personnel, housing, vehicles, equipment, and establish new training academies.

Police brutality, corruption, negligence, and impunity were problems. Delays in prosecuting suspects, rumors of police collaboration with criminals, and a widespread perception of police ineptitude contributed to vigilante violence during the year. There were credible reports that police extorted money by acting as private debt collectors, setting up illegal checkpoints, and arresting citizens in exchange for bribes from disgruntled business associates of those detained. Low salaries, which were sometimes not paid on time, contributed to police corruption. In July 2010 the government implemented the Single Spine Salary Structure, which increased the salaries of all police officers, partly in an effort to reduce corruption.

The Police Intelligence and Professional Standards Unit (PIPS) investigated human rights abuses and police misconduct. From January through December, PIPS received 366 new cases; of those, 219 were closed, and 147 remained under investigation at year’s end. Among the 366 cases, 13 involved complaints of harassment, eight of extortion, 72 of misconduct, 24 of unlawful arrest and detention, 92 of unprofessional handling of a case, 51 of unfair treatment, 51 of undue delay of investigation, and 37 of alleged police brutality with human rights violations.

Arrest Procedures and Treatment While in Detention.—The constitution and law provide for protection against arbitrary arrest and detention; however, the government frequently violated these prohibitions. The law requires judicial warrants for arrest and provides for arraignment within 48 hours; however, persons were frequently arrested without warrants, and detention without charge for periods longer than 48 hours occurred. Officials detained some prisoners for indefinite periods by renewing warrants or by simply allowing them to lapse while an investigation was conducted. The constitution provides that a detained individual be informed immediately, in a language the person understands, of the reasons for detention and of his or her right to a lawyer at state expense if unemployed or indigent. The government did not consistently protect these rights, but lawyers were generally assigned promptly to detainees. The law requires that a detainee who has not been tried within a “reasonable time” as determined by the court be released either uncondi-

tionally or subject to conditions necessary to ensure that the person will appear in court at a later date; however, in practice, this provision was rarely observed.

The law provides for bail, and 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. In September 2010 a man was granted bail after spending 10 years in detention. 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 2010 Annual Report, 25 percent of the prison population was in pretrial status. Detainees sometimes served more time in detention awaiting trial than the maximum sentence for the crime required.

During the year prison officials, courts, and police continued efforts to reconstruct the files of at least 300 pretrial inmates; the files had been missing since at least 2007. As of 2010, 136 inmates had been released.

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).

Members of the military were tried separately under the criminal code in a military court. Military courts, which provide the same rights as civil courts, were not permitted to try civilians. Despite alternate dispute resolution (ADR) procedures to decongest the courts and address judicial inefficiency, court delays persisted. Mediators were trained throughout the country to implement ADR, mediation desks were established in some district courts, and an ADR secretariat was established within the judicial service. Nevertheless, even in fast-track courts, which were established to hear cases to conclusion within six months, trials could go on for years.

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 had steadily eroded because of a commensurate increase in the power of civil institutions, including courts and district assemblies.

A judicial complaints unit, headed by a retired Supreme Court justice, addressed public complaints, such as unfair treatment by a court or judge, unlawful arrest or detention, missing dockets, delayed trials and delivery of judgments, and alleged bribery of judges. In 2009, the most recent statistics available, the unit received 345 complaints, of which 294 were resolved, and 51 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. However, the judiciary was sometimes inefficient and subject to influence and corruption. Defendants are presumed innocent and trials are public. Juries are used in murder trials. Defendants have a right to be present, to be represented by an attorney (at public expense if necessary), and to cross-examine witnesses. Defendants have the right also to present witnesses and evidence. Defendants and their attorneys have access to government-held evidence relevant to their cases and have a right to appeal. The law extends the above rights to all citizens. In practice authorities generally respected these safeguards.

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 efforts to streamline resolution of disputes, although delays were common. A growing number of automated courts, whose proceedings were expedited through electronic data management, were established across the country. They succeeded in case tracking management, and also randomly selected judges for case assignment, which was useful in reducing judicial corruption.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press; however, the government sometimes restricted those rights during the year. Journalists were arbitrarily arrested and detained during the year, and some practiced self-censorship.

Freedom of Speech.—Individuals generally could criticize the government publicly or privately without reprisal.

Freedom of Press.—Local authorities sometimes detained, arrested, or harassed critics of the government.

In December 2010 a journalist with Yankee Radio, a community-based station in the Brong Ahafo Region, was detained for several hours by police and charged with “publishing information with the intention to cause fear or harm to the public or to disturb the public peace.” The charge followed the broadcast of an interview with a Ghanaian citizen who was said to have fled the Ivoirian crisis. The fleeing man allegedly told the journalist that Ghanaian border police were extorting money from some stranded Ghanaians in Cote d’Ivoire. The journalist was released on bail and told to reappear in court in a week. He went into hiding thereafter, and a writ for his arrest was issued. The following week, the general manager of Yankee Radio was allegedly assaulted by police officers, who stormed the station to prevent the rebroadcast of the interview, which police claimed was creating fear and panic in the country.

The BNI detained the editor of Daybreak, an Accra-based weekly newspaper, on March 16. He was released unconditionally six hours later and reported that he was interrogated on a wide range of issues, including the source for a story he published on March 15 on an alleged massive shake-up in the top levels of the military.

No action was taken against the local authorities who assaulted or detained the journalists mentioned above.

There were more than 1,200 newspapers and magazines, approximately 203 FM radio stations, and 27 television stations registered with the National Media Commission (10 were not yet operational). The most wide-reaching print outlets were state-owned, while the majority of television and radio stations had private ownership.

The independent media were active and expressed a wide variety of views without restriction. There were reports that the government paid journalists “time and transportation” costs to facilitate coverage.

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; there was limited but growing access in other parts of 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 and law provide for freedom of peaceful assembly, and the government generally respected this right. The government does not require permits for demonstrations, but police can deny use of a particular route.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected this right in practice. Security force members 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.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/rls/irf/rpt>.

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 U.N. 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.

In the early part of the year, thousands of residents of Cote d’Ivoire were forced to seek refuge in Ghana as a result of the political instability following the country’s late 2010 presidential elections. Although the violence ended in May, many Ivoirians remained in refugee camps in Ghana. On October 6, Cote d’Ivoire, the UNHCR, and the government signed an agreement to ensure that officially registered Ivoirian refugees would be able to return to Cote d’Ivoire.

On September 14, a land dispute between clans of the Bassare tribe over land in Northern Togo resulted in 476 Togolese refugees fleeing to Ghana. Most of them returned to their homes shortly thereafter; the remaining refugees were placed in host communities in Tatale Zabzugu District in the Northern Region.

The UNHCR estimated that 30,000 refugees resided in the country during the year. This figure includes Liberian, Togolese, and Ivoirian refugees, as well as refugees of other nationalities.

Protection of Refugees.—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 law allows rejected asylum seekers to appeal and remain in the country until an appeal is adjudicated. There were delays in the appeal process, however, and the minister responsible for adjudicating appeals made no decisions on any appeals during the year. The law also accords protection to refugees who entered the country illegally without documentation.

The government established the Ghana Refugee Board (GRB) in 1992 to adjudicate claims for refugee status and to ensure that refugees received all appropriate protections. Following the 2009 presidential election, the incoming administration appointed new board members. In January the government named a new GRB chair.

Sexual and gender-based violence remained a problem for refugees. In February police raided the Buduburam Refugee Camp. There were conflicting accounts regarding both the number of casualties resulting from the incident and the cause of the violence.

All refugees had freedom of movement within the country and were not required to carry identification. Refugees were allowed to apply for work permits through the same process as other foreigners. However, work permits generally were issued only for employment in the formal sector, whereas the majority of refugees worked in the informal sector. Refugee children had access to public primary schools. Refugees in Krisan Camp, the Buduburam Settlement, and the Volta Region were enrolled in the national health insurance system with funding from the UNHCR. Urban refugees had access to health care on a fee-for-service basis.

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.—Recent Elections.—Following a narrow victory in 2008 over New Patriotic Party (NPP) candidate Nana Akufo-Addo, opposition NDC candidate John Evans Atta Mills was inaugurated president in 2009. There were reports of voter intimidation and election irregularities; however, observers and the Independent Electoral Commission deemed these irregularities too insufficient to have altered the outcome of the election. Incidents of preelection violence occurred. In 2008 NPP and NDC supporters clashed in Gushiegu District, Northern Region, resulting in six deaths and the burning of houses and vehicles. During the same period, 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 the destruction of houses and vehicles. The 2010 by-elections were held with few incidents reported.

Political Parties.—Political parties operated without restriction or outside interference. The NDC held 116 seats in the parliament, the NPP 107, minor parties three, and independents four.

Participation of Women and Minorities.—There are no laws preventing women from voting or participating in political life on the same basis as men, but women traditionally had less access to leadership positions than men. There were 19 women in the 230-seat parliament, four women in the cabinet, and five women on the Supreme Court. Seven of 38 ministers were women. Nana Konadu Agyeman Rawlings, wife of former president John Jerry Rawlings, sought to become the NDC's presidential candidate for the 2012 general election but lost to incumbent Mills at the party's 2011 convention.

There are no laws or practices that keep members of minorities from equal participation in political life. According to the 2000 census, the country had more than 80 ethnic groups, none of which constituted a majority. The Ashanti, the largest ethnic group, made up 14.8 percent of the population.

Section 4. Official Corruption and Government Transparency

Corruption was present in all branches of government. The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and some officials frequently engaged in corrupt practices. Police set up barriers to extort money from motorists, and judicial officials accepted bribes to expedite or postpone cases or to “lose” records. The World Bank’s most recent Worldwide Governance Indicators reflected that corruption was a problem.

In September 2010 the Serious Fraud Office was replaced by the Economic and Organized Crime Office (EOCO), which had expanded powers to investigate and prosecute corruption in crimes such as money laundering, human trafficking, and cybercrime. The EOCO hired new employees during the year, most to be investigators. The organization continued to grow and had more than 400 staff members at year’s end. The EOCO is the lead agency on any major corruption case.

The CHRAJ investigates human rights abuses, public corruption, and abuse of power and is empowered to recommend punishments for violators. The attorney general, the minister of justice, the EOCO, and the Public Prosecutor’s Office are responsible for combating corruption. The parliamentary Public Accounts Committee is also responsible for auditing government spending. An auditor general reviews public sector accounts.

In the May and August 2010 hearings of the Public Accounts Committee, numerous cases of embezzlement and misuse of funds by government ministries were uncovered in departments, agencies, and district assemblies. The committee ruled that failure to refund monies or reconcile accounts would result in prosecution. The committee forwarded all cases to the attorney general; however, no prosecutions had been reported at year’s end.

On May 13, the Accra Human Rights Court ruled that the EOCO has no legal standing to investigate the Ghana Football Association (GFA), since the GFA was a private entity. The court further declared that the EOCO’s seizure of documents and computers at the offices of the GFA constituted an abuse of power and a violation of the GFA’s rights.

In August the Judicial Council dismissed two circuit court magistrates who were said to have committed acts of corruption and abuse of office. The investigative committee concluded that the two justices took bribes from parties in cases they presided over. Chief Justice Georgina Wood, sworn into office in 2007 as the first woman to serve in the position, expressed a strong desire to deal with corruption within the justice system.

Security force members were arrested for corruption. For example, in August six officers of the Motor Traffic and Transport Unit of the Ghana Police Service were arrested after allegedly extorting money from motorists at Akoti Junction on the Accra-Cape Coast road.

In September an Accra Circuit Court dismissed a narcotics case after one kilogram of seized cocaine had allegedly been surreptitiously replaced with sodium carbonate. The disappearance of the cocaine prompted an investigation by the BNI and a judicial panel of inquiry. Although finding improper behavior and procedures, the panel cleared the Judicial Service of fault in the cocaine’s disappearance. The BNI placed blame on a deputy superintendent of police, whom it held for questioning at year’s end.

Officials were subject to financial disclosure, but their responses were not available for public review.

The constitution provides for public access to government information; however, obtaining such access was difficult in practice.

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.

Government Human Rights Bodies.—The CHRAJ, which mediated and settled cases brought by individuals against government agencies or private companies, 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 governmental and nongovernmental agencies. Salaries were often delayed due to a chronic lack of resources and administrative issues. However, public confidence in the CHRAJ was high, resulting in an increased workload for its staff. In July President Mills swore in the new head of the CHRAJ.

Human rights issues were addressed in 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 was generally inadequate. Limited financial resources and a generally permissive societal attitude toward such discrimination contributed to its perpetuation. Courts were empowered to order specific enforcement of these prohibitions.

Women.—Rape and Domestic Violence.—The law criminalizes rape but not marital rape. Rape was significantly underreported and remained a serious problem. During the year the Ghana 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, the Legal Aid Board, and several other human rights NGOs to combat domestic violence. As of September DOVVSU received 157 reports of rape and reported 82 arrests and 40 prosecutions, resulting in five convictions; 126 cases remained uninvestigated at year's end. Convicted rapists may be punished with prison sentences ranging from five to 25 years.

Although the law prohibits domestic violence, it continued 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. The court also may order the offender to pay compensation directly to the victim. However, 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. Unless specifically called upon by DOVVSU, police seldom intervened in cases of domestic violence, in part due to a lack of counseling skills, shelter facilities, and other resources to assist victims. In many cases victims were discouraged from reporting abuse and from cooperating with prosecutors because they were aware 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. Victims did not report domestic violence (or rape) also because of fear of retaliation. Statistics were not available on prosecutions of domestic violence cases during the year.

Female Genital Mutilation.—See section 6, Children.

Other Harmful Traditional Practices.—In the Northern, Upper East, and Upper West regions, where belief in witchcraft remained strong, rural women and men were banished to "witch camps" (villages in the North populated by suspected witches, some of whom were accompanied by their families) by their families or traditional village authorities for suspected witchcraft. (Such camps were distinct from "prayer camps," to which persons with mental illness were sometimes sent by their families.) Most accused witches were older women, often widows, who were accused by fellow villagers of being the cause of difficulties, such as illness, crop failure, or financial misfortune. Persons suspected of witchcraft also were killed in recent years. NGOs provided food, medical care, and other support to residents of the camps. Government officials and the regional office of the CHRAJ claimed the number of women in witch camps in the Northern Region decreased slightly in recent years.

For example, in November 2010 in Tema, Greater Accra Region, a group of individuals including an evangelist pastor allegedly set fire to a 72-year-old woman after accusing her of being a witch. The woman died the following day from her injuries. Police arrested six persons; two were charged with murder, and four were released on bail. The accused had yet to go to trial at year's end.

The Ministry of Women and Children (MOWAC) monitored witch camps. The CHRAJ has an office in Tamale in the Northern Region, which supports efforts to protect the rights of those accused of being witches and monitors three camps. In 2010, during its most recent survey of the camps, the CHRAJ reported that they contained 175 female and eight male residents; however, media sources reported far higher numbers of men, women, and children in the camps.

NGOs expressed concern about the government's desire to close witch camps. Accused witches feared they would be killed if camps were dismantled and they were forced to return to their previous homes. According to the CHRAJ, there was some discussion within the MOWAC about closing witch camps and beginning a process of reunification with family and villages as well as an educational campaign about religious tolerance and respect for human rights. The CHRAJ intended to continue to work with camp officials, the MOWAC, and residents about the future of witch camps. A conference held at the end of the year, attended by the MOWAC, the

CHRAJ, DOVVSU, NGOs, and other stakeholders focused on a process by which accused witches could reintegrate with their families.

Sexual Harassment.—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 widespread problem.

Reproductive Rights.—Couples and individuals have the right to freely decide on the number, spacing, and timing of pregnancies. According to the 2008 Demographic and Health Survey, the most recent completed, 98 percent of all women surveyed were able to cite having used at least one birth control method. According to a foreign aid agency, 17 percent of married women of reproductive age used a modern contraceptive method. More than 75 percent of pregnant women had four or more prenatal 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 prenatal care. An estimated 10 percent of the population knew their HIV status; approximately 30 percent of HIV-positive pregnant mothers received antiretroviral medications to prevent mother-to-child transmission.

Discrimination.—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 persisted to women entering nontraditional fields. 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 backs. 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. Female entrepreneurs found it difficult to start or expand a business due to poor access to credit. Although microcredit programs were available, lack of access to credit remained a serious barrier.

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.—Birth Registration.—Citizenship is derived by birth within the country or parentage, but not all births were registered with the government. Some children were reportedly denied education because their births were not registered, although a birth certificate is not a legal precondition to attend school.

Education: The constitution provides for "free, compulsory and universal basic education" for all children from kindergarten through junior high school; however, parents were required to purchase uniforms and writing materials. During the year the government continued a program to provide uniforms to 1.3 million children in "deprived" areas, although contracting delays prevented most of the targeted children from receiving their uniforms. The government also operated a school feeding program for more than 1,138,000 children, which covered incidental costs as well as meals, and a nationwide capitation grant program that covered other school fees for all children attending public schools. According to the Ministry of Education, girls attending primary school during the 2010-11 school year constituted 48.6 percent of all students; at the junior high school level, the proportion was 46.5 percent. During the year the Ghana Education Service (GES) actively campaigned to expand education for girls by providing scholarships at the junior and senior high school levels and by offering financial incentives and free housing to female teachers to work in deprived 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 enrollment of girls.

Child Abuse.—The law prohibits defilement (defined as sex with a child younger than 16 years with or without their consent), incest, and sexual abuse of minors, but such abuses remained serious problems. As of September DOVVSU received 446 cases of suspected child defilement and 15 cases of attempted defilement; the true number of cases was thought to be much higher. There were frequent press 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. There were press reports during the

year of teachers, coaches, and headmasters/headmistresses being arrested for sexual harassment of female students or dismissed for ignoring reported problems. There were also a few reports of male teachers arrested for sexually assaulting male students.

Child Marriage.—Forced child marriage, which was illegal, remained a problem, and no improvements were noted during the year, according to the CHRAJ and NGOs.

Harmful Traditional Practices.—The law prohibits FGM, but it remained a serious problem in the Upper West Region of the country, and to a lesser extent in the 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 perpetrated than any other type. A girl was typically excised between four and 14 years of age. According to a 2008 study conducted by the Ghana Statistical Service with support from UNICEF, the most recent study available, approximately 49 percent of girls and women under 50 years in the Upper West Region, 20 percent in the Upper East Region, and 5 percent in the Northern Region had experienced some form of FGM.

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.

According to a 2009 survey of girls and women between 15 and 49 years old in the Upper West Region, 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 the Upper East Region was highly correlated with increased education. There were no prosecutions of practitioners during the year.

Sexual Exploitation of Children.—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 minimum age of consensual sex is 16 years. Defilement is punishable by imprisonment for seven to 25 years. There is no legislation specific to child pornography; however, it can be prosecuted as an “offense against public morals” and is punishable by imprisonment for a period not to exceed three years and/or a fine ranging from 120 to 600 cedis (\$80-\$400) in a country where the average annual income was estimated to be 1,950 cedis (\$1,300).

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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community had a few hundred members. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

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 in 2009. The government did not systematically or overtly discriminate against persons with disabilities, but 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 persons with disabilities in employment and the inaccessibility of public buildings continued to be problems.

Persons with both mental and physical disabilities were frequently subjected to abuse and intolerance. Unlike in previous years, there were no reports of persons with disabilities being killed for ritual purposes.

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 prayer camps in which individuals believed to be possessed by evil spirits were chained up for weeks, physically assaulted, and denied food and water. Camp supervisors would sometimes diagnose mental illness as a “demonic affliction” and prevent patients from consuming food or water, often for seven consecutive days, to cleanse victims of their evil spirits. Some victims were thought to be as young as six years old. Families sent 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 healed. Reports indicated that these practices occurred in the Greater Accra, Eastern, Central, Western, Ashanti, and Brong-Ahafo regions. In 2009 the Commonwealth Human Rights Initiative (CHRI) released a report on prayer camps based on interviews with current and former inmates. The report noted that some families caring for mentally ill members had insufficient financial resources and viewed prayer camps as an available option. The CHRI urged regulation of prayer camps; however, no regulations were implemented by year’s end.

Several government agencies and NGOs were involved in addressing discrimination against persons with disabilities, including the Ministry of Health, the Department of Social Welfare in the Ministry of Employment and Social Welfare (MESW), the Ministry of Education, and the Center for Democratic Development.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—According to the criminal code, “unnatural carnal knowledge” is defined as “sexual intercourse with a person in an unnatural manner or with an animal.” It states that individuals who have unnatural carnal knowledge “of any person of sixteen years or over with his consent” is guilty of a misdemeanor. There has been considerable debate over whether this legislation could be used to prosecute consenting gay adults, and there were no reports that it had ever been used.

The former and current commissioners of the CHRAJ spoke out against discrimination and advocated the need to protect the human rights of every citizen as provided for in the constitution. In November media accounts reported British Prime Minister Cameron was considering suspending direct aid to countries with poor records on LGBT rights. In response President Mills commented that Ghana was committed to upholding human rights as provided by the constitution, but he would not initiate a change to the law.

LGBT persons faced widespread discrimination, as well as police harassment and extortion attempts. Gay men in prison were often subjected to sexual and other physical abuse.

In June 2010 more than 1,000 protesters in Takoradi, Western Region, participated in a peaceful rally against reports of gay and lesbian activities in their city. This was reportedly the first such protest in the country.

In May 2010 an HIV/AIDS training workshop was held in Takoradi for health-care workers. After the workshop, The Daily Graphic announced that 8,000 gay persons had been “registered” in the Western and Central Regions. However, experts in the field denied that there had been any such “registration.” After the workshop there was significant negative reporting in the media about homosexuality.

In a June 2010 interview with The Daily Graphic, the Western Region minister called on the government to take steps to combat homosexuality. He included the possibility of police raids on locales frequented by gay men and lesbians, efforts by community leaders to “wean young people” away from homosexuality, and a public condemnation by the government. However, no arrests of persons were made in connection with his comments by year’s end, and he did not repeat his call.

It was reported that four men who worked within the community of gay men were arrested in May 2010 in connection with an alleged sexual assault and were later charged with sodomy. The case was first brought to the Takoradi Circuit Court on August 24; however, it had not been heard by year’s end.

Other Societal Violence or Discrimination.—Discrimination against persons with HIV/AIDS was a problem. Fear of being stigmatized continued to discourage persons from being tested for HIV infection, and those who tested positive from seeking timely care. There were no indications that this situation improved during the year. Instances where HIV-positive people were forced to leave their jobs or houses were common. The government and NGOs subsidized many centers that provided free HIV testing to citizens, although the high patient volume and the physical layout of many clinics make it difficult for the centers to respect confidentiality at all times.

Ritual killings occurred during the year. For example, in February a six-year-old was killed for ritual purposes in Koforidua; three men were arrested in connection with the case. Skin, private parts, and her tongue were removed from her body.

In May the headless body of a 12-year-old was found in bushes in the Bompaa community of the Brong Ahafo Region, and was believed to indicate a ritual killing. Three people, including one with the deceased boy's head in his possession, were arrested.

In December 2010 in Assin Gangan, Central Region, a man allegedly beheaded his three-year-old son for ritual purposes. A buyer in Kumasi reportedly offered the man 35,000 cedis (\$23,750) to produce a human head that he could use for rituals. The father was arrested and an investigation continued at year's end.

Chieftaincy disputes, which frequently resulted from a lack of clear succession, competing claims over lands and other natural resources, and internal rivalries and feuds, continued to result in deaths, injuries, and destruction of property.

For example, in January one person was killed and two others seriously injured over a land dispute between Abiriw and Dawu residents, in Kuapem, North District.

In March two police officers were shot in a chieftaincy riot at Akwamufie, Akosombo District. One of the officers died from his injuries.

In March 2010 in Tuobodom, Brong-Ahafo Region, three persons were killed and more than 500 displaced as a result of fighting between ethnic factions after the kidnapping of a rival chief. Eight persons were arrested in connection with the incident. An investigation by the police Criminal Investigations Division continued at year's end.

In September residents of Agogo in the Ashanti Region organized a protest march to bring attention to alleged criminal activity by Fulani herdsmen such as the destruction of crops, rape, and highway robberies. By November, 12 people allegedly had been murdered within 18 months by Fulani herdsmen in various parts of the Eastern Region. In addition police recorded many rape and defilement incidents victimizing women and children perpetrated by Fulani herdsmen. On December 7, 13 Fulanis, including one woman and two children, were killed during a shooting incident in Zamashegu, Northern District. The parliament formed a committee to investigate allegations of criminal activities by herdsmen believed to be of Fulani descent.

Mob violence during the year resulted in injuries and property damage. For example, in September 2010 in Tema, Greater Accra Region, approximately 200 fishermen and fishmongers attacked construction workers attempting to clear land for a construction project. The fishermen used the land to dry and smoke fish. The mob burned vehicles and buildings, threw stones, and fired at police officers. Police and military personnel were called in to restore order, and 32 persons were arrested, of whom 28 were granted bail. An investigation continued.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—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. The law requires that trade unions or employers' organizations must register, be authorized by the chief labor officer, and obtain a certificate of registration.

The law recognizes the right to strike but restricts that right for workers who provide "essential services." The minister of employment and social welfare designated a list of essential services, which included many sectors falling outside the International Labor Organization's (ILO) essential services definition. The list included services carried out by utility companies (water, electricity, etc.), ports and harbors, medical centers, and the Bank of Ghana. In these sectors, 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 enterprises whose services were deemed essential to the survival of the enterprise by a union and an employer. A union may call a legal strike only 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. In addition the Emergency Powers Act of 1994 grants authorities power to suspend any law and prohibit public meetings and processions, but it was unclear if the law applies to labor disputes.

The law provides a framework for collective bargaining. However, only unions that represented the majority of workers in a given company can obtain a Collective Bargaining Certificate, which is required to engage in collective bargaining. The armed forces, police, prison service, security and intelligence personnel, and workers with policymaking and managerial functions do not have the right to bargain collectively.

The law allows unions to conduct their activities without interference and provides reinstatement for workers dismissed under any unfair pretenses. The labor law also prohibits antiunion discrimination by employers and provides for reinstatement for workers fired for union activity. The Labor Act protects trade union members and their officers against discrimination if they organize within the free zones.

The government generally protected the right to form and join independent unions and conduct legal strikes and bargain collectively, and workers exercised these rights in practice. Worker organizations were independent of the government and political parties, and there were no instances of government interference in union activities during the year. There were no reports on violence, threats, or other abuses targeting union leaders and members by government or employers. While there were no instances of employers who refused to bargain, bargained with unions not chosen by workers, or hired workers without bargaining rights, some instances of employer interference in union activities were subtle. Since many unions also did not fully understand the labor laws, they normally did not follow approved processes for dealing with disputes. Due to lack of awareness about the National Labor Commission's (NLC) role, the NLC faced challenges in enforcing the necessary sanctions against both the unions and employers.

In October 2010 the Food and Allied Workers Union (FAWU) filed a case against a local beverage company over union recognition. The beverage company filed several cases against the Ghana Federation of Labor and FAWU to delay the recognition of its workers union. At year's end the substantive case was still pending in court, while a contempt action brought against the beverage company's management by the Labor Department was discontinued.

Trade unions engaged in collective bargaining for wages and benefits with both private and state-owned enterprises without government interference. No union had ever gone through the complete dispute resolution process involving arbitration, and there were numerous unsanctioned strikes during the year. Some employers continued to fire employees for union activity.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits most forms of forced or compulsory labor. Provisions of various laws prescribe imprisonment and an obligation to perform prison labor as punishment for violations. 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).

During the year children were forced to work (see section 7.c.). Some victims were forced to work on boats as children and were sometimes unable to leave their employers and continued to work without pay as adults.

The government did not commit sufficient resources to enforce legislation prohibiting forced labor. No fines were levied during the year, and no legal cases were brought that resulted in imprisonment. During the year the ILO continued to urge the government to revise various legal provisions that permit imprisonment with an obligation to perform labor.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum employment age at 15 years, or 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. 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. On June 6, Ghana ratified ILO Convention 138 on the Minimum Age for Admission to Employment.

Child labor laws were not 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.

Inspectors from the MESW were responsible for enforcement of child labor regulations, and district labor officers and the social services subcommittees of district assemblies were charged with seeing that the relevant provisions of the law were observed by annually visiting workplaces and making spot checks whenever they received allegations of violations. Inspectors were required to provide employers with information about child labor violations and effective means to comply with provisions of the law. However, the government did not provide sufficient resources to law enforcement and judicial authorities to carry out these efforts.

The ILO, government representatives, the Trade Union Congress, media, international organizations, and NGOs continued to build upon the national action plan

by increasing institutional capacity to combat child labor. In October 2010 the MESW relaunched the National Steering Community on Child Labor, consisting of more than 40 representatives from government, the ILO, labor unions, and development partners. In November 2010 the MESW unveiled an integrated child labor monitoring system; as of July the database and manual for the Ghana Child Labor Monitoring System had been completed and training had begun. Education and sensitization workshops were conducted with police, labor inspectors, local governments, and communities.

In September 2010 the minister of employment and social welfare signed an agreement with representatives of the government of Cote d'Ivoire, another government, and the cocoa industry to reaffirm and further extend implementation of a protocol requiring the participating governments to prohibit the worst forms of child labor and take immediate action towards eliminating it.

On June 13, to commemorate World Day Against Child Labor, the government launched the National Plan of Action for the Elimination of the Worst Forms of Child Labor. The government worked closely with NGOs, labor unions, and the cocoa industry to eliminate the worst forms of child labor in the industry. Through these partnerships, the government had created several community projects, which promoted sensitization, monitoring, and livelihood improvement.

According to government labor officials, ILO, and the Ghana Employers Association, child labor problems were infrequent in the formal labor sector. During the year several ministries 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, particularly in the informal sector, where child labor remained a serious problem.

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. In the fishing industry in the Lake Volta region 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.

Children were also forced to work, and in some cases parents reportedly sold, leased, or gave away their children 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 indications of compulsory labor affecting both children and adults in the fishing sector and in illegal mining. Victims were forced to work on boats as children and were sometimes unable to leave their employers and continued to work without pay as adults. In the illegal mining industry (consisting of independent, artisanal miners known as *galamseys*, whose operations sometimes conflict with larger, concessionary miners), NGOs cited debt bondage as a problem. 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 parental consent. The media regularly published stories about children being used in involuntary servitude, particularly as street hawkers and porters.

Child laborers were often poorly paid and physically abused; they received little or no health care and generally did not attend school.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—A National Tripartite Committee composed of representatives of the government, labor, and employers set a daily minimum wage, which was 3.73 cedis (\$2.49) during the year. There was no official minimum wage for the growing informal labor force. 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 of 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. The law does not prescribe overtime rates and does not prohibit excessive compulsory overtime.

Occupational safety and health (OSH) regulations are set by the government. The Factories Department within the MESW was responsible for imposing sanctions on violators of the OSH standards. Employers who failed to comply were liable to a fine not exceeding 1,000 penalty units, imprisonment for a term not exceeding three years, or both. The law requires that employers report occupational accidents and diseases no later than seven days from the date of occurrence. Only workers in the

formal sector, which employed less than 20 percent of the labor force, are covered by this legislation.

The MESW was unable to effectively enforce the wage law. There was widespread violation of the minimum wage law in the formal economy across all sectors. The minimum wage law was not enforced in the informal sector. Legislation governing working hours was largely followed in the formal sector but widely flouted and not enforced in the informal sector.

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. Specific information regarding the number of labor inspectors and adequacy of penalties was not available. There were no reports of specific government action taken during the year to prevent violations and improve wages and working conditions.

A 2008 CHRAJ report found evidence of widespread violations of human rights in mining areas. The report documented abuses by the security services in mining areas, particularly among *galamseys*.

GUINEA

EXECUTIVE SUMMARY

Guinea is a republic. In December 2010 Alpha Conde, the candidate of the Rally of the Guinean People (RPG) Party and longtime opposition leader, was inaugurated as the country's first democratically elected president since independence from France in 1958. Conde defeated Cellou Dalein Diallo of the Union of Democratic Forces of Guinea (UFDG). While the elections generally were regarded as free and fair, the second round was accompanied by widespread violence. Prior to Conde's inauguration, Guinea was headed by a transition government led by former interim president General Sekouba Konate, the defense minister in the military junta that seized control of the country in 2008. There were instances in which elements of the security forces acted independently of civilian control, most notably on July 19, when soldiers and high-ranking officers attacked President Conde's home.

Using gunfire and rocket-propelled grenades, soldiers loyal to the former military junta attacked the private residence of President Conde on July 19. Conde escaped unhurt, but three members of his presidential guard were killed. By the following day, 37 soldiers—including former army chief Nouhou Thiam, two colonels, and former members of Konate's presidential guard—had been arrested. By year's end 50 persons had been arrested and charged in the attack.

The most serious human rights problems in the country included security force abuse, including the use of torture; the government's failure to punish the perpetrators of such abuse; and violence and discrimination against women and girls, including female genital mutilation (FGM).

The use of excessive force by security forces to quell demonstrations resulted in deaths and injuries. Interreligious conflict and vigilante violence also resulted in deaths. Security forces harassed opposition members and journalists. Prison conditions were life-threatening, and prison guards tortured, beat, raped, and otherwise abused prisoners and detainees. Arbitrary arrest, prolonged pretrial detention, incommunicado detention, and lack of judicial independence were problems. The government seized private property without compensation. The government restricted freedom of speech, press, assembly, and movement. Corruption remained widespread throughout all branches of government. The government harassed and arrested human rights workers. Trafficking in persons, ethnic discrimination, child labor, and forced labor, including by children, occurred.

The government did not take steps to prosecute or punish officials who committed abuses, and impunity was a problem.

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

a. Arbitrary or Unlawful Deprivation of Life.—There were several unconfirmed reports that the government or its agents committed arbitrary or unlawful killings.

For example, on April 3, security forces used tear gas, batons, and sometimes live ammunition to disperse thousands of demonstrators who had gathered to welcome home UFDG party leader Cellou Dalein Diallo, who had been traveling abroad for three months. One demonstrator was killed, and 27 were injured. Approximately 60 UFDG members were arrested and charged with taking part in an illegal demonstration; all but 27 were released the following week. By year's end, all detainees had been released.

On September 27, three demonstrators were killed during clashes with police at a banned opposition rally in Conakry. The rally occurred on the eve of the second anniversary of the 2009 security force massacre of 150 prodemocracy demonstrators in Conakry's main soccer stadium. There were unconfirmed reports that police stopped demonstrators on their way to the rally by using live fire as well as tear gas and batons. One of the three victims who died was stabbed by a member of the security forces, according to an unconfirmed report. More than 300 persons, including bystanders, were arrested after protests ended later in the day. Many of those arrested were held without charge for several days beyond the legal limit of 48 hours; all had been released by year's end. Security forces reportedly searched homes without warrants and looted houses in their search for demonstrators from the evening of September 27-28. A government investigation into the incident absolved security forces of any responsibility in the killings of three demonstrators. The government charged that the demonstrators or other unnamed parties had perpetrated the killings.

The investigation into the 2009 stadium massacre begun by the transition government did not lead to any arrests during the year. At least 157 demonstrators were killed when members of the elite Presidential Guard surrounded the stadium, blocked entrances, and used guns and bayonets on the demonstrators. Nearly 100 women and girls were raped during the attack. None of the bodies reportedly buried by security forces in mass graves had been exhumed by year's end.

There was little progress in the investigation into the killings of civilians and military personnel following the attempted assassination in 2009 of former junta leader Dadis Camara. Although at least three low-ranking members of the military were charged in connection with the killings, the government appointed two men implicated in the massacres to high-level positions during the year. The killings resulted from a military crackdown during its search for the ringleader of the plot. Eyewitnesses told journalists that persons were shot in the streets as they fled from patrols.

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

The government took no action to investigate the disappearance of dozens of prodemocracy demonstrators following the 2009 stadium massacre in Conakry. In 2010 victims' families formed groups to demand the government investigate the disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution and law prohibit such practices, government officials continued to employ them with impunity. Security forces used violence to quell demonstrations, resulting in deaths and injuries (see section 1.a.). Prison guards tortured, beat, raped, and otherwise abused citizens and detainees, including children. The government seldom took action against alleged torturers.

During the year security forces tortured four youths suspected of stealing, according to the French human rights nongovernmental organization (NGO) Action by Christians for the Abolition of Torture. The youths allegedly were beaten and threatened with death.

There were no developments in the arrest of 22 military and police personnel for use of excessive force, looting, and inciting violence during street clashes after election results were announced in November 2010.

No action was taken against security forces at the military prison on Kassa Island who used torture, possibly including castration, on inmates. Approximately 100 military personnel were reportedly detained in inhumane conditions in the prison following the 2009 stadium attack. In January 2010 interim president Konate closed the Kassa Island facility.

Prison and Detention Center Conditions.—Conditions in civilian prisons, which were under the Ministry of Justice, remained harsh and life-threatening. Poor sanitation, malnutrition, disease, and lack of medical attention resulted in dozens of deaths. Prison guards routinely threatened, beat, and sometimes tortured prisoners to extract confessions or to extort money, although there were fewer such reports than in previous years. All prisons were overcrowded. Conakry Prison, for example, held 1,280 prisoners at year's end, although it was built to house 300.

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 exploited and harassed girls under the age of 18 by demanding sexual favors in exchange for additional food or water.

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. Many prisons were former warehouses with little ventilation. Temperatures were stifling, and elec-

tricity was insufficient. Although some prisons replaced tin roof panels with transparent ones, most prisons were dark.

NGOs reported endemic malnutrition throughout the prison system, which did not provide food or medicine to inmates. Prison directors relied on charities, the International Committee of the Red Cross (ICRC), and other NGOs to provide food for inmates. Most prisoners reported eating one small meal a day consisting primarily of rice and sauce, although some prisoners reportedly received two daily meals. Some inmates relied on assistance from families or friends to maintain their health, but relatives often abandoned prisoners due to the difficulty and cost of travel to the prisons. Guards often demanded bribes in exchange for delivering food to inmates and routinely confiscated prisoners' food.

Inmates were not tested for HIV/AIDS upon entry into the prisons, and no statistics on HIV/AIDS infection rates were kept. Lack of medicine in prisons, combined with endemic malnutrition and dehydration, made infection or illness life threatening. In several regions prisoners with tuberculosis were held together with uninfected inmates.

Although the Ministry of Justice administered civilian prisons, military officers and guards—along with untrained and unpaid volunteers who hoped for permanent entry into the military—managed and staffed the facilities. This system was difficult to manage and particularly vulnerable to corruption and abuse. Some prisoners exercised more power than the guards, controlling conditions and cell assignments and providing better conditions to prisoners who were able to pay. 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.

NGOs estimated that 4,000 prisoners (including between 50 and 100 women) were incarcerated in 32 civilian prison facilities nationwide. Statistics on incarcerated minors held nationwide were unavailable, but a local NGO reported that of 130 minors incarcerated at Conakry Prison, 14 had never 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 government did not provide for children's food, clothing, education, or medical care in prison.

In most prisons men and women were held separately, but juveniles generally were held with adults in prisons outside the capital. Pretrial detainees were not separated from convicted prisoners, and the prison system often was unable to track pretrial detainees after arrest.

Conditions in military prisons, which were under the Ministry of Defense, could not be verified since the government denied access to prison advocacy groups and international organizations.

Gendarmerie detention facilities commonly were used to hold civilian detainees while they were being processed for transfer to civilian facilities. Such temporary detention could last anywhere from a few days to several months. Like prisons, gendarmerie facilities were dank and fetid, although some facilities—such as those housing persons suspected of involvement in the attempted assassination of President Conde—were better constructed and had light and ventilation. The government allowed international organizations and NGOs access to prisons run by the gendarmerie.

Prisoners and detainees were not permitted reasonable access to visitors or granted religious observance. Prisoners and detainees have the right to submit complaints, but seldom exercised that right due to fear of reprisals by prison guards and the gendarmerie. Prison authorities did not investigate credible allegations of inhumane prison conditions, and the government did not investigate or monitor prison or detention center conditions.

The country had no ombudsman to serve on behalf of prisoners and detainees to consider alternatives to incarceration for nonviolent offenders, monitor the status and circumstances of confinement of juvenile offenders, or improve pretrial detention, bail, and recordkeeping procedures to ensure prisoners were not held beyond their maximum sentences. Nevertheless, the Association for the Support of Refugees and Displaced Persons in Detention, a local NGO that maintained offices in all prison facilities, regularly interceded with the Justice Ministry and prison officials to alleviate overcrowding, improve pretrial detention, and keep judicial processes moving without the commonly used tactic of bribery. While prison conditions remained grim, such interventions resulted in some improvement, such as the provision of reed mats for sleeping and the distribution of meat during holidays.

The government permitted prison visits by local humanitarian and religious organizations that offered medical care and food for those in severe need.

The ICRC was allowed regular access to all civilian detention facilities and continued partnership programs with prison and security authorities to improve civilian prison conditions.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit such practices, but government officials did not generally observe these prohibitions. Security forces arrested demonstrators without warrants and held detainees without charge for several days beyond the 48 hour-limit mandated by law.

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. The army is responsible for external security but also plays a role in domestic security. FOSSEPEL, a 16,000-member unit composed of police and gendarmes, was created in May 2010 to ensure security during the elections and was under the Ministry of Security. Following elections, most FOSSEPEL members returned to their police or gendarme units. The law permits the military, FOSSEPEL, the gendarmerie, and police forces to make arrests, although only the gendarmerie can arrest members of the military and police forces.

Security forces were poorly paid, inadequately equipped, and ineffective. Corruption was widespread (see section 4). Administrative controls over the police were ineffective, and security forces rarely followed the penal code. Many citizens viewed the security forces as corrupt, ineffective, and dangerous. There were no internal or external mechanisms to investigate security force abuse.

There were instances in which security forces failed to prevent or respond to societal violence. For example, on May 2, interreligious conflict erupted in the village of Galakpaye after local animists from the Forestier ethnic group attempted to exorcise members of a Muslim Malinke family. Subsequent clashes led to 25 deaths. Local security forces were overwhelmed and unable to restore order until the afternoon of May 3, when security forces from a nearby city arrived.

Arrest Procedures and Treatment While in Detention.—Although the law requires a warrant to make an arrest, many detainees were arrested without warrants. The law also provides that detainees be charged before a magistrate within 48 hours, renewable once if authorized by a judge, but many detainees were held for longer periods. In cases involving national security, the law allows the length of time to be doubled to 96 hours, renewable once, a provision that also was not respected in practice.

Of the 37 people detained after the attack on the president's private residence on July 19, at least nine were not brought before a judge and charged with attempted assassination until two weeks later.

The law precludes the arrest of persons in their homes between 9:00 p.m. and 6:00 a.m., but night arrests occurred. After being charged, the accused may be held until the conclusion of the case, including a period of appeal. Authorities routinely ignored the legal provision entitling defendants to an attorney. Indigent defendants were not provided attorneys at state expense. Although the law prohibits 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 or only allowed if an official was present.

Arbitrary Arrest.—Security forces arbitrarily arrested hundreds of demonstrators during the year. Many took place without warrants and in violation of other due process protections provided in the law (see section 1.a.).

The government also arrested human rights workers (see section 5).

Pretrial Detention.—According to 2008 statistics, approximately 67 percent of prisoners were in pretrial detention. Reliable statistics were unavailable, but pretrial detainees were often held three years or more before sentencing or release. Judicial inefficiency, corruption, and lack of political will contributed to the long delays.

Amnesty.—On August 15, the government pardoned 37 UFDG supporters who were arrested during an April 3 rally for UFDG party leader Diallo (see section 1.a.).

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, the judicial system lacked independence and was underfunded, inefficient, and overtly corrupt (see section 4). Budget shortfalls, a shortage of qualified lawyers and magistrates, and an outdated and restrictive penal code limited the judiciary's effectiveness, as did nepotism and ethnic bias. Although regularly scheduled criminal trials have not been held in almost six years, specially funded criminal trials for high-profile defendants were held sporadically. The government largely ignored the judiciary. Local government officials interfered with court processes (see section 5).

A military tribunal prepares and adjudicates charges against accused military personnel, to whom the penal code does not apply, although criminal procedures for military personnel provide the same rights as those for civilians. Civilians were not subject to military tribunals.

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. In the traditional system, 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 to present witnesses and evidence on their behalf. The prosecution prepares a case file, including testimony and other 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 (but only for major crimes), and the right to appeal a judicial decision, although these rights were not consistently observed in practice. Although the government was 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.

Trial procedures were chaotic and inadequate for the hundreds arrested for participating in an illegal demonstration on September 27 and 28. There were not enough interpreters, and many of the suspects did not understand the charges read against them in French.

Political Prisoners and Detainees.—The government denied the existence of political prisoners or detainees during the year; however, observers charged that the government held numerous such persons, including opposition members.

Military officers Colonel David Sylla, Colonel Sekou Fadiga, and Captain Issa Camara—who Human Rights Watch considers political prisoners—remained in Conakry Prison without charge for alleged involvement in the July 19 attack on the president's home. It was unclear whether civilian Souape Kourouma, who was arrested with the military officers, also remained in prison. According to witnesses who saw the men in detention, none had been granted access to a lawyer or brought before a judge, and Kourouma claimed to have been beaten.

Civil Judicial Procedures and Remedies.—The law provides for a judicial procedure in civil matters, including lawsuits seeking damages for human rights violations. Nevertheless, the judicial process 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 part due to public fear of suing security force members and lack of confidence in the competence and impartiality of the judiciary. In practice domestic court orders were often not enforced.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—Although the constitution and law provide for the inviolability of the home and legal searches require judicial search warrants, police reportedly ignored legal procedures in the pursuit of criminal suspects or when it served their personal interests.

Security forces reportedly searched homes without warrants and looted houses during their search for demonstrators from the evening of September 27-28 (see section 1. a.).

There were reports that security forces arrested family members of detainees or persons they sought to detain. Some of those charged with participation in the July 19 assassination attempt on the president alleged that members of the military harassed their family members during the year.

On July 14 and 15, several NGOs reported that the government unlawfully seized many acres of rural property in the village of Saoro, Forest Region, for a plantation. The government did not provide compensation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—Although the constitution and law provide for freedom of speech and of the press, the government restricted the press during the year. Some journalists practiced self-censorship.

Freedom of Speech.—Individuals were generally free to criticize the government publicly and privately without reprisal.

Freedom of Press.—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.

There were 13 private newspapers that generally published weekly in Conakry, and approximately 100 other publications that 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 regularly criticized the government, were available both in print and electronic format.

On June 10, the National Communications Council (CNC) imposed a two-month suspension on *Le Defi*, a private newspaper critical of the government. *Le Defi* had published an article that criticized controversial public remarks by the country's ombudsman, General Facinet Toure, about the Peuhl ethnic group. Toure, a presidential appointee who took office pledging to advance national reconciliation, was quoted as saying that political power should be kept away from the Peuhl because they controlled the economy of the country.

The On July 11, the CNC suspended opposition newspaper *Les Nouvelles du Pays* for violating the "code of ethics of journalism." In May the newspaper released a sensationalist article on the intrusion, allegedly by military personnel, into the home of a prominent opposition party leader. The government denied any involvement and claimed that the home invasion was perpetrated by criminals dressed as soldiers.

Radio remained the most important source of information for the public, and numerous private stations broadcast throughout the country. During the year the Agency for the Regulation of Telecommunications (ART) briefly closed three major radio stations for failure to pay their taxes—in 2010 the former transition government increased taxes tenfold for community radio stations. Attempts by the prime minister to mediate between the radio stations and the ART were inconclusive at year's end. A deadline for payment was set for December 23, but no action had been taken against radio stations refusing to pay by year's end.

Violence and Harassment.—There were reports of direct physical attacks, harassment, and intimidation of journalists by government and military officials.

For example, on April 3, journalists from radio stations Renaissance FM and Sabari FM were injured when security forces violently dispersed a rally welcoming opposition leader Diallo to Conakry (see section 1.a.).

On May 18, three journalists working for state television RTG were fired. The journalists alleged that they were fired for reporting on the fragile health of the president after a political visit to Turkey.

On May 30, three gendarmes in civilian dress refused to leave the offices of *The Independent* newspaper. The director, Mamadou Dian Balde, barricaded himself in his office. Human rights activists demanded that the gendarmes produce a warrant. Gendarmes and police were subsequently dispatched to free the newspaper director. The perpetrators, who later left the premises, explained that they were sent by a local gendarme colonel regarding a critical story on an increase in soldier salaries. No investigation had been conducted into the incident by year's end.

Censorship or Content Restrictions.—The government generally did not impose censorship or content restrictions. Nevertheless, on July 25, the CNC banned all reporting on the July 19 assassination attempt on the president. Local media largely derided and ignored the ban, which was lifted on August 1 following local and international criticism.

Libel.—Libel against the head of state, slander, and false reporting are subject to heavy fines.

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

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 association, but both were restricted in law and practice. The law bans any meeting that has an ethnic or racial character or any gathering "whose nature threatens national unity." The government requires 72-working-hour advance notification for public gatherings. The law permits local authorities to prohibit 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 occur.

The government sought to ban and later disperse an April 3 rally to welcome opposition party leader Diallo and a September 27 rally to protest the government's decision to move ahead on election planning without opposition input or consent. The government's use of excessive force at both events resulted in several deaths and dozens of injuries (see section 1.a.).

On November 9, in anticipation of a planned march by local lawyers to protest the illegal detention of two human rights activists (see section 5), the minister of territorial affairs and decentralization declared that all public rallies were outlawed. The order was rescinded the following day after local and international criticism. The ministry subsequently maintained that the declaration was to remind organizations to continue to follow procedures in applying for permission to hold rallies. The rally of the lawyers proceeded without interference.

On December 3, however, security forces prevented supporters of former prime minister Lansana Kouyate from holding street rallies in the city of Kankan.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected this right in practice. Requirements to obtain official recognition for public, social, cultural, religious, or political associations were not cumbersome, although bureaucratic delays sometimes impeded the registration of new associations.

c. Freedom of Religion.—See the International Religious Freedom Report at <http://state.gov/jdrl/irf/rpt>.

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 Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers.

In-country Movement.—The government required all citizens over 18 to carry national identification cards, which they must present on demand at security checkpoints.

Although the government eliminated all roadblocks in the country in January, it reinstalled those roadblocks after the July 19 attack on the president's private residence and kept them in place for the rest of the year. Police and security forces continued to detain persons at roadblocks to extort money, impeding the free movement of travelers and threatening their safety.

Internally Displaced Persons (IDPs).—Government property seizures in July resulted in the displacement of persons; although the number of persons displaced was unknown (see section 1.e.). NGOs charged that the seizures were unlawful.

All of the estimated 2,800 persons displaced in 2010 as a result of election-related violence or fear of such violence had returned to their homes by year's end.

Protection of Refugees.—The country was a place of refuge for asylum seekers from neighboring countries, including Liberia, Sierra Leone, Cote d'Ivoire, and Guinea-Bissau. At year's end the UNHCR and the National Bureau for Refugee Coordination estimated the total refugee population at 16,200, most of whom were Liberians.

Access to asylum.—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.

Durable Solutions.—The government, in coordination with the UNHCR, continued to assist the safe, voluntary return of Liberian refugees to Liberia and facilitated local integration for Liberian refugees unwilling or unable to return to their homes. Most of the aid for local integration consisted of a small plot of land per family in the Forest Region near N'Zerekore, as well as a written letter of introduction from the national government soliciting local businesses to hire integrated former refugees. Many refugees viewed the assistance as inadequate.

With the assistance of the UNHCR, the government continued to facilitate the local integration of approximately 1,500 Sierra Leonean refugees whose refugee status had been revoked by a panel chaired by the UNHCR.

Temporary Protection.—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 relating to the Status of Refugees or 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, and citizens partially exercised this right in 2010 in two rounds of presidential elections, from which UFDG candidate Alpha Conde emerged as the victor. Irregularities, political and ethnic violence, and incidents of excessive force by security forces responding to the violence marred the election's credibility.

Elections and Political Participation.—Recent Elections.—In June 2010 UFDG candidate Cellou Diallo and RPG candidate Alpha Conde emerged as the front-runners in the first round of presidential elections, which international observers characterized as credible and free. The second round of presidential elections, originally scheduled for September 2010, was repeatedly postponed until November 2010 due to a dispute over alleged bias in the Independent National Electoral Commission (CENI) leadership and inadequate preparation for the elections. Widespread violence occurred in the months leading up to the November 2010 election and for several weeks afterward. The violence was largely drawn along ethnic lines between Diallo's Peuhl supporters and Conde's supporters—mostly Malinke, Soussou, and Forestier residents of the Forest Region. Numerous deaths, injuries, and the displacement of thousands of ethnic Peuhl resulted from beatings, shootings, and the vandalizing of homes by mobs. While security forces sought to quell the violence, there were some reports that FOSSEPEL officers—who generally supported the RPG-targeted individuals on the basis of their ethnicity.

Before election results were announced, Diallo declared that he would not accept the outcome of the vote due to interethnic clashes that left some of his supporters unable to vote. CENI subsequently announced the provisional results of the election, which gave Alpha Conde the victory with 52.52 percent of the vote. Despite the violence, international observers characterized the election as generally free and fair. Diallo challenged the results in the Supreme Court, and two days of violence between UFDG and RPG supporters ensued. In early December 2010 the Supreme Court validated the election results.

Despite the constitutional provision that legislative elections be held no longer than 14 days after presidential elections, they still had not been held by year's end. Legislative elections scheduled for December 29 were postponed until 2012.

Political Parties.—There were no government restrictions on political party formation beyond registration requirements. According to the Ministry of Territorial Affairs and Decentralization, there were 140 registered political parties.

On February 12, the minister of youth threatened members of the civil service with lay-offs if they supported opposition candidates during the legislative elections. Two days later he retracted his remarks.

Opposition parties questioned the legitimacy of the planned legislative elections, noting that the government was proceeding with unilateral preparations that lacked transparency. Opposition access to state media was limited or nonexistent throughout the year, although private media criticized the government's election preparations without restriction. These concerns led to the opposition call for nationwide street protests on September 27 and 28 (see section 1.a.).

Participation of Women and Minorities.—There were 36 women in the 155-seat CNT, including the CNT president. Six of 38 cabinet ministers were women, and there were two female justices out of 14 on the Supreme Court. Minority ethnic groups were represented in CENI, the CNT, and the cabinet.

Section 4. Official Corruption and Government Transparency

Although the law provides criminal penalties for official corruption, the government did not implement the law effectively, and corruption remained widespread throughout all branches of government. The World Bank's most recent 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.

Security force corruption was endemic. Members of the military targeted and robbed business owners and coerced others into paying bribes. Police ignored legal procedures and extorted money from citizens at roadblocks.

The judicial system was endemically corrupt. Magistrates were civil servants with no assurance of tenure, and judicial authorities routinely required bribes in exchange for favorable rulings.

During the year no high-profile corruption cases were prosecuted.

Public officials were not subject to public disclosure laws.

There is no law providing free 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 somewhat cooperative and responsive to their views.

The government met with domestic NGO monitors but seldom responded to their inquiries, reports, or recommendations.

The government harassed human rights workers during the year. On November 27, security forces arrested and detained Frederic Loua and Amadou Diallo, both lawyers and members of the local NGO and lawyers' association Meme Droit Pour Tous (Equal Rights for All). Loua and Diallo were held for questioning in connection with their successful efforts to obtain the release of two suspects who had been in detention for seven years without trial. Although the release of the two suspects had been ordered by the court, the governor of Conakry returned the two suspects to their cells and ordered the arrest of Loua and Diallo, who were released later the same day. The two suspects remained in prison at year's end. The Bar Association subsequently took the governor to court for preventing the police from releasing the two suspects, as ordered by the court. The case was ongoing at year's end.

U.N. and Other International Bodies.—The government generally cooperated with international governmental organizations and permitted visits by U.N. representatives. Authorities permitted and facilitated visits during the year by members of the International Criminal Court, who were investigating human rights abuses committed by government officials in 2009. The government also cooperated with the Office of the High Commissioner for Human Rights in Conakry.

Government Human Rights Bodies.—On March 19, the president nominated by decree a chairman for the Independent Human Rights Commission, a constitutionally mandated body that is responsible for the promotion and protection of human rights. Nevertheless, by year's end parliament had passed no legislation on the duties or function of the commission, which had no funding, office, or staff.

On August 15, President Conde appointed a Provisional Commission for National Reconciliation. Led by the first imam of Guinea and the Catholic archbishop of Conakry, the commission organized a prayer rally to commemorate the 2009 stadium massacre and met with local religious leaders throughout the country to enlist their support in national reconciliation discussions. The commission characterized its work as promoting reconciliation through frank discussions with victims of human rights violations committed since independence, with the goal of establishing a national reconciliation commission.

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

Although the law states that all persons are equal before the law regardless of gender, race, ethnicity, language, beliefs, political opinions, philosophy, or creed, the government did not enforce these provisions uniformly.

Women.—Rape and Domestic Violence.—Rape, which was common, is a criminal offense but was rarely prosecuted. Authorities were reluctant to pursue criminal investigations of alleged sexual crimes, and there were no reports of prosecutions of rapists, although police records indicated 50 persons were arrested for rape during the year. 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 and the reporting of such crimes.

Domestic violence against women was common, although estimates of its prevalence were unavailable. Due to fear of stigmatization and reprisal, women rarely reported abuse. The law does not directly address wife beating, although charges can be filed under general assault, which carries sentences of two to five years in prison and fines of 50,000 to 300,000 Guinea francs (\$11 to \$66). Assault constitutes grounds for divorce under civil law, but police rarely intervened in domestic disputes, and there were no reports of perpetrators being punished. Local NGOs assisted some victims of domestic violence.

Female Genital Mutilation (FGM).—(see section 6, Children).

Sexual Harassment.—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.

Reproductive Rights.—Couples and individuals have 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. In 2008 the maternal mortality ratio was 680 deaths per 100,000 live births. Nine percent of women of reproductive age used a modern method of contraception. Healthcare for pregnant women was free and included access to skilled attendance during childbirth, prenatal care, and essential obstetric care and postpartum care. Women generally had equal access to diagnoses and treatment for sexually transmitted infections. Nevertheless, 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.

Discrimination.—The law generally provides for equal treatment of men and women, although it discriminates against women in inheritance matters. Traditional law discriminates against women and sometimes took precedence over formal law, particularly in rural areas. The Ministry of Social Affairs and Women's and Children's Issues worked to advance legal equality for women, who faced discrimination throughout society but particularly in rural areas, where opportunities were very limited. According to the Organization for Economic Cooperation and Development (OECD), women under traditional law are entitled to hold land only on a usufruct basis, which authorizes them to work family-owned land and draw a wage, but not to own the land. Women had difficulty obtaining loans, according to the OECD.

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.—Birth Registration.—Citizenship can be derived by birth, marriage, naturalization, or parental heritage. The government struggled to register births and issue birth certificates to avoid leaving a significant number of children without official documentation and thereby denying them access to school and health care.

Education.—Government policy provides for tuition-free, compulsory primary school education for six years. While girls and boys had equal access to all levels of primary and secondary education, social norms and practices resulted in significantly lower girls' attendance rates at the secondary level. Sexual harassment, concern about unwanted pregnancies, and other factors lowered attendance of female students.

Child Abuse.—Child abuse was a problem.

Child Marriage.—The legal age for marriage is 21 years for men and 17 years for women; however, tradition permits marriage at 14 years of age. 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 Middle Guinea and the Forest Region. The Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE), a local NGO dedicated to eradicating FGM and ritual scarring, 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.

Harmful Traditional Practices.—FGM is illegal, and practitioners faced a penalty of three months in prison and a fine of approximately 100,000 Guinea francs (\$22). In practice FGM was practiced widely in all regions among all religious and ethnic groups, primarily on girls between the ages of four and 17. Infibulation, the most dangerous form of FGM, was rarely performed. CPTAFE reported high rates of infant and maternal mortality due to FGM. According to a 2005 Demographic and Health Survey, 96 percent of women in the country had undergone the procedure. As in prior years, there were no prosecutions of practitioners during the year.

The government cooperated with NGOs in their efforts to eradicate FGM and educate health workers on the dangers of the practice. Urban, educated families increasingly opted to perform only a slight, symbolic incision on a girl's genitals rather than the complete procedure.

Ritual killings occurred, although the extent of the practice was unknown due to cultural taboos and a general unwillingness to speak on the subject.

Sexual Exploitation of Children.—The law prohibits child pornography, and the country has a statutory rape law. Sexual assault of children, including rape, 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.

Displaced Children.—Street children were pervasive in urban areas, although there were no official statistics. Many were forced to beg in mosques and markets.

International Child Abductions.—Guinea is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community is very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The law does not prohibit discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. There were no official reports of societal or governmental discrimination against persons with disabilities, but it was believed to be pervasive. The law does not mandate accessibility for persons with disabilities, and buildings and vehicles remained inaccessible. Few persons with disabilities worked in the formal sector, although some worked in the informal sector in small family businesses. 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 ineffective.

National/Racial/Ethnic Minorities.—The country's population was ethnically diverse, with three main ethnic groups and several smaller ones identifying with specific regions. The three major groups are the Soussou in Lower Guinea, the Peuhl in Middle Guinea, and the Malinke in Upper Guinea. There were smaller ethnic groups throughout the country. Conakry, 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. Political campaigns capitalized on ethnic divisions, and divisive ethnic rhetoric spurred civilian clashes in Conakry that resulted in the deaths of at least two persons during the year. The government and the National Transitional Council implemented several sensitization programs throughout the year to highlight the importance of peace and unity among ethnic groups. It also held conferences and purchased radio and television programming to combat ethnic tensions and to encourage political leaders to avoid using divisive ethnic rhetoric.

Vigilante violence occurred during the year. For example, on September 27, a Soussou man argued with his ethnic Peuhl neighbor over the effectiveness of opposition-sponsored protests earlier that day. The argument quickly became violent, with the Soussou man stabbing his Peuhl neighbor, who later died from his injuries. A crowd of Peuhls quickly subdued the fleeing Soussou man and stabbed him to death.

Interreligious conflict resulted in deaths (see section 1.d.).

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law penalizes sexual relations between persons of the same sex with a maximum sentence of three years in prison, although there have not been any prosecutions under this law for nearly a decade. 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 or gender identity. Nevertheless, during the 2010 opening of the Office of the High Commissioner for Human Rights in Conakry, the prime minister announced his belief that consensual same sex sexual activity is wrong and should be forbidden by law. He also said that sexual orientation should not be regarded as a basic human right. There were no active lesbian, gay, bisexual, or transgender organizations.

Other Societal Violence or 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 husbands died of AIDS.

Doctors and health workers routinely disregarded medical confidentiality standards, resulting in widespread distrust of testing.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—Although the law provides for the right of workers to organize and join independent unions, engage in strikes, and bargain collectively, the law also places restrictions on the free exercise of these rights. The labor code prohibits members of the armed forces from joining unions, requires 25 or more workers to constitute a trade union, and mandates that unions provide 10-day notice before striking—and only on the grounds of “professional claims.” The labor code bans strikes in essential services, which it broadly defines to include hospitals, police, the military, transport, radio and television, and communications.

While the labor code protects union officials from antiunion discrimination, it does not extend that same protection to other workers. The labor code prohibits employers from taking into consideration union membership and activities with regard to decisions about employee hiring, firing, and conduct, although it does not provide appeal procedures or effective, proportionate, and dissuasive sanctions to prevent such actions from occurring. The law does not provide for reinstatement of workers fired for union activity.

The Office of the Inspector General of Work, within the Ministry of Labor, manages consensus arbitration, as required by law. In practice, employers often imposed binding arbitration, particularly in “essential services.”

Freedom of association and the right to collective bargaining were not always respected, although worker organizations were generally independent of the government and political parties.

A disputed election on September 24 within the country’s largest union, the National Confederation of Guinean Workers (CNTG), triggered a split into factions supporting two candidates for the union’s presidency, incumbent Amadou Diallo and Yamoussa Toure. Diallo was declared the winner, but Toure disputed the results. Diallo subsequently accused the government of interference, alleging that the government had provided Toure with financial support. Toure’s supporters attacked Diallo’s residence on October 8, and vandalized CNTG headquarters on October 17. Toure denied involvement in the attacks. Diallo refused to recognize a December 16 court decision annulling his presidency of the union.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced labor provides for penalties of five to 10 years’ imprisonment for depriving third parties of their liberty. The government has not effectively enforced this law nor obtained conviction for forced labor under this article. The article also does not expressly prohibit debt bondage, making it particularly difficult to prosecute.

Work is compulsory for all convicted prisoners and optional for those who have been accused or charged.

The government claimed that it arrested and charged five traffickers and freed 30 victims of child trafficking during the year. Some older cases remained pending in the courts, while many additional cases have disappeared from the court system.

Reports indicate that forced labor was most common in the agricultural sector. Forced child labor, which represents the majority of victims, occurred primarily in the cashew, cocoa, coffee, gold, and diamond sectors of the economy (see section 7.c.).

Although migrant laborers do not represent a significant proportion of forced labor victims in Guinea, reports indicate instances of trafficking of Chinese and Vietnamese women to Guinea for the purposes of commercial sexual exploitation.

See also the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits all forms of child labor and sets forth penalties of three to 10 years’ imprisonment, and disgorgement of resulting profits, for violations. The minimum age for employment is 16 years, although children may begin to work at 12 years of age as apprentices for light work in such sectors as domestic service and agriculture, and at 14 years of age for other work. Workers and apprentices under the age of 18 are not permitted to work at night, more than 10 consecutive hours, more than 12 consecutive days, or on Sundays. The Ministry of Labor maintained a list of occupations in which women and youth under the age of 18 cannot be employed, but enforcement was limited to large firms in the modern sector of the economy. The penal code increases penalties for forced labor if minors are involved, but penalties did not meet international standards. Although the child code ensures that the country’s laws respect treaty obligations, and is regarded as law by the justice system, there remains ambiguity about the code’s validity because a required implementation text has not been passed by the government.

The Ministry of Labor is responsible for enforcing child labor laws and conducted occasional inspections during the reporting period. The Bureau of Gender Protec-

tion, Children, and Customs is responsible for investigating child trafficking and child labor violations. After arrests, all information is handed over to the Ministry of Justice. During the year the bureau reported two trafficking arrests. The bureau was understaffed and had only two vehicles to cover the country.

Child labor by boys occurred most frequently in the informal sectors of subsistence farming, small-scale commerce, and mining. Child labor by girls most often involved commercial sexual exploitation and put them at risk for face beatings, sexual harassment, and rape. Family members or employers forced some children 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 monitor child or adult prostitution.

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. They operated in extreme conditions, lacked protective gear, did not have access to water or electricity, and faced a constant threat of disease and sickness. Many children did not attend school and could not contact their parents. A 2006 study by the NGO AGRAAD reported that 45 percent of workers at the Dandano gold mine were children, approximately 30 percent of whom were working with an adult relative in the mine. Children also worked in granite and gravel pits.

Many parents sent young Muslim boys to live with a Koranic teacher for instruction. While a few boys received lessons, teachers forced most to beg or work in fields and mistreated the boys if they failed to meet daily quotas. Similarly, through the system of *confiage*, rural families often sent children to Conakry to live with family members while they attended school. Host families unwilling or unable to pay school fees sent the children to sell water or shine shoes on the streets. The host family took the money ostensibly in exchange for room and board.

Also see the Department of Labor's Annual Findings on the Worst Forms of Child Labor at <http://www.dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—Although the labor code allows the government to set a minimum hourly wage enforced by the Ministry of Labor, the government has neither exercised this provision nor promoted a standard wage. Prevailing wages routinely did not provide a decent standard of living for a worker and family.

The law mandates that regular work should not exceed 10-hour days or 48-hour weeks, and it 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 monitored work practices or enforced these rules. The law provides for a maximum of 100 hours of compulsory overtime a year.

The law contains general provisions regarding occupational safety and health, but the government did not establish a set of practical workplace health and safety standards. Moreover, it did not issue any orders laying out the specific safety requirements for certain occupations or for certain methods of work that are called for in the labor code. All workers, foreign and migrant included, have the right to refuse to work in unsafe conditions without penalty, but many workers feared retaliation and did not exercise this right.

The Ministry of Labor is responsible for enforcing labor standards, and its 160 inspectors are empowered to suspend work immediately in situations deemed hazardous to workers' health. Nevertheless, enforcement efforts were sporadic. According to the ILO, inspectors received inadequate training and had limited resources. Retired labor inspectors were generally not replaced with new hires. Inspectors lacked computers and transportation to carry out their duties.

Penalties for violation of the labor law were not sufficient to deter violations.

In practice, 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 Ministry of Labor's Inspectorate General reported that there were 92 cases of workplace injury, one death, and no cases of illness during the year.

GUINEA-BISSAU

EXECUTIVE SUMMARY

Guinea-Bissau is a multiparty republic. In July 2009 Malam Bacai Sanha of the African Party for the Independence of Guinea and Cape Verde (PAIGC) was elected president in elections following the assassination of Joao Bernardo Vieira by the military. International observers declared the election to be generally free and fair despite election-related violence preceding the polls. As in the previous year, there were multiple instances in which elements of the security forces acted independently of civilian control. On December 26, fighting between rival factions of the military resulted in two deaths.

Serious human rights abuses included beating and torture by security forces, poor conditions of detention, and violence—including female genital mutilation (FGM)—and discrimination against women.

Other human rights abuses included arbitrary arrest and detention; lack of judicial independence and due process; interference with privacy; intimidation of journalists; widespread official corruption, exacerbated by government officials' impunity and suspected involvement in drug trafficking; trafficking of children; and child labor, including some forced labor.

The government did not take steps to prosecute or punish officials who committed abuses, whether in the security services or elsewhere in the government, and impunity was a serious problem.

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

a. Arbitrary or Unlawful Deprivation of Life.—On the evening of December 26, Vladimir Cotta, an officer of the Interior Ministry's Rapid Intervention Police (PIR), was killed in a raid on a house occupied by some of Admiral Na Tchuto's alleged supporters. PIR officers alleged that Major Yaya Dabo, a former officer in the Interior Ministry's intelligence service, was responsible for the killing.

On December 28, PIR officers killed Dabo while he was en route to the Ministry of Interior, where he intended to turn himself in to the authorities. At the time of his death, Dabo was allegedly in the protective custody of two PIR officers and accompanied by the president of the Bissau-Guinean Human Rights League and a member of parliament. Authorities called for a full investigation into the events, but no action was taken by year's end.

In July 2010 a civilian named Fernando Te was reportedly tortured to death while in custody at the Fifth Squadron police station. At year's end an investigation was ongoing with no individuals identified or charged with his death.

There were no developments in the cases of the 2009 killings of President Vieira and armed forces chief of staff General Jose Batista Tagme Na Waie. The national commission of inquiry established in 2009 to investigate the killings did not identify or charge anyone during the year.

There were developments in the case of national assembly deputy Helder Proenca, whom military personnel beat, shot, and killed, along with his bodyguard and driver, in 2009 on the outskirts of Bissau. In 2009 the state attorney general filed a criminal complaint against Colonel Samba Djalo, chief of the Military Information and Security Service, who had accused Proenca of plotting to overthrow the government. On July 21, the attorney general referred the case to the Military Justice Court; however, the court returned the case to the attorney general the following day, citing a lack of jurisdiction. A decision on the jurisdictional issue remained pending before the Supreme Court 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 prohibit such practices, armed forces and police did not always respect this prohibition. The government did not punish members of the security forces who committed such abuses.

During his brief detention in April 2010 (see section 1.d.), Prime Minister Carlos Gomes was robbed, beaten, and reportedly pistol-whipped by soldiers loyal to then deputy armed forces chief of staff Antonio Indjai. Gomes was released after several hours. He remained prime minister.

Prison and Detention Center Conditions.—In December 2010 the Ministry of Justice, with the assistance of the U.N. Office on Drugs and Crime (UNODC), completed construction of the country's first secure prison facilities in the towns of Bafata and Mansoa. The prisons had a capacity of 90 prisoners, including cells for up to six women in Mansoa and eight in Bafata. Both had electricity and potable water. In June prisoners were transferred to the new prisons. In a three-year train-

ing program that included human rights modules, Portuguese officials trained and equipped guards at the prisons.

At the end of the year there were 64 prisoners held in the jails at Bafata and Mansoa. Of these, 43 were held in Bafata and 21 in Mansoa. Only four of the prisoners were women. No children were held at these facilities. Men and women were held separately, and juveniles were not held with adults. There were no reports of deaths in the prisons or of guards' or other prisoners' brutalizing or raping inmates. At Mansoa and Bafata, prison administrators provided food to the prisoners. Food was not provided to prisoners held in pretrial detention in Bissau, who were allowed to receive food from their families. Families were allowed to visit inmates at least twice a week, more often in cases of good behavior by the inmate.

The government continued to utilize makeshift detention facilities at the Judicial Police headquarters and on military bases for short-term detention of up to 48 hours. Conditions of confinement were poor. Detention facilities generally lacked secure cells, running water, and adequate sanitation. Detainees' diets were poor, and medical care was virtually nonexistent. Pretrial detainees were held 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. According to the Justice Ministry's Director of Justice Administration, the prisons in Mansoa and Bafata were regularly visited by the International Committee of the Red Cross (ICRC), the Bissau-Guinean Human Rights League, U.N. Integrated Peace-building Office in Guinea Bissau (UNIOGBIS) staff, the National Commission for Human Rights, and Aida (a Spanish human rights nongovernmental organization [NGO]).

Following his detention in April 2010 (see section 1.d.), former armed forces chief of staff Jose Zamora Induta was reportedly in poor health and was denied access to medical treatment at the military barracks in Mansoa. Induta was allowed to receive visitors, including diplomatic representatives and UNIOGBIS and ICRC representatives, but not without third parties present.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention, and the government usually observed these prohibitions; however, security forces arbitrarily arrested persons and were involved in settling personal disputes, sometimes detaining persons without due process.

Following intramilitary violence on December 26, Admiral Na Tchuto and several of his supporters were detained at the Army's Mansoa Barracks, 37 miles from the city of Bissau. No charges were filed against Na Tchuto or the other detainees. Na Tchuto and his followers remained in detention at year's end.

Role of the Police and Security Apparatus.—The country is divided into 37 police districts. There were an estimated 3,500 police personnel in nine different police forces reporting to seven different ministries. Judicial Police, under the Ministry of Justice, have primary responsibility for investigating drug trafficking, terrorism, and other transnational crime, while 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, Border Service, PIR, and Maritime Police. According to the constitution, the armed forces are responsible for external security and can be called upon to assist the police in internal emergencies.

Police were generally ineffective, poorly and irregularly paid, and corrupt. They could not afford fuel for the few vehicles they had, and there was a severe lack of training.

On May 13, the head of the Judicial Police, Lucinda Barbosa Ahukarle, resigned, citing death threats she had received because of her work fighting drug trafficking.

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 police detention facilities and vehicles frequently resulted in prisoners simply walking out of custody in the middle of investigations. The attorney general was responsible for investigating police abuses; however, employees of that office were also poorly paid and susceptible to threats, corruption, and coercion.

During a military mutiny in April 2010, Na Tchuto and soldiers loyal to then deputy armed forces chief Indjai beat, robbed, and detained Prime Minister Gomes, then-armed forces chief of staff Induta, and other military personnel. Gomes was released several hours later and departed the country on April 23 to receive medical treatment abroad. He returned in June. Induta remained in detention without charge until his release in December 2010.

During the mutiny, soldiers also released several officials being held on charges of embezzling government funds; however, the officials were suspended from their jobs, and charges against them were pending at year's end.

In July 2010 a group of soldiers assaulted several police officers, including at least two women, near the parliament building. According to media reports, the incident occurred following a dispute between a relative of recently appointed armed forces chief of staff Indjai and a traffic police officer. No soldiers were charged or punished for the assault by year's end.

Arrest Procedures and Treatment While in Detention.—The law requires arrest warrants, although warrantless arrests, particularly of immigrants suspected of crimes, often occurred. The law requires that detainees be brought before a magistrate within 48 hours after arrest and 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 in some military detentions detainees were not notified. Although the law provides for the right to counsel at state expense for indigent clients, 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. Pretrial detainees were allowed prompt access to family members.

While the vast majority of the prison population consisted of detainees awaiting the conclusion of their trials, few detainees remained in custody for longer than one year. Most left detention 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, but the largely nonfunctional judicial branch had little independence. Judges were poorly trained, inadequately and irregularly paid, and subject to corruption. Judges periodically went on strike throughout the year to protest their pay and working conditions. Courts and judicial authorities were also frequently biased and passive. The attorney general had little protection from political pressure since the president can independently replace the incumbent. A lack of materials or infrastructure often delayed trials, and convictions were extremely rare.

In addition to the civilian judicial structure, a military court system exists. The Supreme Military Court is the final court of appeal for military cases. In theory military courts do not try civilians. Although civilian courts may try all cases involving state security, even if the accused are members of the military, civilian courts were reluctant to assert their jurisdiction over members of the military.

Traditional systems of justice 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, question witnesses, have access to evidence held by the government, and appeal. Trials in civilian courts are open to the public. Defendants have the right to be present and present witnesses and evidence on their behalf. For those few defendants whose cases went to trial, and despite the otherwise dysfunctional judiciary, these rights were respected in a majority of cases. Citizens who cannot afford an attorney have the right to a court-appointed lawyer, but 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.—There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies.—The judicial system handles civil as well as criminal matters, but 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 partially respected these prohibitions in practice. 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.—*Status of 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. Unlike the previous year, there were no reports security forces detained persons for exercising their right to free speech. However, journalists who reported on narcotics trafficking came under considerable government pressure, and journalists practiced self-censorship.

Freedom of Press.—In March, Prime Minister Gomes brought defamation charges against Ali Silva, author of the Ditadura do Consenso blog. On March 21, Silva was summoned to the Attorney General's Office, where he was questioned for two hours and subsequently released. The charges remained pending at year's end.

On April 15, the Council of Ministers suspended publication of the *Ultima Hora* newspaper following the publication of an article accusing soldiers under the command of Indjai of killing then president Vieira. The National Union of Journalists and the NGO Reporters Without Borders condemned the government's action as "backward and coercive." At a news conference on April 20, Minister of the Presidency, Parliamentary Affairs, and Social Communication Maria Adiatu Djalo Nandigna issued a "vibrant appeal to the media, especially the newspaper *Ultima Hora*, to bring their editorial policies into line with the higher interests" of Guinea-Bissau. She added that if the appeal was ignored, the government could "use its legal powers to cancel licenses for good." *Ultima Hora* resumed publication.

In May 2010 the private daily newspaper *Diary Bissau* published an editorial entitled "Guinea-Bissau is a Narco-state" with photographs of former armed forces chief of staff Na Waie, former president Vieira, former deputy assembly leader Proenca, and former presidential candidate Dabo captioned "victims of drug trafficking in Guinea-Bissau." Unknown assailants subsequently beat Joao de Barros, the director of the paper and former minister of media affairs under Vieira. In addition the paper's headquarters was ransacked and all publishing equipment destroyed. One man, Armando Correia Dias, was briefly detained but later released without charge. The investigation remained open at year's end.

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.

There were several independent radio stations, a national radio station, and a national television station. International radio broadcasts could be received.

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.

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 usually 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.—See the Department of State's International Religious Freedom Report at <http://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 in practice. The government cooperated with the Office of the U.N. 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.

In June the government announced that refugees living in Guinea-Bissau longer than 20 years would be offered citizenship, and that those who declined would lose their refugee status if they could not demonstrate that they faced oppression in their home country or that their country was in a state of war.

Internally Displaced Persons (IDPs).—Bissau-Guinean IDPs and Senegalese refugees moved within the border region and back and forth over the border with Senegal, depending on the status of the ongoing armed conflict in Senegal's Casamance Region. This conflict sometimes spilled over into Guinea-Bissau. With ethnic and

family ties on both sides of the poorly marked border, the nationality of these IDPs and refugees was not always clear.

Protection of Refugees.—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. 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.

There were no restrictions on refugees' ability to work provided they had a valid refugee card. Persons holding official refugee status were allowed access to public services, including education, health care, and land. The U.N. High Commission for Refugees opened an office in Bissau in February 2010 and facilitated the issuance of refugee cards. As in previous years, local communities in northern Guinea-Bissau lent land for cultivation to long-term refugees from the Casamance region of southern Senegal. Rather than utilizing local schools, most refugees sent children to nearby Senegalese schools in the Casamance, which were perceived as being of higher quality.

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.

Elections and Political Participation.—Recent Elections.—Following the March 2009 military assassination of President Vieira, interim President Raimundo Pereira postponed the first round of the presidential election until June 2009 although the constitution provides that an election be held within 60 days of a president's death. The PAIGC candidate, Malam Bacai Sanha, won the June 2009 first round with 39 percent of the vote, and the July 2009 second round with 63 percent.

International observers characterized the polling process as generally free and fair.

Political Parties.—Formal membership in the dominant party conferred some informal advantages. The Balanta ethnic group, mainly through its predominance in the armed forces, controlled the political system.

Unlike previous years, the political opposition was not subjected to restrictions on political activity or overt violence such as torture or killings.

Participation of Women and Minorities.—The 98-member National Assembly had 10 female members. The Supreme Court president, two of the 19 government ministers, and one of nine state secretaries also were women.

All ethnic groups were represented in the government.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties of one month to 10 years in prison for official corruption. However the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

Official corruption and lack of transparency were endemic at all levels of government. The World Bank's Worldwide Governance Indicators reflected that corruption was a severe problem. Members of the military and civilian administration reportedly trafficked in drugs and assisted international drug cartels by providing access to the country and its transportation infrastructure. Customs officers frequently accepted bribes not to collect import duties, which greatly reduced government revenues. The largely nonfunctional and corrupt judiciary was unable and unwilling to enforce the law and investigate corruption cases. There were no new investigations of corruption by the attorney general during the year.

On August 29, a group of NGOs released a statement calling for additional transparency in the extractive industry. In particular the group called for more public information on the offshore oil industry and the mining of phosphate, bauxite, and heavy metals in various areas of the country.

No officials were arrested or charged with embezzlement during the year.

According to a 2008 U.N. report and the findings of UNIOGBIS, the country was rapidly becoming a major transit point and logistical hub in the drug trade. According to the UNODC, the volume of drugs transiting the country increased during the year. The failure to interdict or investigate suspected narcotics traffickers contributed to the perception of government and military involvement in narcotics trafficking.

Systemic failure to act throughout the police, military, and judiciary resulted in no prosecutions of drug traffickers. Drug traffickers usually had official protection at some level. The Judicial Police had no resources to conduct investigations, limited ability to detain suspects, and no means of transporting detainees to court. Judges

and guards 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.

In June the minister of health announced several regional health directors had mismanaged funds that were to have been used for the purchase of medicine. Some of the drugs were allegedly resold on the black market at higher prices. As of the end of the year, none of the health directors was charged with any crime.

Public officials are legally required to disclose their personal finances before the Court of Audits, but the court had no authority to enforce compliance. No public officials disclosed personal finances during the year.

In April the government announced the establishment of a Financial Crimes Information Unit to fight money laundering and corruption.

As in the previous year, the National Assembly's anticorruption committee was inactive.

The law provides that "everyone has the right to information"; 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.

Unlike the previous year, there were no reports of NGO workers being harassed.

U.N. and Other International Bodies.—The government permitted visits by U.N. representatives, including UNIOGBIS personnel and the ICRC. The ICRC, UNIOGBIS staff, and NGOs visited the prisons in Mansoa and Bafata regularly.

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

The law prohibits discrimination but does not designate kinds of discrimination the prohibition covers; the government did not enforce prohibitions against discrimination.

Women.—Rape and Domestic Violence.—The law prohibits rape, including spousal rape, but government enforcement was limited. The law only permits prosecution of rape when the victim has reported it, which observers noted was rare due to the cultural stigmatization of rape victims. This problem was exacerbated in the Muslim eastern regions of Gabu and Bafata, where cultural practice dictated that the issue be resolved at home within a family. There were no statistics available on the number of abusers who were prosecuted, convicted, or punished for rape.

Domestic violence, including wife beating, was an accepted means of settling domestic disputes and was reportedly widespread. No law 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.

Sexual Harassment.—There is no law prohibiting sexual harassment, and it was a problem.

Reproductive Rights.—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. Women and men were equally diagnosed and treated for sexually transmitted infections. The U.N. Population Fund reported that 98 of 114 health centers offered family planning services and that approximately 10 percent of women used contraception. The Catholic Church and other religious groups discouraged condom use, which also was not widespread due to lack of education. According to the most recent data available from the U.N. Population Fund, skilled health providers attended to 78 percent of pregnant women; however, only 39 percent of live births were attended by a skilled health worker. Estimates for the maternal mortality rate ranged from 800 to 1,100 per 100,000 live births.

Discrimination.—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 like the majority of citizens, especially in rural areas. Women did not have equal access to em-

ployment. 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 business ownership.

Children.—Birth Registration.—Citizenship is derived by birth within the country and from one's parents. 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. UNICEF data from 2000-09 estimated 39 percent of children were registered before the age of five. Lack of registration resulted in the denial of education at schools above secondary level, since school registration requires a birth certificate. However, this requirement was often waived for children in primary schools.

Education.—In March the National Assembly passed a law increasing compulsory attendance from the sixth grade to the ninth grade and lowering the enrollment age from seven years to six. The enrollment rate in primary schools was 65.4 percent for girls and 69.3 percent for boys, but Islamic schools banned girls from attending. Children often were required to help their families in the fields, which conflicted with schooling.

Child Abuse.—Violence against children was widespread, but it was seldom reported to the authorities.

During the year a teacher, Maria Filomena Ribeiro, was accused of imprisoning her eight-year-old daughter in her home with ropes and a padlock. Local NGO Association of the Friends of Children (AMIC) denounced the incident as "inhuman." Judicial Police opened an official investigation but did not file charges as of year's end.

In 2010 an 85-year-old man in Gabu was charged with sexually abusing and impregnating two of his granddaughters, ages 15 and 16. His trial had not begun by year's end.

Harmful Traditional Practices.—Certain ethnic groups, especially the Fulas and the Mandinkas, practiced FGM, not only on adolescent girls but also on babies as young as four months. According to a local NGO, more than 350,000 girls and women in the country were victims of FGM. UNICEF data from 1997-2009 indicate 45 percent of women and girls were victimized.

On June 6, the National Assembly passed a law prohibiting FGM, which calls for violators to be punished with a fine of up to five million CFA francs (\$9,000) and five years in prison. The law was published and went into effect on July 6. In November, Ne di Ture was charged with performing FGM on a three-year-old girl. At year's end, she was awaiting trial.

Child Marriage.—Child marriage occurred among all ethnic groups, but no reliable data existed. Girls who fled arranged marriages often became trafficked into commercial sex. The buying and selling of child brides also reportedly occurred. Local NGOs worked to protect the rights of women and children and operated programs to fight child marriage and protect its victims. Observers claimed that NGO efforts to enroll more girls in school increased 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.

Sexual Exploitation of Children.—There are no explicit penalties for child prostitution, but there is a statutory rape law prohibiting sex with a person 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.

Displaced Children.—The Child Protection Office of the Bissau Police Department estimated that 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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://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. 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 are no laws that criminalize sexual orientation; however, social taboos against homosexuality restricted freedom to express sexual orientation. There were no reported violent incidents or other human rights abuses targeting individuals based on their sexual orientation or identity. There was no official discrimination based on sexual orientation or gender identity in employment or access to education and health care. However, the law only recognized heterosexual married couples as entitled to larger government housing.

Other Societal Violence or Discrimination.—There was open discussion of HIV/AIDS and no reported societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides all workers with the freedom to form and join independent trade unions without previous authorization.

The law allows unions to conduct their activities without government interference; only trade union delegates are protected under union laws, while workers' rights to free speech and assembly are protected by the constitution. The law prohibits employer antiunion discrimination. However, only trade union delegates are protected by the labor code against antiunion discrimination, with inadequate sanctions.

The law provides for the right to strike. The only legal restriction on strike activity is a prior notice requirement. The law also prohibits retaliation against strikers.

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. No workers alleged antiunion discrimination during the year, and the practice was not believed to be widespread.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—There are no specific laws that protect children from exploitation in the workplace. The legal minimum age is 14 for general factory labor and 18 for heavy or dangerous labor, including labor in mines. Minors are prohibited from working overtime.

There were reports that such practices occurred. As in previous years, types of forced child labor included domestic servitude, shoe shining, and selling food in urban streets.

The small formal sector generally adhered to these minimum age requirements. The Ministries of Justice and of Civil Service and Labor did not effectively enforce these requirements, particularly in informal work settings, where most child labor occurred. The government did not take 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 participated in several programs to combat child labor funded by international donors. The AMIC estimated that 50 children per month returned home of their own volition. The NGO Network of Youth was also involved in removing child workers.

According to the 2010 Multiple Indicator Cluster Survey, almost 60 percent of children ages five to 14 work—65 percent in rural areas and 45 percent in urban areas. Children in rural communities performed domestic and fieldwork without pay to help support their families. They also lacked educational opportunities. Some children were partially or completely withdrawn from school to work in the fields during the annual cashew harvest.

Also see the Department of Labor's Findings on the Worst Form of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. 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 francs (\$34) per month plus a bag of rice.

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 overtime 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

may adopt 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.

KENYA

EXECUTIVE SUMMARY

Kenya is a republic with an institutionally 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, incumbent 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, Western, and Coast provinces. Approximately 1,150 persons were killed and more than 350,000 displaced between December 2007 and February 2008, when the two sides agreed to form a coalition government as a result of international mediation. Under the terms of the agreement, President Kibaki retained his office, and Odinga was appointed to a newly created position of prime minister. The parties also agreed to undertake a series of constitutional, electoral, institutional, and land reforms to address underlying causes of the crisis. In August 2010 citizens approved a new constitution in a national referendum, widely considered to be free and fair. The new constitution includes significant institutional and structural changes to the government. There were instances in which elements of the security forces acted independently of civilian control.

The most serious human rights problems were abuses by the security forces, including unlawful killings, torture, rape, and use of excessive force; mob violence; and the abridgement of the right of citizens to change their government in the 2007 election.

Other human rights problems included police corruption; harsh and life-threatening prison conditions; arbitrary arrest and detention; prolonged pretrial detention; executive influence on the judiciary and judicial corruption; arbitrary interference with the home and infringement on citizens' privacy; restrictions on freedom of speech, press, and assembly; abuse and forced resettlement of internally displaced persons (IDPs); abuse of refugees, including killing and rape; official corruption; violence and discrimination against women; violence against children, including female genital mutilation (FGM); child prostitution; trafficking in persons; discrimination against persons with disabilities; interethnic violence; discrimination based on ethnicity, sexual orientation, and HIV/AIDS status; lack of enforcement of workers' rights; forced and bonded labor, including of children; and child labor.

Widespread impunity at all levels of government continued to be a serious problem. The government took only limited action against security forces suspected of unlawful killings, and impunity in cases of corruption was common. Although the government took action in some cases to prosecute officials who committed abuses, impunity—particularly in connection with human rights abuses connected to post-2007 election violence—was pervasive.

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. The government took only limited action in holding accountable security forces suspected of unlawfully killing citizens.

Police killed two persons in June while quelling a riot in a refugee camp (see section 2.d.).

Police killed numerous criminal suspects, often claiming that the suspects violently resisted arrest or were armed. For example, on January 19, in the middle of a busy Nairobi highway, three police officers shot and killed three suspected carjackers who already had surrendered. Authorities suspended the police officers and placed them under investigation. At year's end the investigation continued.

On November 3, police reportedly shot and killed five suspected robbers sitting in a car in traffic in Nairobi. Police claimed that one of the suspects drew a pistol after officers ordered them to surrender, prompting police to open fire on the car.

On November 4, the Kenyan navy attacked a fishing boat near the Somali border, resulting in the death of four Kenyan fishermen. The government claimed the boat refused to stop for inspection. Survivors asserted that the boat was anchored offshore when the attack occurred and that the attack was unprovoked. Human Rights Watch (HRW) reported that military personnel beat survivors of the incident who swam to shore. As of year's end, the government had not initiated an investigation.

There were reports that persons died while in police custody or shortly thereafter, some as a result of torture. For example, on September 16, a 16-year-old boy died at the Kabete police station, hours after being arrested in connection with a robbery. A family member who viewed the body saw multiple injuries. The Independent Medico-Legal Unit (IMLU), a credible human rights nongovernmental organization (NGO), conducted a postmortem of the body and established that the young man died of blows and associated trauma. Police did not conduct any investigation into the death by year's end.

In 2008 the government formed the Commission of Inquiry into Postelection Violence as part of the internationally mediated political settlement. In 2008 the final commission report recommended that the government establish a special tribunal to investigate individuals suspected of such violence; however, no local tribunal was established, and the government did not conduct any investigation. As a result of government inaction, in December 2010 the International Criminal Court (ICC) chief prosecutor opened an investigation and subsequently announced that he had asked a pretrial chamber to issue summonses for six former government officials on charges of crimes against humanity. Summonses were issued in March. On August 30, the ICC dismissed an appeal by the government that challenged the admissibility of the cases against the six. The ICC appeals chamber ruled that no legal, factual, or procedural error could be discerned in the pretrial chamber's decisions in May to proceed with the cases. Specifically, the appeals chamber found that the government had failed to provide sufficient evidence to prove that it was conducting its own investigation of the six suspects. The six individuals were Uhuru Muigai Kenyatta, deputy prime minister and minister of finance; William Samoei Ruto, former minister of higher education, science, and technology; Henry Kiprono Kosgey, former minister of industrialization; Joshua Arap Sang, former head of operations for KASS FM radio station; Francis Kirimi Muthaura, head of the public service and secretary to the cabinet; and Mohamed Hussein Ali, police commissioner at the time of the violence. An ICC decision on whether to confirm charges and proceed to trial against some or all of the suspects was expected in early 2012.

b. Disappearance.—There were no reports of disappearances or politically motivated abductions during the year.

In October HRW released the report *Hold Your Heart—Waiting for Justice in Kenya's Mt. Elgon Region*, regarding the human rights abuses perpetrated between 2006 and 2008 by government security forces and the Sabaot Land Defense Force (SLDF), a militia group operating in the Mount Elgon region of western Kenya. During this period both government security forces and the SLDF committed atrocities, including hundreds of killings, the detention of more than 3,000 men, forced disappearances, torture, and rape. The report, which focused on unresolved abductions by SLDF militia and enforced disappearances by security forces, criticized the government for not effectively investigating such abuses or assisting families with death certificates or official recognition of the missing.

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 reportedly used violence and torture frequently 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 reported numerous cases of torture and indiscriminate police beatings.

In November, following two grenade attacks on civilian targets in Garissa and an improvised explosive device attack on a military convoy in Mandera, police and soldiers rounded up hundreds of suspects in both towns. HRW reported that some of these persons suffered broken limbs from beatings by police and soldiers. In the days following the attacks, suspects were arrested at random. HRW interviewed individuals who were taken to a Garissa military camp and forced to do exercises, such as standing on their heads, and were beaten if they could not comply.

As of September IMLU received 218 cases of alleged torture by security forces, 28 of them resulting in death.

IMLU's National Torture Prevalence Survey Report 2011 for Kenya, released in November, detailed the results of a nationwide survey on the prevalence of torture, the definition of which included psychological torture—such as harassment, threats, and forcing victims to make impossible choices—as well as physical abuse by the police and other security forces. Data was collected in interviews with members of public and private organizations and a national survey of 1,200 randomly selected respondents. In the survey, 23 percent of respondents reported that they had been tortured, and 29 percent claimed to know someone who had been tortured. Of victims who reported torture, only 25 percent claimed that action was being taken on their complaints. IMLU noted that psychological techniques, as opposed to physical torture techniques, were gaining in prominence.

Due to a shortage of civilian state prosecutors in the legal system (72 civilian prosecutors nationwide compared to 315 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 authorities did not fully investigate allegations of torture and did not charge perpetrators.

Police use of excessive force to disperse demonstrators resulted in injuries (see section 2.b.).

There were allegations that security forces raped female inmates, IDPs, refugees, and asylum seekers crossing into the country from Somalia (see section 2.d.).

Police harassed and physically and sexually abused street children (see section 6, Children).

The Truth, Justice, and Reconciliation Commission, whose mandate included the investigation of alleged cases of torture since independence, collected statements and held public hearings across the country. A report of its findings was expected in 2012.

In October 2010 IMLU filed a case against the government at the East Africa Court of Justice, seeking redress for Mount Elgon residents tortured during military operations in 2008 (see section 1.b.). In December the government filed an appeal with the appellate section of the court disputing the jurisdiction of the court in human rights matters and the timeliness of the case's filing. The government's appeal remained pending at year's end. Despite evidence of torture documented by IMLU and HRW from the Mount Elgon and El Wak security operations in 2008, the government denied that security forces engaged in torture and refused to prosecute individuals who allegedly participated in torture during the two operations.

Prison and Detention Center Conditions.—Prison and detention center conditions continued to be harsh and life threatening. A 2009 prison assessment by the Kenya National Commission on Human Rights (KNCHR) concluded that torture, degrading and inhuman treatment, unsanitary conditions, and extreme overcrowding were endemic in prisons. Prison staff routinely beat and assaulted prisoners. According to media reports, prison officials also raped female inmates. Fellow inmates also committed rapes. Prisoners sometimes were kept in solitary confinement far longer than the legal maximum of 90 days.

As of October the Legal Resource Foundation (LRF) reported a total prison population of 50,608, including 2,672 women and 47,936 men. The country's 89 prisons had a designed capacity of 22,000 inmates.

In 2010 the LRF attributed poor prison conditions to lack of funding, overcrowding, inadequate staff training, and poor management. Prison officers, who received little applicable training, discriminated against prisoners with mental problems and transgender prisoners.

Prisoners generally received three meals a day, but portions were inadequate, and sometimes portions were halved as punishment. Water shortages, an issue outside prisons as well, continued to be a problem. Sanitary facilities were inadequate. Medical care was poor, particularly for those with tuberculosis or HIV/AIDS. Supplies of antiretroviral drugs and other medications were inadequate, and insufficient food lessened the effectiveness of available medicine. Prison hospitals could not meet the needs of prisoners. Many inmates petitioned the courts for transfer to outside hospitals, but administrative delays, such as lack of transport, often delayed court-ordered hospital attention. Prisoners generally spent most of their time indoors in inadequately lit and poorly ventilated cell blocks. This was especially true for the one-third of prisoners awaiting trial, as they were not engaged in any work programs that would allow them to leave their cells.

According to the government, 187 prisoners died during the year, the majority from infections or other generally preventable causes. Overcrowding, unhygienic conditions, and inadequate medical treatment contributed to prisoner deaths.

Prisoners and detainees sometimes were denied the right to contact relatives or lawyers. Family members who wanted to visit prisoners commonly reported bureaucratic and physical obstacles that generally required a bribe to resolve. According to the LRF, prisoners had reasonable access to legal counsel and other official visitors, although there was insufficient space to meet with visitors in private and conduct confidential conversations.

In 2010 the LRF reported that prisoners were able to make complaints to the courts and had the ability to send letters written by paralegals to the court without appearing personally. There were no prison ombudsmen to handle prisoner complaints, but some prisons had paralegal clinics, which appeared to decrease the incidence of abuse (see section 5). Some magistrates and judges also made prison visits during the year, providing another avenue for prisoners to raise grievances. In August a group of senior judges, including a deputy chief justice of the Supreme Court, visited a prison in Mombasa. Inmates were permitted to address the delegation and raise grievances and request leniency. The KNHRC had a mandate to visit prisons and investigate allegations of inhumane conditions. According to the commissioner of prisons, human rights training took place in prisons during the year. The Department of Prisons had imbedded intelligence officers in the prisons to report on conditions and any abuse.

In small jails female prisoners were not always separated from males. Conditions for female inmates in small, particularly rural, facilities were worse than for men. Female prisoners were often not provided with sanitary towels and underwear. Civil society activists witnessed young children, women, and men sharing the same cells. There were 344 children accompanying their mothers or guardians in pretrial detention. Convicted mothers were not allowed to keep their children unless they were nursing. The LRF reported that prisons did not have facilities, lessons, beds, or special food for children, nor did children have access to medical care. Children born to women in custody had difficulty obtaining birth certificates.

Minors were generally separated from the adult population, except during the initial detention period at police stations, when adults and minors of both sexes were often held in a single cell. A 2008 government report on prison conditions noted that underage female offenders, who were ineligible for transfer to a minimum security training school, were often housed with adult female prisoners.

Political prisoners and detainees were held with the general prison population and under the same conditions.

The government permitted prison visits by local human rights groups during the year.

During the year noncustodial community service programs were instituted to alleviate prison overcrowding. In addition new prison facilities and housing for prison staff were built, mental health facilities for offenders were refurbished, and bedding and meals for inmates improved, although they still were considered inadequate by human 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), its Criminal Investigation Department, which was responsible for criminal investigations, and the Antiterrorism Police Unit. The Kenya Administration Police (KAP), which has a strong rural presence throughout the country, provides security for the civilian provincial administration structure and has the mandate for border security. The Kenya Wildlife Service is responsible for security and counterpoaching operations within the national parks, and the paramilitary General Services Unit (GSU) is responsible for countering uprisings and guarding high-security facilities. The National Security Intelligence Service (NSIS) 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.

Military forces, including the army, navy, and air force, are responsible for the external defense of the country and support civilian organizations in the maintenance of order. They are under the authority of the minister of state for defense.

Police were ineffective and corrupt, and impunity was a problem. There was a public perception that police often were complicit in criminal activity. In 2008 the Oscar Foundation Free Legal Aid Clinic Kenya noted that bribery in police recruitment was a problem. Police often recruited unqualified candidates who had political connections or who paid bribes, which contributed to poorly conducted investigations.

Police often stopped and arrested citizens to extort bribes. Press and civil society groups 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. Police often failed to enter detainees into police custody records, making it difficult to locate them. The police practice of requiring an examination and testimony by a single police physician in the case of victims of sexual assault resulted in substantial barriers to the investigation and prosecution of sexual violence cases (see section 6, Women).

Instances of witness harassment and resultant witness insecurity continued to inhibit severely the investigation and prosecution of major crimes. The Witness Protection Agency was inadequately funded, and doubts about its independence were common.

Impunity was a major problem. Police officers rarely were arrested and prosecuted for criminal activities, corruption, or using excessive force. Authorities sometimes attributed the failure to investigate a case of police corruption or 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.

Effective mechanisms to independently investigate security force abuses did not exist. A 2009 High Court injunction prevents the KNCHR from exercising court powers (for example, the power to summon witnesses) in investigating cases of police and judicial misconduct. The ban remained in effect at year's end.

The government took some steps to curb police abuse. In June a panel drawn from the Public Service Commission, Police Reform Implementation Committee, Kenya Anti-Corruption Commission (KACC), and NSIS conducted an integrity test of 2,000 senior police officials on issues related to corruption, mental fitness, and implementation of the constitution. The test was based on criteria established by the KACC and NSIS. Results were not made public, and it was unclear whether any action was taken to remove unfit officers.

In September the government passed legislation to establish a National Police Services Commission under the authority of an inspector general of police. In October a seven-member panel began the process of selecting commission members, who then were to select a police inspector general and two deputy inspectors general.

There were numerous instances in which police failed to prevent societal violence. For example, on July 13, police failed to prevent a mob from killing a man who attempted to hijack a bus.

Arrest Procedures and Treatment While in Detention.—The law provides police with broad powers of arrest. Police may make arrests without a warrant if they suspect a crime occurred, is happening, or is imminent. Detainees in noncapital cases must be brought before a judge within 24 hours (or up to 72 hours if the arrest occurs on a weekend), and detainees in capital cases must be brought before a judge within 14 days. Nevertheless, authorities frequently did not respect these rights. The courts dealt with this shortcoming by considering whether the extent of the denial of constitutional rights of the accused warranted dismissal of pending charges. In many cases accused persons, including some charged with murder, were released because they had been held longer than the prescribed period.

Although the law provides pretrial detainees with the right of access to family members and attorneys, family members of detainees frequently complained that access was permitted only on payment of bribes. When detainees could afford counsel, police generally permitted access to attorneys, but often refused such access otherwise. There is a functioning bail system, although 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 with capital offenses are not eligible for bail pending trial.

Arbitrary Arrest.—During the year police in Eastleigh routinely targeted Somali youths, threatening to send them to jail or refugee camps if they did not pay a bribe. Since few could afford even a modest bribe, many were arrested and remained in jail unless family or friends raised the bribe money demanded by police.

Muslim leaders claimed that police indiscriminately arrested Muslims on suspicion of terrorism and that some suspects subsequently disappeared. Police denied the allegations.

In September Ugandan prosecutors dropped murder and terrorism charges against Kenyan human rights activist Al-Amin Kimathi and released him from custody. In September of the previous year, the Ugandan government arrested and detained Kimathi and Kenyan attorney Mbuga Mureithi in connection with the July 2010 Kampala bombings. Kimathi and Mureithi had travelled to Uganda to visit

Kenyans who were in jail after being extradited to Uganda by the Kenyan government in connection with the bombings. Authorities detained Kimathi in Uganda for more than a year; they released Mureithi without charge a few days after his arrest and deported him back to Kenya. Kimathi claimed that the Kenyan government colluded with the government of Uganda to detain him in Uganda without due cause. Some Muslims claimed that the arrests were motivated by Kimathi and Mureithi's religion and intended to intimidate Muslims.

Pretrial Detention.—Lengthy pretrial detention continued to be a serious problem and contributed to overcrowding in prisons. Approximately 36 percent of inmates were pretrial detainees. The government claimed that the average time spent in pretrial detention on capital charges was 16 months; however, there were reports that many detainees spent two to 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. Due to a shortage of manpower and resources, however, 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 judiciary, approximately 800,000 pretrial detainees were awaiting trial, including both civil and criminal cases.

Amnesty.—The president released petty offenders periodically, with the largest amnesty occurring on December 12, Independence Day. During the year the president pardoned approximately 7,000 persons. In August, 158 inmates were released from a Mombasa prison under the auspices of a court commutation of sentences to community service. In October the chief justice ordered the release of an additional 270 inmates throughout the country.

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.

The president historically had extensive powers over appointments, including the positions of attorney general, chief justice, and appellate and high court judges. However, the new constitution provides that key appointments, including those of chief justice and attorney general, require the approval of parliament. The Judicial Services Commission is responsible for making recommendations for the appointment of judges.

The constitution provides for Kadhi's courts and states that the "jurisdiction of a Kadhi's court shall be limited to questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion and submit to the jurisdiction of the Kadhi's court." There were 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, which often favored men.

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.

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 generally was 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 (FIDA), provided it.

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, and, for some matters, to

the Supreme Court. 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. Defendants' lawyers can object to the appointment of particular assessors. A shortage of appropriate assessors frequently led to long delays in hearing cases.

The police practice of requiring an exam and testimony by the country's single police physician in cases of victims of sexual assault resulted in substantial barriers to the investigation and prosecution of such cases (see section 6, Women).

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

Civil Judicial Procedures and Remedies.—The KNCHR attempted to assert some of the powers of a court, issuing summonses, ordering the release of prisoners or detainees, requiring payment of compensation, or providing other legal remedies; 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. In 2009 the attorney general filed a brief with the High Court arguing that the KNCHR should be stripped of judicial powers. While the court had not issued a final ruling by year's end, it issued an injunction barring the KNCHR from convening investigatory panels with court powers. As a result the KNCHR had no effective means to investigate cases of police and judicial misconduct. The new constitution provides that the KNCHR be succeeded by a new entity, the Kenya National Human Rights and Equality Commission (KNHREC). The authority and powers of the KNHREC remained undefined at year's end.

The civil court system can be used to seek damages for victims of human rights violations, but in practice 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 civil cases 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.

During the year police raided dozens of homes in the Nairobi slums in search of suspected members of the banned Mungiki criminal organization.

City council officers and police officers also frequently raided, evicted, or destroyed the homes and businesses of citizens in slums or other areas where residents did not hold proper legal title. Residents complained that these actions often were intended to extort bribes.

In 2009 the government evicted more than 2,000 residents in the Mau Forest from their homes. 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. By year's end many Mau Forest evictees had not been resettled and still were living in extremely poor conditions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech and press, but the government sometimes restricted these rights.

Freedom of Speech.—The government occasionally interpreted laws in such a way as to restrict freedom of expression. The government monitored many types of civil society meetings, and individuals were not always allowed to criticize the government publicly without reprisal. The Ministry of Education, for example, intimidated reporters and potential whistleblowers during the year to quash allegations of missing, and likely stolen, funds allocated for free primary education.

Freedom of Press.—The mainstream print media generally remained independent despite attempts at intimidation by officials and security forces. The mainstream print media included four daily newspapers, one business-focused daily newspaper,

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.

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 that politicians paid journalists to avoid negative coverage or to plant negative coverage of a political opponent.

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 shortwave transmission. Although KBC coverage generally was viewed as balanced, its monopoly on national broadcasting limited the ability of critics of the 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 2007 general elections.

Violence and Harassment.—Security forces harassed members of the media. For example, in June four state employees working for Wajir District Hospital attacked Wajir Community Radio journalist Abdi Hassan Hussein for interviewing patients who complained of poor treatment at the facility.

On August 7, prison guards at Eldoret GK Prison attacked three journalists from the private broadcaster Nation Television (NTV). The journalists were covering an escape attempt by six inmates. One of the guards shot at cameraman James Ng'ang'a, destroying his camera equipment and injuring two of his fingers. Ng'ang'a was filming prison guards beating NTV reporters Jared Nyataya and Barnabas Bii. The reporters were covering attempts to recapture the escaped inmates, who had hidden in a nearby church. The attack occurred despite orders from a senior prison officer to allow the journalists to carry out their work. Authorities did not conduct any investigation into the incident by year's end.

Censorship or Content Restrictions.—Government harassment of journalists resulted in self-censorship, particularly with respect to stories associated with corruption, drug trafficking, and crime in which government officials applied pressure to protect implicated individuals.

Libel Laws/National Security.—The government cited national or public security as grounds to suppress views that were politically embarrassing. According to the Kenya National Dialogue and Reconciliation Monitoring Project, government officials often intimidated journalists reporting on the security sector and requested that they reveal sources. During the year, for example, the government asserted national security as a basis to pressure journalists reporting on alleged corruption at the Port of Mombasa. Also, editors at the Star newspaper were reportedly harassed by officials of the Anti-Terrorism Unit after the newspaper reported on problems with the unit's terrorism investigations. No formal charges were pursued by the government.

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

In 2009 the government announced that all cell phone users had to 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.

Unlike in previous years, no publications were known to be banned by the government.

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

Police forcibly dispersed demonstrators. For example, in October the Standard newspaper reported that administrative police attacked more than 100 protesters peacefully demonstrating against insecurity in the Longonot area of the Rift Valley, and numerous persons were injured. Authorities reportedly dismissed one of the officers who was caught on camera beating an elderly woman into unconsciousness.

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 2002 ban on membership in the Mungiki criminal organization remained in effect. The Mungiki espoused political views and cultural practices that were controversial in mainstream society. The government declared the group a criminal organization in 2002 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, the Mombasa Republican Council (MRC), and a local group called “the Taliban.”

In October the General Services Unit, administrative police, and regular police officers raided MRC oath-taking and ritual ceremonies, arresting 18 MRC members. Observers noted that raids against the MRC, which advocates for secession of Coast Province, were motivated by political as well as law enforcement reasons.

c. Freedom of Religion.—See the Department of State’s International Religious Freedom Report at <http://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. The government generally cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In-country Movement.—Police routinely stopped vehicles throughout the country and often solicited bribes. Police frequently required ethnic Somalis to provide additional identification.

Foreign Travel.—Civil servants and members of parliament must obtain government permission for international travel, which generally was granted.

Internally Displaced Persons (IDPs).—A large number of IDPs still had not returned home after being displaced in previous years. According to the Kenya Human Rights Commission, approximately 50,000 IDPs displaced due to ethnic and election-related violence in the 1990s had not returned home due to fear of renewed violence. Between 200,000 and 250,000 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 also had not returned home, according to the Internal Displacement Monitoring Center. The government’s eviction and destruction of homes in low income areas during the year resulted in hundreds of additional IDPs. For example, in October the Kenyan Airport Authority ordered the bulldozing of homes adjacent to Jomo Kenyatta International Airport in Nairobi, displacing approximately 500 residents. Flash floods and land disputes during the year also resulted in more IDPs. IDPs were concentrated in informal settlements and camps, with many of those dislocated as the result of 2008 postelection violence concentrated in the Eldoret and Naivasha areas. Living conditions in such settlements and camps were poor with rudimentary housing and little public infrastructure or service.

Rapes allegedly perpetrated by IDPs, local residents, and sometimes by police personnel occurred in IDP camps.

In September U.N. Special Rapporteur Chaloka Beyani commended the government for developing a draft IDP policy and for the return and resettlement of some IDPs affected by postelection violence. Beyani urged the government to adopt the IDP policy and address the “dire” living conditions and human rights of IDPs, including persons displaced by the 2007-08 postelection violence and those displaced by natural disasters and environmental conservation projects.

The government continued to pressure IDPs to return to their homes. In 2008 the representative of the U.N. secretary-general for the human rights of IDPs visited the country and concluded that some returns were not voluntary or based on informed choices. In a 2008 report the KNCHR found that the government had used intimidation and force to remove IDPs from camps and had failed to provide hous-

ing, food, and clean water to resettled camp residents. The KNCHR also found that resettled residents were exposed to sexual violence and harassment.

Protection of Refugees.—Access to Asylum.—The law provides for the granting of asylum or refugee status for those claiming asylum, and the government coordinated with the UNHCR to provide assistance and protection to refugees. Drought, famine, and conflict in Somalia, however, resulted in a massive influx of refugees into the country during the year. The refugee influx and security threats emanating from Somalia, particularly those associated with the Dadaab refugee camps, severely strained the government's ability to provide security, which impeded the efforts of the UNHCR and other humanitarian organizations to assist and protect refugees and asylum seekers.

Although the border with Somalia remained officially closed throughout the year, the monthly rate of Somali new arrivals into Kenya peaked at approximately 37,000 in August. As of late November, the UNHCR registered more than 176,000 new refugees, 154,000 of whom settled in the Dadaab refugee camps. The UNHCR estimated the total number of refugees in the country at more than 600,000, including more than 463,000 at Dadaab, more than 84,000 at the Kakuma refugee camp, and more than 53,000 in urban areas throughout the country, including Nairobi.

For several months the government allowed the International Organization for Migration (IOM) to transport refugees from the border town of Liboi to Dadaab, which helped to prevent extortion and attacks on refugees. On October 17, however, the government reiterated that the border was closed, tightened enforcement measures, stopped registering new refugees at Dadaab, and ordered the IOM to stop transporting refugees from the border. The government's actions followed a series of security incidents and the commencement of the government's military incursion into Somalia.

In accordance with the law, which provides for the government to assume responsibility from the UNHCR for the administration of refugee affairs, in March the Department of Refugee Affairs (DRA) assumed responsibility for registering asylum seekers in Dadaab, Kakuma, and Nairobi. The DRA expanded its registration activities to Malindi and Mombasa later in the year. A significant registration backlog developed in Dadaab, however, with the influx of refugees from Somalia. This backlog was eliminated by September, but the government suspended all registration activities in October. Unrelated to the registration backlog in Dadaab, in Kakuma there remained a significant backlog in refugee status determination for all nationalities except Sudanese. The government recognizes Somalis from south and central Somalia as refugees on a prima facie basis and therefore does not require a refugee status determination.

During the year the government announced a mass distribution of refugee identification cards but did not complete the distribution by year's end. The government planned to take responsibility for refugee status determination from the UNHCR as well, although it had not done so by year's end.

During the year the government permitted the opening of two additional camps in the Dadaab area, bringing to five the number of camps comprising the refugee complex. Despite the additional facilities, overcrowding remained a problem. The government did not open the Liboi registration center for Somali asylum seekers, despite multiple promises to the contrary. Although the government allowed both the Ifo 2 and Kambioos camps to receive refugees, it refused to provide official recognition and support to the Kambioos facility. The UNHCR moved refugees from the outskirts of the existing camps to plots in the new camps. This process stopped in late October, following security incidents. Cholera, meningitis, and measles outbreaks were reported in Dadaab. Malnutrition rates in the camps increased during the year due to the arrival of famine-affected refugees.

Despite government policy that all refugees must reside in camps, 12,501 newly arriving refugees were registered in Nairobi during the year, bringing the officially registered Nairobi refugee population to slightly more than 53,000 persons. Urban refugees remained vulnerable populations. While assistance programs for urban refugees increased during the year, there remained little possibility for local integration.

Nonrefoulement.—Unlike in the previous year, there were no confirmed reports of refoulement; in 2010 HRW reported that hundreds of Somali asylum seekers were deported back to Somalia. However, in January the government ordered NGOs to cease services to Somalis who fled to Mandera, in order to create conditions more conducive for them to return home.

Refugee Abuse.—On June 30, police shot and killed two refugees and injured numerous others while using live ammunition to quell a riot in the Dagahaley refugee camp, one of the camps in the Dadaab complex. The refugees were gathered to pro-

test an attempt to demolish illegal structures around a food distribution point, according to the UNHCR.

Sexual and gender-based violence (SGBV) remained problems at both the Dadaab and Kakuma refugee camps. Reported incidents included domestic violence, rape, sexual assault, physical assault, psychological abuse, and forced marriage, particularly of young Sudanese and Somali girls. Refugee communities sometimes targeted opponents of FGM. Health and social workers in Kakuma refugee camp reported that due to strong rape awareness programs in the camp, victims increasingly reported such incidents, resulting in improved access to counseling. In Dadaab, however, the government's limited ability and UNHCR's restricted access and limited ability to provide refugee services or protection resulted in numerous SGBV cases and the underreporting of crimes and abuse. Between January and November, for example, 361 SGBV incidents were reported in Dadaab and 114 in Nairobi. Between January and August, 217 SGBV incidents were reported in Kakuma.

Mobile court judiciary officials associated with the camps reportedly directed imams not to officiate weddings of girls under the age of 18 in an effort to reduce the occurrence of coerced, underage marriages.

Other security problems in refugee camps included banditry, ethnic-based violence, and the harassment of Muslim converts to Christianity.

In April the UNHCR and the government signed a memorandum of understanding to reinforce security in Kakuma and Dadaab refugee camps by increasing police, procuring additional equipment for police, and establishing a screening center at Liboi. In November, 92 officers (of 200 requested) were deployed to Dadaab to reinforce the 349 officers already there.

Mobile courts continued to serve the camp populations and were instrumental in curbing crime and violence when cases were reported; however, most crimes went unreported. In September the magistrate with jurisdiction over Dadaab reported that despite the massive influx of refugees, there was no corresponding increase in new cases reported to the mobile courts.

Refugees' freedom of movement remained severely restricted. The government required all refugees to remain at UNHCR camps unless granted permission by the government to attend higher education institutions, receive specialized medical care outside the camp, or leave to avoid security threats. In September the government reported that 70 percent of refugees who were granted movement passes did not return to the camps.

Numerous refugees were arrested for violating movement restrictions. According to the UNHCR, between January and November, 1,453 refugees from Dadaab were detained for unauthorized movement outside the camp; of those, 330 were minors who were handed over to the UNHCR. In Kakuma, during the same period, 148 persons were detained, of whom only seven were registered refugees. In Nairobi, also between January and November, 464 individuals were detained for movement violations; half of whom turned out to be asylum seekers, including numerous Ethiopian nationals transiting Kenya. Asylum seekers were generally released to either the DRA or UNHCR for registration.

Stateless Persons.—According to the UNHCR, approximately 20,000 stateless Sudanese Nubians, reportedly the descendants of Sudanese forcibly conscripted by the British in the early 1900s, lived in the country. Sudanese Nubians were not granted citizenship or identification documents, despite the UNHCR's conclusion that the Nubians qualified for citizenship under the prevailing nationality law. In 2003 the Nubians sought judicial relief from the Constitutional Court to be declared citizens by birth. Citizenship is determined by 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 in 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 in 2007 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 2007 presidential election re-

sults were tallied raised serious doubts as to whether this right was respected at the presidential level.

In a peaceful August 2010 referendum, 67 percent of voters approved a new constitution, which provides for a bill of rights and reforms the electoral system, administration of land, and judiciary. The new constitution provides parliamentary representation for women, youth, persons with disabilities, ethnic minorities, and marginalized communities. Implementation of constitutional reforms continued during the year, although full implementation was expected to take years.

Elections and Political Participation.—Recent Elections.—In 2007 the country held local, parliamentary, and presidential elections. Observers judged the parliamentary and local elections to be generally free and fair. In the presidential election, incumbent 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, Western, and Coast provinces. Approximately 1,150 persons were killed and more than 350,000 displaced between December 2007 and February 2008.

A mixed Kenyan-international commission appointed in 2008 to evaluate the elections found that the results were “irretrievably polluted.” The commission also reported that the election results, and especially the presidential election results, lacked integrity. 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.

Voting and counting at polling stations for the 2007 elections generally were conducted in accordance with democratic standards, although there were irregularities in both opposition and progovernment strongholds. International observers concluded that tallying irregularities by the Election Commission of Kenya (ECK) in Nairobi undermined the credibility of the ECK.

During the campaign 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 generally did not interfere with party campaign activities. Text messages, pamphlets, and Web logs sometimes were 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. In accordance with the National Accord, the ECK was abolished in 2008 and replaced in 2009 by the Interim Independent Electoral Commission (IIEC). In 2009 the IIEC conducted two parliamentary by-elections, which international observers deemed free and fair, although there were problems with the voter registry and bribery of voters.

During the year several by-elections were held, all of which were peaceful and undisputed.

Political Parties.—There were numerous political parties. In the 2007 elections, 117 parties with 15,332 candidates competed in local elections; 138 parties with 2,548 candidates competed in parliamentary elections; and nine parties nominated presidential candidates. The Political Parties Act, which came into effect in November 2010, sets stringent conditions for political parties but does not discriminate against any particular party.

Participation of Women and Minorities.—Women’s participation in electoral politics remained low; however, a record number of female candidates ran for parliament and local office in 2007, despite harassment and attacks. Women constituted 10 percent of all parliamentary candidates.

The new constitution provides for the representation in parliament of ethnic minorities; however, implementation posed hazards. The political system was characterized by alliances and hardened divisions among ethnic groups and subgroups. A political gain by one group was often perceived as a loss by other ethnic groups and, as evidenced by the postelection violence in 2007 and 2008, could trigger violence.

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. Since President Kibaki assumed office in 2002, despite numerous scandals, no top officials have been prosecuted successfully for corruption. The World Bank’s 2010 Worldwide Governance Indicators indicated that corruption was a severe problem.

In September President Kibaki signed into law the Ethics and Anti-Corruption Commission Act, which replaced the KACC with the Ethics and Anti-Corruption Commission (EACC). The new law expands the mandate of the EACC from investigation of corruption to developing and enforcing a code of ethics for public officials. Both the KACC and the EACC attracted significant public attention to corruption issues, but without complementary actions to punish perpetrators. Critics charged that despite significant financial support from the government, the KACC accomplished little and sometimes was used by the government to harass critics. By contrast, other observers believed the KACC was replaced by the EACC (and its director Patrick Lumumba abruptly dismissed) because the KACC was too aggressive in its investigations of high-level corruption. Like the KACC, the EACC lacked prosecutorial authority, which remained with the director of public prosecutions, whose office became independent of the Office of the Attorney General as a result of the new law. At year's end the EACC had not finalized recruitment of its senior leadership, effectively halting ongoing investigations by its staff.

Between July 2010 and June 30, the KACC recommended 113 cases for prosecution to the attorney general, who accepted the recommendation in 95 of these cases. Most of these cases involved mid- or low-level officials, reinforcing the notion that corruption at the highest levels went unchecked. Of 7,106 reports of alleged corruption reviewed by the KACC, 1 percent involved ministers or assistant ministers, and 6 percent involved senior officials such as permanent secretaries.

Widespread corruption existed at all levels of the legal system. Bribes, extortion, and political considerations influenced the outcomes in large numbers of civil cases.

Although police corruption was endemic, authorities rarely arrested and prosecuted officers for corruption or criminal activities. During the year the KACC investigated police officers suspected of accepting bribes, benefiting from fraudulent expense reports at a training college, and participating in multiple irregular land acquisitions. There were no reported arrests by year's end. The KACC participated in a vetting panel for police officers in July. It was unclear whether the new EACC would continue to play a role in monitoring recruitment and supervision of police officers.

In July the auditor general reported that approximately seven billion shillings (\$82 million) was unaccounted for in government ministries. The Ministry of Public Health and Sanitation topped the list, with nearly 3.7 billion shillings (\$43 million) in unsupported expenditures. The Mars Group Kenya, a local anticorruption NGO, joined the KACC during the year to assist in the investigation of revenue leakages.

In September prosecutors charged eight persons—including the son-in-law of Charity Ngilu, the minister of water and irrigation, and the husband of Cecily Mbarire, the assistant minister of tourism—with embezzling 26 million shillings (\$300,000) from the Ministry of Water and Irrigation through irregular procurement practices.

An internal forensic audit of the Ministry of Education during the year indicated that it had misappropriated 4.2 billion shillings (\$46 million), including some donor funds meant for the country's free primary education program. The KACC completed investigations into embezzlement and irregular disbursements by several ministry officials, including former permanent secretary Karega Mutahi. In July the Police Criminal Investigation Department launched an investigation, although no charges had been announced by year's end.

There were ongoing corruption investigations at the ministries of Roads, Energy, Immigration, Sports and Youth Affairs, Special Programs, Land, and the Constituency Development Funds.

There were developments in corruption cases from previous years.

In April the Parliamentary Committee on Lands and Natural Resources exonerated Minister Ngilu of allegations of corruption and nepotism leveled by a former assistant minister.

In August William Ruto, a former minister of higher education, was cleared of charges when many of the prosecution's witnesses failed to appear. The KACC continued to investigate the acquisition of land for a Kenyan embassy in Tokyo and cooperated with the Japanese government to collect documentary evidence.

The new constitution provides citizens with access to information held by the state and requires the state to publish and publicize important information affecting the nation, and the government took steps to implement those provisions during the year. In June the government launched Kenya Open Data, a Web site containing selected data from the national census and on government expenditures, parliamentary proceedings, and public service locations. The government spokesman's briefings were televised, and parliamentary debates were broadcast live on television and radio. Nevertheless, important reports regarding major corruption scandals from the last decade were not released to the public, and it was unclear how the

public would be included in the process of crafting the national budget, as required by the new constitution.

There is no freedom of information law, but some government information was available on the Internet.

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, the government generally ignored the recommendations of the U.N., other international bodies, and NGOs if such recommendations were contrary to government policies. There were reports that officials intimidated NGOs and threatened to disrupt their activities, and that provincial administrators and security forces interfered with less-established NGOs, particularly in rural areas. Human rights activists claimed that security agencies conducted surveillance of their activities.

Approximately 15 domestic organizations advocated for human rights in the country, 14 of which were independent of the government. The Kenya Human Rights Commission and IMLU produced reports cataloguing human rights abuses.

Several NGOs maintained comprehensive files on local human rights abuses. A number of attorneys represented human rights advocates without compensation, although they were concentrated in urban areas and could handle the cases of only a small percentage of those who needed assistance. 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.

In May Ken Wafula, a human rights activist and director of the Center for Human Rights and Democracy, was released from custody for lack of evidence. Wafula had been charged with disobedience and publishing inciting materials for his 2009 reporting on the clandestine arming of communities in the Rift Valley with the support of government officials.

Human rights workers were abducted during the year. For example, in September a Kenyan driver for the NGO CARE was abducted from the outskirts of the Hagadera camp and taken to Somalia, where he remained in custody at year's end.

According to the 2011 Annual Report of the Observatory for the Protection of Human Rights Defenders, since December 2010 at least five human rights defenders who assisted with the ICC investigation into postelection violence were forced to relocate after being threatened. A sixth received anonymous telephone threats during the year. The observatory added that the offices of human rights organizations that provided information to assist with the ICC investigation were vandalized. In some cases computers and hard drives were stolen. Starting from mid-2010, human rights defenders working on other human rights issues also were targeted and accused of working for the ICC, even if it was not the case.

Information surfaced during the year that in April 2010 four persons in civilian clothes arrested Kenneth Kiriimi Mbae, a member of the civil society organization Bunge la Mwananchi and local NGO Release Political Prisoners (RPP). Until his release four days later, Mbae was detained in an isolated house in Narok District, where he was interrogated and beaten. The perpetrators also threatened sexual violence against Mbae's wife. Mbae, whose injuries required medical treatment, was interrogated about extrajudicial killings, RPP activities with regard to Mount Elgon military operations, and the sharing of information in 2009 with the U.N. special rapporteur (see section 1.a.).

According to a separate report received during the year, in April 2010 George Nyongesa, a community organizer who worked for Bunge la Mwananchi's Web site, received an anonymous telephone call threatening to silence him if he did not close the Web site. Lawrence Maina, Web site manager of the organization, received two similar phone calls.

In another report made available during the year, police in May 2010 dispersed approximately 200 persons attending a Bunge la Mwananchi meeting being held in the Jeevanjee Garden in Nairobi. Four participants were arrested but released without charge after arriving at the police station.

U.N. and Other International Bodies.—The government permitted visits by representatives of the U.N. and other international organizations in connection with the investigation of abuses or monitoring of human rights problems in the country.

Government Human Rights Bodies.—The KNCHR, which also produced reports cataloguing human rights abuses, has in the past asserted certain juridical powers

by issuing summonses, ordering the release of prisoners, and requiring compensation for human rights abuses. However, the government routinely ignored the KNCHR's summonses and orders (see section 1.e.).

The Truth, Justice, and Reconciliation Commission, established in 2009 to investigate politically and ethnically motivated human rights abuses since independence, collected statements and held public hearings across the country during the year (see section 1.c.).

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

The constitution and law prohibit discrimination based on race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth. Government authorities did not enforce effectively many of these provisions, and discrimination against women, lesbian, gay, bisexual and transgender (LGBT) persons, individuals with HIV/AIDS, persons with disabilities, ethnic groups, and persons suspected of witchcraft was a problem. There was also evidence that some government and opposition officials tolerated, and in some instances instigated, ethnic violence. The law criminalizes homosexual activity.

Women.—Rape and Domestic Violence.—The law criminalizes rape, defilement, and sex tourism; 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. NGO activists complained that a provision in the law that criminalizes false claims of sexual assault deterred the reporting of sexual offenses.

Police statistics for 2010 indicated 3,200 cases of gender-based violence, including 785 rapes, up from 2,800 cases reported in 2008; statistics for 2009 were unavailable. Human rights groups, however, estimated that the actual number of rapes and other cases of gender-based violence was much higher. 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, particularly sexual violence; survivors' fear of retribution; police reluctance to intervene, especially in 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.

National guidelines on the management of sexual violence—including the handling of forensic evidence, postrape care, and victim support—were promulgated in 2009, but implementation mechanisms remained weak.

Police procedures in handling cases of rape and sexual assault created substantial barriers to the investigation and prosecution of suspected perpetrators. In addition to requiring those who allegedly experienced sexual assault to be examined by a police physician prior to the initiation of an investigation, police prosecutors also required the same physician to testify during trial. However, 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 unavailable to conduct exams, and frequently failed to appear in court. Police also lacked the facilities to preserve forensic evidence. 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 a police physician.

The government did not investigate or prosecute reported incidents of widespread sexual violence following the disputed election in 2008.

Domestic violence against women was widespread but often condoned by society and seldom addressed in 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. NGOs, including the Law Society of Kenya and FIDA, provided free legal assistance to some victims of domestic violence. In 2010 FIDA reported that 83 percent of women and girls in the country reported one or more episodes of physical abuse.

Harmful Traditional Practices.—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, prominent and educated women sometimes were victims.

Sexual Harassment.—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.

Reproductive Rights.—Subsidized contraception options, including condoms, birth control pills, and long-acting or permanent methods, were widely available to both men and women throughout the country, although access was more difficult in rural areas. An estimated 30 percent of women between the ages of 15 and 49 used a modern method of contraception. Skilled obstetric, prenatal, and postpartum care was available in major hospitals, but many women were unable to access or afford these services. In 2009 an estimated 44 percent of births were attended by skilled health personnel. According to U.N. estimates, the maternal mortality ratio in 2009 was 488 deaths per 100,000 live births. Access to family planning and reproductive health services was impeded by sociocultural beliefs and practices, lack of female empowerment, lack of male involvement, poverty, and poor health management systems.

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.

Discrimination.—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. 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 non-traditional 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.

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 husband's estate unless she has her children's consent. Even prominent and educated women sometimes suffered from property and inheritance discrimination. 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.

Children.—Birth Registration.—Citizenship is determined by the citizenship of the parents, and either parent may transmit citizenship. Births often were not registered in rural areas, where community elders rather than official entities were considered the legitimate authorities in family matters. Lack of official birth certificates resulted in discrimination in delivery of public services, such as education and health care.

Citizens are required to obtain identity cards when they turn 18 years of age. Identity cards are required to obtain public services and exercise voting rights. Since identity card applications require tracing lineage through male relatives, children born out of wedlock—and children born of married mothers who retained their maiden names—had difficulty obtaining identity cards unless they could provide the identity documents of a male relative.

Education.—Education was free and compulsory through age 13. Secondary enrollment was limited to students who obtained high scores on standardized primary exams. Rural families were more reluctant to invest in educating girls than boys, particularly at higher levels. Between the ages of 12 and 14, girls generally dropped out of school at a higher rate than boys due to the lack of sanitary facilities at schools and the general family preference to focus limited resources on the education of sons. In 2008 UNICEF reported that nine of 10 children from poor households failed to complete primary education. In 2008 the Ministry of Education estimated that 80,000 children dropped out of school annually due to forced marriages and child labor. The government ordered provincial administrators to arrest parents who did not send their children to school. However, this law was not enforced uniformly.

In 2008 the Center for the Study of Adolescence reported that between 10,000 and 13,000 girls dropped out of school annually due to pregnancy. While the law provides 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 or transferred them to other schools.

Child Abuse.—Violence against children, particularly in poor and rural communities, was a common occurrence, and child abuse, particularly sexual abuse, was a problem. Child rape and molestation continued to be serious problems. Police reported that 1,626 children were defiled (defined as a sexual act with a child involving penetration) in 2008. The law establishes a minimum sentence for defilement of life imprisonment if the child is less than 11 years old, 20 years in prison if the child is between ages 11 and 16, and 10 years if the child is between ages 16 and 18. Newspapers contained frequent reports of molestation or rape of children by relatives, neighbors, teachers, police, and clergy. In 2006 the NGOs The CRADLE and Care Kenya reported 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 most frequent perpetrators by profession, with pastors and police officers following closely.

The Teachers Service Commission reported that more than 160 cases of sexual misconduct were filed against teachers across the country for a reporting period ending in 2011; however, cases prosecuted were considered a fraction of actual abuses. A report released in 2009 by the Teachers Service Commission found that 12,660 female students were sexually abused by teachers from 2003 to 2007.

The government has banned corporal punishment in schools; however, there were reports that corporal punishment occurred throughout the year.

Child Marriage.—Newspapers frequently highlighted the problem of child marriage, which was commonly practiced among some ethnic groups. According to UNICEF, 25 percent of young women were children when they married. 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 applies the provisions of that act when deciding the case.

Harmful Traditional Practices.—In September the government passed a law making it illegal to practice FGM, procure the services of someone who practices FGM, or send a person out of the country to undergo the procedure. The new law also makes it illegal to make derogatory remarks about a woman who has not undergone FGM. Although the new law was praised by NGOs and others opposed to FGM, FGM was practiced widely, particularly in rural areas. FGM usually was performed at an early age. According to UNICEF, one-third of women and girls between the ages of 15 and 49 had undergone FGM. 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. In 2008 the Ministry of Gender and Children's Affairs reported that 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); Meru (42 percent); Kamba (37 percent); and Kikuyu (34 percent). Government officials often participated in public awareness programs to prevent the practice.

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 instituted "no cut" initiation rites for girls as an alternative to FGM.

Media reports indicated that discrimination against uncircumcised boys continued.

Sexual Exploitation of Children.—The penal code prohibits procurement of a girl under age 21 for unlawful sexual relations and criminalizes child commercial sexual exploitation, child labor, and the transport of children for sale. Nevertheless, children were subject to sexual exploitation and were victims of trafficking.

The Ministry of Gender, Children's Affairs, and Social Development and the NGO Eradicate Child Prostitution in Kenya estimated that 30,000 children were exploited in the sex industry every day. Prostitution sometimes was initiated by parents.

Child prostitution has increased in recent years due to 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. Political leaders expressed concern that minors in drought-affected communities were leaving school and being lured to prostitution to address their basic needs. Child prostitution was prevalent in Nairobi, Kisumu, Eldoret, Nyeri, and the coastal areas. UNICEF estimated that between 10,000 and 15,000 girls were engaged in prostitution in the coastal areas alone. UNICEF, the Ministry

of Tourism and Wildlife, the World Tourism Organization, and NGOs continued to work with the Kenya Association of Hotelkeepers and Caterers, a representative body of hotels and tour operators, to increase their awareness of child prostitution and sex tourism. The association 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. During the year the majority of hotels on the coast continued to uphold the NGOs code of conduct and continued to self-regulate through the Kenya Association of Hotelkeepers and Caterers. The Ministry of Tourism and Wildlife continued to register villas and cottages and impose the same requirements as on hotels. As part of a new tourism bill, the Tourism Regulatory Authority was established in September to oversee hotels, villas, and cottages, ensuring their adherence to the code of conduct.

Child Soldiers.—Although there were no reports that the government recruited child soldiers, there were reports that children participated in ethnically based militia activity perpetrated by groups such as al Shabaab. There also were reports that the Mungiki gang recruited young boys from schools.

Displaced Children.—Poverty and the spread of HIV/AIDS continued to intensify the problem of child homelessness. 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 in, and street children exploited in, the commercial sex industry. During the year the government's cash transfer program for orphans and vulnerable children expanded to cover 47 districts and to reach an estimated 100,000 beneficiaries. Each beneficiary received 3,000 shillings (\$34) per month.

International Child Abductions.—Kenya is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community was very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

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 law provides that persons with disabilities should have access to public buildings, and some buildings had wheelchair ramps and modified elevators and restrooms; however, the government did not enforce the law, and new construction often did not include accommodations for persons with disabilities.

There was limited societal awareness regarding persons with disabilities and significant stigma attached to disability. Learning and other disabilities not readily apparent were not widely recognized. NGOs reported that persons with disabilities had limited opportunity to obtain education and job training at all levels due to lack of accessibility to facilities and resistance on the part of school officials and parents to devoting resources to students with disabilities. The KNCHR reported that fewer than 10 percent of children with special needs were enrolled in school and that no curriculum existed for teaching children with learning disabilities.

The KNCHR charged that the Kenya National Examination Council failed to provide adequate testing facilities and resources for students with disabilities. The council claimed that it provided exams in Braille and in large print for visually impaired candidates and gave them 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.

There were significant barriers to accessing health care by persons with disabilities. They had difficulty obtaining HIV testing and contraceptive services, due to the perception that they did not or should not engage in sexual activity.

According to testimony provided to the KNCHR in Embu town during the year, pregnant women with disabilities encountered harsh treatment in maternity wards. Nurses demanded to know how they became impregnated and questioned their right to bear children. Mute mothers claimed that hospital staffs ignored them during delivery. Other unconfirmed reports indicated that hospital staffs performed—or tried to perform—tubal ligations on mothers with disabilities without informing them. Other expectant mothers with disabilities were sent away from hospitals for not having pads, cotton wool, or the fee of 2,000 shillings (\$23) required for delivery.

Few facilities provided interpreters or other accommodations to the deaf or those with hearing disabilities. The government assigned each region a sign-language in-

terpreter for court proceedings. Nevertheless, cases of persons who were deaf or had hearing disabilities were often delayed or forced to adjourn due to the lack of stand-by interpreters, according to an official with the Deaf Outreach Program.

During the year the Kenya Society for the Mentally Handicapped (KSMH) sued the government for improperly excluding persons with mental disabilities from the most recent budget allocations for persons with disabilities. In August a court temporarily halted the allocation of such funds as a consequence of the lawsuit, and the case continued at year's end.

Not all polling stations were equipped with accommodations for persons with disabilities. However, during the most recent by-elections KSMH and the Disabled Voters of Kenya Alliance worked closely with the IIEC to ensure that all persons were able to cast their votes.

The Ministry of Gender, Children, and Social Development is the lead ministry for implementation of the law to protect persons with disabilities. The parastatal National Council for Persons with Disabilities assisted the ministry. Neither entity received sufficient resources to effectively address issues related to persons with disabilities.

Societal discrimination continued against persons with albinism, many of whom left their home villages due to fear of persecution and moved to urban areas where they believed they were safer. According to the International Federation for the Red Cross and Red Crescent Societies, numerous persons with albinism abandoned their villages and went into hiding between 2007 and 2009. Persons with albinism were attacked for their body parts, which were thought by some to confer magical powers and which could be sold for significant sums. Since 2007 at least seven persons with albinism were killed, the most recent killing occurring in December 2010. In August 2010 a man was arrested for attempting to sell a person with albinism for \$250,000. In 2010 the minister of planning promised to carry out a census of persons with albinism and provide them with sunscreen. However, the government offered little health care or other support. Due to societal discrimination, employment opportunities for persons with albinism were limited.

National/Racial/Ethnic Minorities.—The population is divided into approximately 42 ethnic groups, among which discrimination and occasional violence were frequent. The 2009 census released in August 2010 revealed that the major ethnic communities were: Kikuyu, 6.6 million; Luhya, 5.3 million; Kalenjin, 5 million; Luo, 4 million; Kamba, 3.9 million; Kenyan Somali, 2.3 million; Kisii, 2.2 million; and Mijikenda, 1.9 million. 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.

Many factors contributed to interethnic conflicts: long-standing 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 has become fairly common in urban areas.

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, which at times resulted in death. For example, during the year cattle rustling was rampant, and several persons were killed in Isiolo and Turkana in connection with cattle raids and counter-attacks.

Between October 13 and 18, at least 14 persons were killed as a result of inter-ethnic fighting in Isiolo over pasture and water. On October 14, seven persons were shot and killed in Tractor village, Ngaremara Division, in Isiolo. According to local media reports, the dead included two 12-year-old children, who were dragged out of their huts and shot as their parents watched. Insecurity in the region resulted in the closure of at least six schools. Several teachers from the Borana, Somali, and Meru communities in Isiolo received death threats and were transferred. In re-

sponse the government deployed hundreds of security officers to the area in pursuit of the attackers, but no arrests were made by year's end.

In response to armed incursions and kidnappings conducted from Somali territory, in October Kenyan military forces entered southern Somalia to conduct operations against al Shabaab forces. In conjunction with these operations, the government launched internal security measures inside Kenya to counter suspected al Shabaab militants and sympathizers. Kenyan citizens, including Muslims and those of Somali ethnic origin, were generally supportive of these efforts; however, abuses occurred. For example, HRW reported that on November 11, after an attack by suspected al-Shabaab militants in Garissa, security forces picked up people who looked Somali, beat them, and forced them to sit in dirty water while interrogating them. After an improvised explosive device exploded in the same area on December 12, police and soldiers rounded up and beat Kenyans of Somali origin over the next three days, according to HRW. After grenade attacks occurred at a bus stop and bar in Nairobi in October, general public hostility against urban Somali refugees in Nairobi and Kenyans of Somali ethnic origin increased. The perception that Kenyan citizens of Somali origin were disproportionately successful in business contributed to public hostility.

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 consensual same-sex sexual activity and specifies a maximum penalty of 14 years’ imprisonment. A separate statute specifically criminalizes sex between men and specifies a maximum penalty of 21 years’ imprisonment. Police detained persons under these laws, particularly suspected sex workers, but released them shortly afterward. There were no reported prosecutions of individuals for same-sex sexual activity during the year.

LGBT advocacy organizations, such as the Gay and Lesbian Coalition of Kenya (GALCK), were permitted to register and conduct activities. However, societal discrimination based on sexual orientation was widespread and resulted in loss of employment and educational opportunities. Violence against the LGBT community also occurred, particularly in rural areas and among refugees. NGO groups reported that police intervened to stop attacks but were not generally sympathetic to LGBT individuals or concerns.

During the year an LGBT group in Mombasa relocated its offices to a more secure location and advised its members to maintain a low profile when coming to the group’s office to avoid attack.

According to the 2011 Annual Report of the Observatory, in February 2010 religious leaders in Mtwapa issued antigay statements and demanded the closure of the Kenya Medical Research Institute, which conducts research and provides treatment to persons with HIV/AIDS. Crowds subsequently attacked the center and beat one of its volunteers. Other volunteers were taken into police protective custody. All were released without charge, but none of the attackers was arrested.

On two occasions in 2010, Denis Karimi Nzioka, GALCK’s public relations officer and a writer on LGBT issues, was forced to move from his home by neighbors who said they knew he was gay. Nzioka was also targeted by unknown persons on the streets who threatened him with violence or death.

Unlike in previous years, no anti-LGBT publicity campaigns were conducted; however, sensational reporting often inflamed societal prejudices.

Other Societal Violence or Discrimination.—Societal discrimination against persons with HIV/AIDS was a problem. Stigmatization of HIV/AIDS made it difficult for many families to acknowledge that a member was HIV-positive, and no socially or politically prominent individual admitted being HIV-positive. Violence against persons with HIV/AIDS occurred.

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.

Mob violence and vigilante action were common and resulted in numerous deaths. Most victims were persons suspected of criminal activities, including theft, robbery, killings, cattle rustling, and membership in criminal or terrorist gangs. Human rights observers attributed vigilante violence to a lack of public confidence in police and the criminal justice system, in which assailants evaded arrest or bribed their way out of jail. The social acceptability of mob violence also provided cover for acts of personal vengeance, including settling land disputes.

On September 27, a mob killed three men who had failed in a robbery attempt. Mobs also attacked persons suspected of witchcraft or participation in ritual killings, 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 May a mob killed a man and his wife and burned their home in Nyahera Village after the mutilated body of a boy was found, and the mob attributed the death to the couple's suspected involvement in witchcraft. Police at the scene did not intervene to prevent the attack. No action was taken by year's end.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides that all workers, including those in the export processing zones (EPZs), are free to form and join unions of their choice. Any seven or more workers 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 new constitution no longer explicitly prohibits members of the armed forces, police, prisons service, and the administration police from forming or joining unions. However, it permits legislation that does so, a reference to the 2007 Labor Relations Act which continued in effect.

The law permits workers in collective bargaining disputes to strike but requires the exhaustion of formal conciliation procedures 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, a body of up to five judges appointed by the president. During mediation any strike is illegal, thus removing legal prohibitions on employer retaliation against strikers. In addition a Ministry of Labor referral of a dispute to the conciliation process nullifies the right to strike.

The law provides the right of collective bargaining to every trade union, employer's organization, and employer. Workers in the military, prisons, and the National Youth Service, however, do not have this right. The law also provides that collective labor disputes must first undergo conciliation, although conciliation is not compulsory in individual employment matters. Security forces cannot bargain collectively but have an internal board that reviews salaries. Other groups that cannot bargain collectively, such as health sector workers, have associations, rather than unions, which negotiate wages and conditions that match the government's minimum wage guidelines.

The law allows employers in some industries to dismiss workers regardless of the provisions of their collective bargaining agreements. The new constitution's bill of rights allows trade unions to undertake their activities without government interference.

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 refused to recognize the union and resisted its efforts to organize their workers.

The law prohibits antiunion discrimination and provides for reinstatement for workers dismissed for union activity. The Industrial Court can order reinstatement and damages in the form of back pay for employees wrongfully dismissed for union activities. All labor laws are supposed to apply to all groups of workers. In practice, however, migrant workers often lacked formal organization and consequently missed the benefits of collective bargaining. Similarly, domestic workers, commercial sex workers, and others who operated in private spaces were vulnerable to exclusion from legal protections.

The government voiced its support for union rights as mandated in the constitution. However, because of human and material resource constraints, it did not effectively protect these rights. Freedom of association and the right to collective bargaining were generally respected in practice. Worker organizations were independent of both the government and political parties. Civil servants were active members of worker organizations. During the year police arrested union leaders and threatened them for defending the rights of workers on tea plantations. At year's end none of the country's security forces had joined unions, although the Central Organization of Trade Unions (COTU) continued to advocate on their behalf for this right. 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 were ineffective in com-

pling employers to comply with the law. The government continued to encourage a strengthened labor dispute system, but the decisions of the Industrial Court were not consistently enforced. The Industrial Court moved very slowly and the number of cases filed increased, as a result of the new labor laws. The result was a significant backlog that prevented timely decisions in the majority of cases. This resulted in fewer cases being referred to the Ministry of Labor. In any event, union leaders reported that employers did not comply with the court's reinstatement orders, and workers accepted a payment in lieu of reinstatement. In several cases employers successfully appealed the industrial court's decisions to the High Court. The enforcement mechanisms of the Industrial Court remained weak. The majority of cases were filed directly by the parties without referring them to the Ministry of Labor for conciliation.

Some antiunion discrimination occurred, including in garment plants in the EPZs. Employers fired workers for participating in trade union activities, especially in EPZs. The COTU reported more than 1,000 cases across various sectors in which employers fired workers for participating in union activities. Discrimination also occurred outside EPZs, especially in urban areas, although there were also reports that managers on flower farms fired workers and insisted that they not join unions. There were also many reports that workers in Nairobi's industrial zone were arbitrarily dismissed.

During the year NGOs and trade unionists reported a growing trend toward the elimination of permanent positions in favor of casual or contract labor, especially in the EPZ, agricultural, and manufacturing sectors. In many cases the job was permanent, but an employer staffed it with rotating contract workers. This practice occurred at the management level as well, where employers hired individuals as management trainees and kept them in this position for the maximum permitted period of three years. Then, instead of converting the worker to permanent staff, the person was then replaced by another trainee. In the banking sector and other commercial industries, there were reports that casual workers were replaced when they expressed interest in joining a union. Casual employment continued to grow, accounting for 32 percent of total wage employment for the most recent period for which figures were available. This trend continued to increase across sectors.

The majority of strikes were in the plantation and agricultural sectors, due to issues related to delay in collective bargaining agreements, deduction of bonuses, salary increments, and other grievances. The other sectors affected were engineering, food manufacturing, shipping, and warehousing.

On February 28, police used tear gas to disperse hundreds of protesting dock workers who threatened to disrupt a workshop on the privatization of the Kenya Ports Authority. The Dockworker's Union was demanding the preservation of key jobs for its members and the surrounding coastal communities. The union was also demanding the firing of the minister of transportation and adequate consultation among all stakeholders to inform the privatization process. Grievances included employers' failure to apply a mandated wage increase, a lack of employer-provided protective gear, denial of maternity leave, poor working conditions, and long working hours without transportation to residential areas.

b. Prohibition of Forced or Compulsory Labor.—The constitution and law prohibit forced labor, bonded labor, slavery, and indentured servitude, including by children. However, such forced labor practices occurred. During the year there were reports of forced labor and forced child labor in domestic service, street vending, child prostitution, subsistence and commercial agriculture, and mining. Forced child labor primarily occurred in the informal sector. Some children were subjected to debt bondage or prostitution and were trafficked for commercial sexual exploitation and labor. Women and men also were trafficked for commercial sexual exploitation and labor. Commercial sexual exploitation was widespread, particularly in the coastal areas.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of a child (defined as a person under age 18) in any activity that constitutes a worst form of child labor or that would prevent children under age 16 from attending school. Children under age 13 are prohibited from working, and the government's policy of free and compulsory education through age 13 continued to be one of the most successful means to combat child labor. Children between ages 13 and 16 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 age 18 may not be employed in any industrial undertaking at night, employment should not cause children to re-

side away from home without parental approval, and permission to work in a bar, hotel, or restaurant requires renewed consent annually from the labor commissioner. The law provides fines of up to 200,000 shillings (\$2,350) and/or imprisonment for up to 12 months for employing children in such activities.

Despite legal restrictions, child labor was widespread, particularly in the informal sector, where children often worked in hazardous conditions, including in subsistence agriculture, fishing, and on small-holder and family farms. Child labor was no longer widespread on commercial farms. Children also worked as domestic servants. An estimated one million children between five and 17 years of age—most between ages 13 and 17—worked.

The 2005 Kenya Integrated Household Budget survey indicated that 951,273 children under age 18 were employed: 79.9 percent worked in agriculture (coffee, tea, rice, sisal, sugar, tobacco, and miraa—a stimulant plant) and 11.6 percent worked in domestic services. While there were no recent official statistics, the Ministry of Gender, Children, and Social Development and NGOs focused on child labor problems. There was increased attention to this problem after the number of children engaged in child labor rose sharply to an estimated 2 million children. Anecdotal evidence suggested that with the difficult economic times, child labor increased in 2011. The increase was attributed to increasing economic hardship, with families relying more on children to earn wages to support the household. During the year drought, inflation, and other economic conditions continued to drive children into the labor market. 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.

Many children worked on family plots or in family units on tea, coffee, sugar, sisal, tobacco, and rice plantations. Children also were used in the production of flowers and miraa. 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. Parents sometimes initiated forced or compulsory labor by children, such as agricultural labor, prostitution, and domestic servitude. During the year there were reports that children participated in ethnic-based militia activity (see section 6).

The Ministry of Labor nominally enforced the minimum age statute. The ministry remained committed to enforcing the statute, but implementation remained problematic due to resource constraints.

The government worked closely with the COTU and the International Labor Organization to eliminate child labor. The government continued to use its practical guide to labor inspection and trained labor inspectors and occupational health and safety officers to report on child labor. 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 continued to operate and met quarterly. The Interministerial Coordination Committee on Child Labor, chaired by the minister for gender, children, and social development, 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 a multitude of programs for the elimination of child labor with dozens of partner agencies. The partners placed the children in schools, vocational training institutions, and apprenticeships, and supported income-generating activities for thousands of parents. Partners also provided support to schools for income-generating activities to help keep children from poor families in school.

In 2010 the Child Protection Department employed a total of 500 children's officers, including 50 new officers. During the year the government continued to increase the number of such officers, yet its protection capacity remained limited. Fifty new officers were hired during the 2010-11 fiscal year. The government's cash transfer program for orphans and vulnerable children covered 47 districts and reached an estimated 100,000 beneficiaries. It was cofunded by the government and development partners. The beneficiaries each received 3,000 shillings (\$34) per month. There were an average of three orphans and vulnerable children in each beneficiary household who directly benefitted from the program.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—Regulation of wages is part of the Labor Institutions Act, and the government established basic minimum wages by occupation and location, setting minimum standards for monthly, daily, and hourly work in each category.

During the year the Productivity Center of Kenya, a tripartite institution including the Ministry of Labor, the Federation of Kenyan Employers, and the COTU, continued to set wage guidelines for various sectors based on productivity, inflation, and cost of living indices. While the center continued to set guidelines, it did not have personnel with sufficient expertise to gain the respect of industry. On May 1, the government raised the minimum wage by 12.5 percent. In many industries workers were paid the legal minimum wage; however, in most cases these wages were far outpaced by the cost of living. The lowest legal urban minimum wage was increased to 7,586 shillings (\$85) per month, and the lowest agricultural minimum wage for unskilled employees was increased to 3,765 shillings (\$44) per month, excluding housing allowances. Many employers did not follow the authority's recommendations. Most workers relied on second jobs, subsistence farming, other informal work, or the extended family for additional support. A large percentage of the labor force worked in the informal sector and was 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 from such limitations. An employee in the nonagricultural sector is entitled to one rest day per week and 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). Labor laws require two weeks' paternity leave, three months' maternity leave with full pay, and compensation for both public and private employees for work-related injuries and diseases.

While employees in the public sector enjoyed the benefits of paternity/maternity leave and workplace compensation, those in the private sector did not fully enjoy such benefits. Many employers did not allow paternity leave, but most respected the maternity leave provisions of the law. However, in 2008 private employers challenged the workers' compensation provisions in court. At year's end the case continued.

Workweek and overtime violations also 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 employers bribed some government labor inspectors to avoid penalties for labor violations. The extremely low salaries and the lack of vehicles, fuel, and other resources made it very difficult for labor inspectors to do their work and left them vulnerable to bribes and other forms of corruption. Employers in all sectors routinely bribed labor inspectors to prevent them from reporting infractions, especially in the area of child labor.

The law details environmental, health, and safety standards. Fines generally were too low to deter 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. 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 have an internal health and safety committee with representation from workers. Workers, including foreigners and immigrants, theoretically have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment. The Ministry of Labor did not effectively enforce these regulations, and despite the law, workers were reluctant to remove themselves from working conditions that endangered their health or safety due to risk of losing their jobs.

The DOHSS employed 79 inspectors, far short of the 168 reportedly needed to inspect factories adequately and enforce its safety and health orders. No new inspectors reportedly have been hired since 2007. There continued to be widespread hazards, such as lack of basic safety equipment and emergency escape routes in many companies. During the year violations of health and safety conditions were found routinely in the EPZs and other sectors, such as small horticultural producers.

According to the government, many of the largest factories had instituted health and safety committees by year's end.

LESOTHO

EXECUTIVE SUMMARY

Lesotho is a constitutional monarchy. 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 the most recent elections in 2007, the governing Lesotho Congress for Democracy (LCD) party retained a majority of seats in parliament; domestic and international observers characterized the election as generally free and peaceful. However, some members of the leading opposition parties and nongovernmental organizations (NGOs) claimed it was not entirely fair. Security forces reported to civilian authorities.

Torture and physical abuse by police, poor prison conditions, and abuse of spouses and children were the most important human rights problems in the country.

Other human rights problems included lengthy pretrial detention and long trial delays and stigmatization of persons with HIV/AIDS. Societal abuses included sexual abuse, stigmatization of persons with disabilities, mob violence, human trafficking, and child labor.

The government occasionally took steps to prosecute officials who committed abuses, whether in the security services or elsewhere in the government; however, impunity sometimes occurred.

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 arbitrary or unlawful killings during the year.

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 instances of police torture and abuse.

Police reportedly tortured suspects in custody. During the first eight months of the year, police stated that three persons died while in their custody. For example, local media reported that on March 3, Lithoteng police tortured Tseliso Thatjane, who was suspected of stealing a television and a DVD player. Police arrested Thatjane's wife, Masebatso Thatjane, reportedly saying they would release her only if Tseliso surrendered. Once he surrendered, police allegedly beat him with a knobkerrie (traditional wooden club used in herding) and repeatedly suffocated him with a plastic bag until he lost consciousness. They also demanded a bribe of 500 maloti (\$62) to release him, which was paid. Tseliso filed a case demanding compensation for wrongful arrest and torture, but the case did not move forward as he chose not to pursue it.

Prison and Detention Center Conditions.—Prison conditions were poor. Press reported that Maseru Central Prison experienced food shortages. The Lesotho Correctional Service (LCS) authorities denied any food shortages but acknowledged the quality of food given to inmates had deteriorated.

The risk of HIV and other sexually transmitted diseases for prisoners was high, and there were reports of prisoners (but not guards) brutalizing or raping others. Some inmates contracted sexually transmitted diseases in correctional facilities due to high incidences of sexual assault and gang rape by other prisoners during the "initiation" of new inmates. The LCS employed a full-time HIV/AIDS coordinator, and HIV testing, counseling, and treatment were available. The LCS provided condoms in all adult male and juvenile facilities. HIV prevalence among female prisoners was extremely high; according to LCS nursing staff, three in five female prisoners were HIV-positive.

Many prison facilities were in disrepair, but efforts were made to refurbish the Juvenile Centre and prisons in Maseru, Leribe, and Thaba Tseka. Although potable water was available, sanitation was poor and prison facilities lacked bedding. Proper ventilation or heating and cooling systems did not exist, and some facilities lacked proper lighting. 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. Nine prisoners reportedly died in prison of various illnesses during the year.

The LCS reported a total prison population of 1,762 (1,709 men and 53 women), a pretrial detainee population of 394 (384 men and 10 women), and juvenile population of 87 (68 boys and 19 girls). The country's prisons had a combined capacity of 2,866. Juveniles were held in different detention centers. Men and women were separated within adult and juvenile facilities. High-security prisoners and military

prisoners were held in a separate facility. The law provides that pretrial detainees and convicted prisoners be held in separate facilities. In practice pretrial detainees and prisoners were placed simply in separate cells.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and allowed them to request investigations of credible allegations of inhumane conditions; however, no investigations were conducted during the year.

Prison regulations provide for visiting committees made up of principal chiefs, church ministers, representatives of the business community, advocates of the court, and other citizens. The International Committee of the Red Cross visited correctional facilities in June.

The Office of the Ombudsmen handles complaints from the general public, including prisoners. However, no report on prison complaints was released during the year. Prison recordkeeping was considered generally adequate. Authorities used community service and official warnings as alternative sentences for nonviolent offenders.

According to prison officials, prison conditions for women were better than for men; specifically, women did not face the same overcrowding issues as men.

To improve prison conditions, the government renovated the Maseru Central Prison, Juvenile Training Centre, Leribe Prison, and Thaba Tseka Prison. Renovations included new water systems in cells, greater electrification of prison facilities, and improved fencing.

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 Lesotho Defense Force (LDF), Lesotho Mounted Police Service (LMPS), National Security Service (NSS), and Lesotho Correctional Service (LCS). In law and in practice, the LMPS maintains internal security. The LDF maintains all external security and assists the police when requested by the LMPS commissioner. The NSS is an intelligence service that provides information on possible threats in support of internal and external security.

Civilian authorities maintained effective control over the LDF, LMPS, NSS, and LCS, and the Directorate on Corruption and Economic Offences (DCEO) investigates and punishes abuse and corruption. There were no reports of impunity involving the LDF, NSS, or LCS during the year. There were isolated but unconfirmed reports of the LMPS acting with impunity.

Arrest Procedures and Treatment While in Detention.—The law requires police, based on sufficient evidence, to obtain a warrant of arrest from the magistrate prior to making an arrest. During the arrest suspects are apprehended openly and informed about their rights before they are 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.

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, and lawyers are provided for indigents in all civil and criminal cases. 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 effectiveness. NGOs maintained a few legal aid clinics. There were no reports of suspects detained incommunicado or held under house arrest. The law provides that a suspect cannot be held in custody for more than 90 days before a trial except in exceptional circumstances.

Pretrial Detention.—Pretrial detainees constituted 16 percent of the prison population. The average length of pretrial detention was 60 days, after which authorities usually released pretrial detainees on bail pending trial. However, pretrial detention could last for months due to judicial staffing shortages and unavailability of legal counsel.

Amnesty.—The government occasionally grants amnesties and early releases on Moshoeshoe's Day, the King's Birthday, Independence Day, or Christmas Day. During the year a total of 111 male prisoners and one female prisoner were granted amnesty.

e. Denial of Fair Public Trial.—The constitution and law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures.—Defendants are presumed innocent until proven guilty. There is no trial by jury. Trials are public. In civil and criminal matters, a single judge normally hears cases. It is only in high-profile constitutional, commercial, and appeals cases that more than one judge is appointed. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner; free legal counsel is usually available, either from the state or a legal NGO in all kinds of cases. Defendants may confront and question witnesses against them and present witnesses on their own behalf. Defendants are allowed to present evidence on their own behalf at the Magistrate Court, but at the High Court legal representation is required.

Defendants have the right to access unclassified government evidence. 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 must have access. Defendants have the right to appeal. A defendant may either be held or released on bail until sentenced.

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. In some cases the court has ruled in favor of citizen plaintiffs. There were no reports the government failed to comply with decisions pertaining to human rights.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and laws prohibit such actions, and the government generally respected these prohibitions in practice. Although search warrants are required under normal circumstances, the law provides police with the power to stop and search persons and vehicles as well as enter homes and other places without a warrant if the situation is considered life threatening or if there are security concerns. The law states that any police officer, rank of inspector and above, can conduct a search on individuals or homes without a warrant.

The High Court awarded 100,000 maloti (\$12,360) to retired LDF brigadier Motlalentoa Kopo, who had been arrested by LDF members in 2007. The judgment stated the invasion of Kopo's home was both unlawful and groundless and violated his fundamental right to privacy and family life as guaranteed by the constitution.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech but do not explicitly mention media freedom. The government generally respected freedom of speech. An independent press, effective judiciary, and functioning democratic political system combined generally to promote freedom of the press; however, harassment of journalists, self-censorship, and lawsuits by officials to silence criticism were sometimes problems.

On August 17, the government reportedly interfered with the transmissions of four privately owned radio stations to limit coverage of protests that started on August 15.

Freedom of Speech.—There are no official restrictions on the ability of individuals to criticize the government publicly or privately or discuss matters of general public interest without reprisal. The government did not impede criticism.

Freedom of Press.—The independent media were active and expressed a wide variety of views without restriction. Multiple laws could be invoked to control the media, but none was used during the year. The constitution grants citizens the right to express themselves and to obtain and impart information freely. However, since these rights are guaranteed only as long as they do not interfere with "defense, public safety, public order, public morality, or public health," this provision encouraged self-censorship.

Violence and Harassment.—While journalists were not subjected to arrest, imprisonment, or physical attack, many reported being harassed. Journalists reportedly were called to meetings by private businessmen, where the journalists were threatened with legal action for publishing critical articles.

Censorship or Content Restrictions.—On August 17, the government, which controls all commercial radio transmitters in the country, reportedly shut off the transmissions of four privately owned radio stations it accused of fomenting unrest. The

government acknowledged the broadcasts were interrupted but claimed the interruption was a technical error related to system upgrade.

Libel Laws/National Security.—Some journalists practiced self-censorship as the occasional government official employed slander and libel lawsuits against media outlets, editors, and journalists. For example, in 2010 the prime minister filed a lawsuit at the High Court against a local newspaper, claiming two million maloti (\$247,000) for defamation after the newspaper alleged that he had embezzled eight million maloti (\$1 million). At year's end the case was pending in court.

In August Judge Maseforo Mahase of the Lesotho High Court sued Harvest FM radio station for eight million maloti (one million dollars) for defamation. She claimed that a program shown by the station on July 14 contained defamatory remarks about her. The case was pending at year's end.

Internet Freedom.—There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could express views via the Internet. The Internet was not widely available and almost nonexistent in rural areas, due to the lack of communications infrastructure and high cost of access.

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 the right to peaceful assembly. Protest marches and gatherings were commonplace and regularly authorized by the government.

However, in August two leaders of a large protest organized by the Coalition of Concerned Civic Organizations were arrested and charged under the Public Meetings and Processions Act and Internal Security Act. They were later released due to lack of evidence.

Twenty students of Limkokwing University appeared at the Magistrate Court in November 2010 charged under the Public Meetings and Processions Act following rioting that took place during a student strike. The case was pending at year's end.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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 free movement within the country, foreign travel, emigration, and repatriation. The government generally respected these rights in practice.

The government cooperated with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees.—Access to Asylum.—The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection of refugees. The system is active and accessible, and no patterns of discrimination were identified.

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

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

Elections and Political Participation.—Recent Elections.—During the most recent 2007 national elections, the ruling LCD party maintained a legislative majority, claiming 61 of 80 constituency-based seats in the National Assembly. Domestic and international observers characterized the elections as generally free and peaceful. Other observers, including members of the leading opposition parties and some NGOs, stated they were not entirely fair. Their complaints included the method of allocating proportional parliamentary seats, the legality of appointing a leader of opposition when no opposition party controlled the stipulated 25 percent minimum of seats, and the need to review the electoral laws regarding the formation of alliances between parties. After three years of mediation by several different parties, on March 9, the government and opposition parties resolved their differences on the electoral laws and ended public arguments about the remaining issues.

Political Parties.—There were no undue restrictions on political parties. The Independent Electoral Commission (IEC) had registration material on 23 political parties, but not all parties have representation in parliament, and some are completely dormant.

Participation of Women and Minorities.—There are no laws preventing women or minorities from voting or otherwise participating in political life on the same basis

as men or nonminority citizens. The Local Government (Amendment) Act, 2010 provides for the allocation of one-third of the seats in the municipal, urban, and community councils to women. The National Assembly Electoral Act, 2011 also states that a political party registered with the IEC must facilitate the full participation of women, youth, and persons with disabilities. Party lists for proportional representational seats must include equal numbers of women and men.

There were 29 women in the 120-seat National Assembly and seven women in the 33-seat Senate. The speaker of the National Assembly, seven of 19 government ministers, two of three assistant ministers, and five of 10 High Court judges were women.

Approximately 98.5 percent of the population is ethnic Basotho. There were no members of minorities in the national assembly, senate, or 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 occasionally engaged in corrupt practices with impunity.

For example, on February 21, several government officials, including Principal Secretary for Administration in the Prime Minister's Office Kubutu Makhakhe, Administration Deputy Principal Secretary Thato Masiloane, Director of Finance Marapelang Raphuthing, acting Head of Procurement Manthabeleng Shai, and Procurement Officer Lerato Moerane, were suspended for inflating the prices of government purchases and favoring businesses closely associated to their families and friends.

After disciplinary hearings Makhakhe was found guilty on seven of 10 charges and his contract was not renewed; Masiloane was acquitted; Raphuthing was fired; and Shai was suspended for three months without pay. Moerane's case remained pending at year's end.

On May 31, Deputy Commissioner of Police Tumelo Moseme Assistant Commissioner of Police Dlamini Mphatsoane, Assistant Commissioner of Police Thakane Theko, and Inspector Habofano Lepheane were charged with corruption, fraud, bribery, theft by false pretence, and obstructing the course of justice. The DCEO charged the officers with conspiring to rig tenders for the supply of new police uniforms and alleged that the police officers received 125,000 maloti (\$15,450) in bribes. The seven suspects were remanded out of custody on free bail, defined as bail without a bond.

The law does not provide for public access to government information. In practice individual ministries made information available but not according to any stated policy or procedure.

Police Commissioner Malejaka Letooane was under investigation over a 24 million maloti (\$3 million) tender awarded in 2008 to supply police uniforms in April and December 2010. The case against her was pending at year's end.

There were no further developments in the reports of corruption and fraud within the Block Farming Program in February 2010. Three ministers personally owed more than 18,500,000 maloti (\$2.3 million) in government-guaranteed loans provided under the program directly overseen by their ministries.

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. According to local NGOs, government officials often were cooperative and somewhat responsive to their views.

Government Human Rights Bodies.—The independent Office of the Ombudsman appeared to function without undue governmental or political interference. The office was considered effective but was constrained by a low level of publicity; high level of centralization; and shortage of staff, financing, and equipment. The ombudsman intervened in response to requests for release of unlawfully withheld salaries and reinstatement of employees illegally suspended from their jobs.

On April 5, the senate passed an amendment to the constitution providing the legal framework necessary to establish a human rights commission, but one had not yet been established 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. However, the constitution recognizes customary law as a parallel legal system, and under it women remain disadvantaged with regard to property rights, inheritance, and succession rights. Persons with disability were disadvantaged regarding access to buildings, employment, and healthcare.

Women.—Rape and Domestic Violence.—The law criminalizes rape, including spousal rape, domestic violence; and sexual harassment. Rape convictions carry a minimum sentence of 10 years' imprisonment, with no option of a fine. When cases are reported, police and judiciary generally enforced the law promptly and effectively; however, sexual assault and rape reportedly were commonplace, and most incidents were not reported. From January to December 2010, a total of 832 cases of sexual offenses against women were reported, and 311 prosecuted.

Domestic violence against women was widespread. The Child and Gender Protection Unit (CGPU) stated that in 2010 there were 103 reported cases of assault against women. This number greatly understated the extent of the problem, as domestic violence was usually not reported. While domestic violence and spousal abuse are criminal offenses defined as assault, few cases were brought to trial. The law does not mandate specific penalties, and judges have a wide degree of discretion in sentencing. An offender can be officially warned and released, given a suspended sentence, fined, or imprisoned, depending on the severity of the assault. Violence against women and children was increasingly considered socially unacceptable, due in part to government advocacy and awareness programs by the CGPU and other ministries. These efforts were bolstered by local and regional organizations and several other NGOs, and broadcast and print media campaigns. Activities included teaching youth and parents how to report such offenses and how to access victim services. Other campaigns and radio programs educating women about their rights took place throughout the year.

Sexual Harassment.—Sexual harassment of women in the workplace and elsewhere was a problem, but many cases went unreported. Most reported cases were handled internally within the organizations in which they occurred, and statistics on the extent of the problem were not readily available.

Reproductive Rights.—The law 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. Many international and local NGOs worked in partnership with the government to provide such services. There are no legal, social, or cultural barriers that limit access to these services. There is access to contraception at minimal fee. Male and female condoms were freely available. Women and men are equally diagnosed and treated for sexually transmitted diseases. Regardless of the patient's background, government hospitals and clinics provided equitable access to reproductive health services. These services include skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. The incidence of maternal mortality was 970 deaths per 100,000 live births. This very high rate could be attributed to the high HIV/AIDS prevalence rate and absence of health infrastructure in many rural areas.

Discrimination.—Women and men enjoy equal rights in civil and criminal courts. The law prohibits discrimination against women under formal and customary or traditional law. However, inheritance rights are an exception; the Legal Capacity of Married Persons Act does not address the issue, and customary law discriminates against women as it pertains to inheritance. A woman married under civil law may contest inheritance rights in civil court. The law grants women married under customary law economic rights similar to those accorded to women married under common law (except as it pertains to inheritance). Under the formal legal system, women have the right to make a will and sue for divorce. In order to have legal standing in civil court, a customary law marriage must also be registered in the civil system.

Women's rights organizations took a leading role in educating women about their rights under customary and formal law, highlighting the importance of women's participation in the democratic process. The Ministry of Gender and Youth, Sports and Recreation is charged with promoting the 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 customary law by a small minority.

Women were not discriminated against in access to employment or credit.

Children.—Birth Registration.—According to the constitution, citizenship is derived by birth within the country's territory. According to the Office of the Registrar of Births and Deaths, 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 Children's Protection and Welfare Act (CPWA) that was passed during the year states that a child has a right to be registered within three

months of birth. If the child is registered after one year, a nominal fee of 2.50 maloti (\$0.31) is to be charged.

Education.—By law primary education is universal, compulsory, and tuition-free through grade seven. Secondary education is not free, but the government offered scholarships for orphans and vulnerable children (OVC). The Education Act states that children from age six shall be enrolled in a primary school and are to stay in school until they reach an age that had not been determined by year's end. A fine of not less than 1,000 maloti (\$124) or imprisonment could be imposed on a parent whose child failed to attend school regularly. On June 16, the prime minister officially launched the tuition-free and compulsory primary education campaign. The Ministry of Education ran a series of public service announcements and radio programs to raise awareness of the new law.

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 OVC, those involved in supporting their families through subsistence activities, or those whose families could not afford fees for the purchase of uniforms, books, and other school materials.

Child Abuse.—While the CPWA prohibits child abuse, it was nevertheless a problem, especially for OVC. Incidents of child abuse included child neglect, common assault, sexual assault, and forced elopement, a customary practice of abducting a girl with the intention to marry her without her consent.

With branches in all 10 districts, the CGPU led the government's efforts to combat child abuse; however, its effectiveness was limited by a lack of resources. The CGPU sought to address sexual and physical abuse, neglected and abandoned children, and protection of the property rights of orphans. It also advocated for the changing of cultural norms that encourage forced elopement.

Unlike in the previous year, there were no reports of violence at traditional initiation schools. These schools use traditional rituals to initiate teenage boys into manhood and are attended mainly by rural youth. While the activities of these initiation schools were kept secret, the media reported violence against students, teachers, and members of surrounding communities.

Child Marriage.—Child marriage was covered by sometimes contradictory laws. The CPWA defines a child as a person under the age of 18. However, under the Marriage Act of 1974, which was still in force, a girl could marry at age 16 while a boy could marry at age 18. Moreover, customary law does not set any minimum age for marriage. According to UNICEF data collected between 2000 and 2009, an estimated 23 percent of women between the ages of 20 and 24 were married before the age of 18.

Sexual Exploitation of Children.—The country's laws set the minimum age for consensual sex at 18 and state that anyone who commits an offense related to commercial sexual exploitation of children is liable to a fine up to 30,000 maloti (\$3,708) or imprisonment for a period up to two and a half years or both. Child pornography carries a similar sentence, but in cases where a child is trafficked the offender is liable to a fine of two million maloti (\$247,000) or up to life imprisonment.

According to media reports and local NGOs, child prostitution was a problem. Young girls and boys, many of whom were OVCs, moved to urban areas to engage in prostitution. Child prostitution in the country is driven by poverty. A study conducted by a local NGO also noted that prostituted children often acted on their own and were apparently not controlled by organized criminal syndicates or any other third party. UNICEF and the government, however, agreed that while the numbers remained small, the trend toward the commercial sexual exploitation of children was a growing problem.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were a small number of Jews but no practicing Jewish community. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to healthcare, or the provision of other state services. The government approved a national disability policy in April that sets up a framework for inclusion of persons with disability in the poverty reduction strategy and social development programs. 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. Buildings completed after 1995 generally complied with the law. Information for the blind in the form of Braille and JAWS (computer software used by visually impaired persons) was not widely available. Sign language was not provided by service providers in the government or private sector, so signing individuals could not access various state services. There were limited facilities for training persons with hearing and speaking disability.

The government did not effectively implement laws to ensure that persons with disabilities have access to information and communications. Media reports indicated that persons with disabilities experienced societal abuse. There was no record of such abuse in prisons, educational facilities, or mental health facilities.

Election law, which was respected in practice, provides for assisted voting for persons with disabilities. They are allowed to have anyone of their choosing 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.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law does not address sexual orientation. However, a law against sodomy existed but was not enforced. While lesbian, gay, bisexual, and transgender (LGBT) persons mainly faced general discrimination in access to health care, the government had not made any formal statement on the issue. Homosexual conduct was taboo in society and not openly discussed. Violence against LGBT persons was known to occur but often went unreported for fear of being ridiculed.

Matrix, an LGBT support group, operated freely in all 10 districts. On May 17, LGBT community members gathered at a local theater to watch a documentary celebrating the life of a gay South African activist. In September representatives from Matrix and the Ministry of Justice and Human Rights participated in a radio program seeking the views of the general public on LGBT issues.

Other Societal Violence or Discrimination.—The media reported several incidents of “mob violence” in which members of the society took the law into their own hands to punish suspects. For example, in October two men were accused of stock theft in Mapoteng in the Berea District. An angry group of villagers beat them to death and burned their corpses. The case was pending investigation by police at year's end.

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. Medicine was available to all HIV positive 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 discharged or separated. The soldier is provided counseling and testing, and duties are adapted as appropriate.

According to the deputy secretary general of the Lesotho Network of People Living with HIV/AIDS, discrimination against HIV positive persons was declining.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—Under the law workers in the private sector have the right to join and form trade unions of their own choosing without prior authorization or excessive bureaucratic requirements. The law prohibits civil servants and police from joining or forming unions but allows them to form staff associations for the purpose of collective bargaining and promoting ethical conduct of their members. All trade unions must register with the Registrar of Trade Unions. The law allows unions to conduct their activities without interference.

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. Civil servants are not allowed to strike, and therefore all public sector strikes are unauthorized. Under the law the Public Service Joint Advisory Council ensures due process and protects civil servants' rights. The council consists of an equal number of members appointed by the minister of public service and members of any association representing at least 50 percent of civil servants. The council concludes and enforces collective bargaining agreements, prevents and resolves disputes, and provides machinery for dealing with general grievances. Further, the Public Service Tribunal handles appeals instigated by civil servants or their associations. No association represented at least 50 percent of civil servants; therefore neither the council nor the tribunal was functioning.

The law protects collective bargaining. There are no restrictions on collective bargaining; unions are allowed to bargain for wages above the minimum wage. Govern-

ment approval is not required for collective agreements to be valid. The law prohibits antiunion discrimination and other employer interference in union functions. The law provides for reinstatement of workers dismissed for union activity; however, it was rarely enforced.

No particular groups of workers are excluded from relevant legal protections.

Workers exercised these rights in practice; however, only a small part of the labor force was unionized. Union officials stated that the government did not interfere with their ability to organize but complained of an overall lack of government support. 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 union movement was fragmented and did not influence labor market decisions.

The apparel industry was the largest private-sector employer and accounted for approximately 50 percent of formal employment. There were 42 apparel factories with an estimated 36,000 workers, constituting approximately 80 percent of all jobs in the manufacturing sector. Most unions were focused on organizing apparel workers. Unions alleged that most factory owners in the apparel industry remained opposed to unionization. Both locally and foreign-owned businesses lacked a full understanding of the labor code's provisions regarding the right to form labor unions. The International Labor Organization's Better Work Lesotho (BWL) program, which aims to improve compliance with national labor laws and international labor standards, worked to increase the understanding of national labor law and the internationally recognized core labor standards.

Both police and civil servants had associations. According to the Lesotho Public Servants Association (LEPSA), approximately 34 percent of the civil service had joined the association. This low rate of participation made it difficult for LEPSA to engage with the government on workers' rights issues, because the government only recognizes staff associations representing at least 50 percent of all civil servants. LEPSA reported that some civil servants of higher grades intimidated those of lower grades into not joining the civil service staff association. The intimidation reportedly included threats of dismissal or transfer for noncompliance.

While the government generally enforced antiunion discrimination provisions, there were problems in the law's implementation. Unions complained that the Labor Court and Labor Inspectorate were inefficient, onerous, and bureaucratic. Workers claimed they were dismissed for union involvement, but Ministry of Labor and Employment investigations often revealed they were dismissed on other grounds. Unions reported that labor inspectors usually were intimidated by factory owners and unable to enforce union rights. According to the International Trade Union Confederation's (ITUC) 2011 Annual Survey of Violations of Trade Union Rights in Lesotho, many employers stopped union organizers from entering factory premises to organize workers or represent them in disputes. In some cases employers intimidated union organizers and members, threatening the latter with dismissal. However, the ITUC also reported that while serious workers' rights problems persisted in nonunionized factories, there were significant improvements in unionized factories, where efforts were made to develop regular dialogue and negotiation between representatives of workers and management.

Following unsuccessful minimum wage negotiations, the textile and apparel unions organized a stay-away from August 15-17. Other groups, including taxi operators, joined the protest. The stay-away was declared illegal by the minister of home affairs prior to its start. After the first day's protests led to skirmishes between protestors and security forces, police arrested two leaders from some of the participating organizations for intimidation and contravening the Meetings and Processions Act (see Section 2. b.). They were later released because of lack of evidence. An estimated 90 percent of workers stayed home on the second and third day of the stay-away. From August 18, only a small percentage of workers continued to stay away from work.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, although there were reports that such practices occurred. Women and children were subjected to involuntary domestic servitude. Forced and compulsory labor practices usually occurred in isolation. Cases of domestic work mostly involving girls were reported from remote private homes. Cases of crop farming and herding animals mostly involving boys were reported from remote small farms and herding outposts, respectively. These fell outside the scope of the labor code and were nearly impossible to inspect. According to Lesotho Save the Children, children often worked as herd boys, street vendors, car washers, and domestic servants.

Basotho were also coerced into committing crimes, including theft, drug dealing, and drug smuggling under threats of violence, through forced drug use, or with promises of food.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The CPWA and labor code define the legal minimum age for employment as 15 years, or 18 for hazardous employment. Hazardous work includes mining and quarrying; carrying of heavy loads; manufacturing where chemicals are produced or used; working in places where machines are used or in places such as bars, hotels, and places of entertainment where a person may be exposed to immoral behavior; herding; and producing or distributing tobacco. Any employer who breaches these provisions is liable to a fine or imprisonment or both. However, these laws were not effectively enforced outside the formal economy.

The Ministry of Labor and Employment, in collaboration with CGPU, is responsible for investigating cases of working children. Child labor inspections were done as part of general labor inspections. Approximately 1,000 labor inspections were completed during the year. No child labor cases were reported and hence no prosecutions, convictions, or penalties imposed. Labor inspections were hindered by scarce resources; the labor commissioner noted the difficulty of tracking child labor because the government had no child-labor-specific strategy or program. However, the Ministry of Labor and Employment, CGPU, and Ministry of Gender and Youth, Sports, and Recreation generally disseminated information on prevention of child labor as part of their other programs but did no child-labor-specific outreach.

Child labor remained widespread. The high unemployment rate, high levels of poverty, and high prevalence of HIV/AIDS pressured children to work in order to support themselves and their families.

The Bureau of Statistics stated that 3 percent of children ages 6-14 years participated in economic activities; this statistic did not include children aiding their families or others without compensation. UNICEF estimated 23 percent of children between 5 and 14 were working. Two-thirds of these children were engaged in subsistence farming, while the rest were engaged mainly in domestic service. Child labor was higher among male children (86.6 percent of child workers) than their female counterparts (13.4 percent).

Herd boys were sometimes attacked by armed stock thieves, caught in fights over ownership of animals, and subject to harsh weather conditions. In traditional rural society, these rigorous and occasionally dangerous working conditions were considered a prerequisite to manhood, essential to the livelihood of families, and beyond the reach of labor laws.

Children also were subject to commercial sexual exploitation. Children who had lost at least one parent to HIV/AIDS were more vulnerable to such exploitation.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://www.dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—There is a sector-specific national minimum wage and a general minimum wage. The general minimum monthly wage varied from 878 maloti to 958 maloti (\$109 to \$119). Minimum wage provisions did not cover significant portions of the workforce. Workers in agriculture or other informal sectors are not covered by labor laws.

The law stipulates standards for hours of work, including a maximum 45-hour workweek, 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 is legal as long as overtime wages are paid for work in excess of the standard 45-hour workweek. The maximum overtime allowed is 11 hours per week; however, there are exemptions under special circumstances. The laws require that the premium pay for overtime be at a rate not less than one-and-one-quarter times the employee's normal wage; any employer who requires excessive compulsory overtime shall liable to a fine, imprisonment, or both.

The law empowers the Ministry of Labor and Employment to issue regulations on work safety. 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. It also requires a registered health and safety officer that promotes safe conduct. Employers must provide first aid kits, safety equipment, and protective clothing. The law 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.

The Ministry of Labor and Employment is responsible for enforcing these laws and standards; however, budget resources limited the enforcement of the law. In

practice businesses operating in the formal sector, including the apparel industry, were subject to more enforcement than businesses operating in the informal sector. The ministry's inspectorate reported that many locally owned businesses did not keep records of employees' salaries to facilitate labor inspections as required by law. 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. Labor laws do not cover the agricultural and other informal sectors, where most workers are employed. The Labor Inspectorate stated that employers did not always observe these standards.

According to the labor commissioner, employers in the retail sector were the worst violators. The most common allegations involved ignoring labor regulations for ordinary work hours, overtime, and public holidays. BWL also reported that some employers made incorrect lower than required overtime payment to workers.

Part-time workers of all Shoprite supermarkets complained that most were paid 610 maloti (\$75), below the 1,228 maloti (\$152) per month minimum wage stipulated for full-time workers in the retail sector. After these workers went on strike on October 5, their employer increased the wages by 210 maloti (\$26) to 820 maloti (\$101).

According to health and safety inspectors in the Ministry of Labor and Employment, larger employers generally followed health and safety regulations, but smaller employers failed to appoint or train registered health and safety officers. With the exception of the mining industry, employers' compliance with health and safety regulations generally was low. Inspectors stated that employers in the retail sector were not fully compliant with standards, as they had no registered health or safety officers, complete first aid kits, or protective clothing.

Trade union representatives described textile sector working conditions as poor or even harsh but not dangerous. Unions said that most textile factories were in prefabricated metal buildings with improper ventilation and air conditioning. Unions stated, however, that conditions were not detrimental to workers' health and cited few examples of serious safety violations. Third-party auditors hired by foreign textile buyers conducted spot checks on many exporting factories, customarily sought labor's input, and briefed the unions on their findings. Unions believed the third-party auditors kept factory owners in line with health and safety regulations.

Many workplace policies cover employees with HIV/AIDS. For example, the Apparel Lesotho Alliance to Fight AIDS (ALAFA) described HIV/AIDS as the primary occupational health risk in the apparel sector. ALAFA reported that 85 percent of workers were women and 43 percent of all workers were infected with HIV. Employers provided space for examinations and time off to see doctors, receive counseling, and participate in educational and antistigma programs.

The government supported the implementation of BWL and announced that participation in the program was to be mandatory for the textile industry. BWL supported Ministry of Labor and Employment inspection efforts by sharing crucial non-compliances and inconsistent labor law application instances to ensure that inspectors raise them with employers. BWL also shared experiences and knowhow on assessment findings with the ministry on a regular basis with a view to work towards industry-wide improvements.

Working conditions for foreign or migrant workers were similar to those of residents.

LIBERIA

EXECUTIVE SUMMARY

Liberia is a constitutional republic with a bicameral National Assembly. In November Ellen Johnson Sirleaf of the Unity Party won a second term in multiparty presidential elections, which domestic and international observers considered generally free and fair. Security forces reported to civilian authorities.

Among the most serious human rights abuses were those tied to justice: judicial inefficiency and corruption, lengthy pretrial detention, denial of due process, and harsh prison conditions. Violence against women and children, including rape and domestic violence, and child labor also were serious problems.

Other important human rights abuses included unlawful deprivation of life; mob killings; reported ritualistic killings and trial by ordeal; police abuse, harassment, and intimidation of detainees and others; arbitrary arrest and detention; official corruption; domestic human trafficking; and racial and ethnic discrimination.

Impunity was a serious problem despite government attempts to prosecute and punish officials.

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.

For example, Harris Williams, an Armed Forces of Liberia (AFL) soldier, allegedly killed Henry Freeman, a Liberia National Police (LNP) officer, on July 5 in a suspected personal dispute. The soldier was arrested and his case was pending at year's end.

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.

On June 17, nine suspects in the 2009 ritualistic killing of Tomo Allison, a pregnant woman discovered in Harper, were released on bail and were awaiting trial 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 prohibits such practices as torture; however, police officers and other security officials abused, harassed, and intimidated persons, particularly during attempts to extort money on the streets.

In May a customs official working at Roberts International Airport was arrested and charged with robbery, aggravated assault, kidnapping, and criminal conspiracy allegedly for stealing cash and jewelry from a businessman.

Five AFL soldiers were relieved of their positions in Gbarnga for misconduct following allegations they had assaulted residents of the town in July.

Police brutality was referred to the attention of police commanders. The Professional Standards Division (PSD) was responsible for investigating allegations of police misconduct and referring cases for prosecution. Although the number of cases was not available at year's end, aggressive police action during arrests was identified as among the most common complaints of misconduct.

The Liberian National Police (LNP) conducted performance appraisals to foster professional development among officers and identify areas for improvement. The PSD drafted an anticorruption strategy to reduce corrupt practices within the LNP. The policy was submitted to the Inspector General's Office and was pending approval at the end of the year.

On February 13, LNP Commander Victor Boyah allegedly beat sports journalist Fombah Kanneh. Kanneh was filming alleged police brutality toward spectators after a soccer game at the Antoinette Tubman Sports Stadium. Boyah publicly apologized for his actions on February 17.

On April 4, jurors acquitted Deputy Speaker of the House Togbah Mulbah and seven alleged accomplices in the July 2010 beating case of LNP officer Lexington Beh, who had impounded a truck belonging to the lawmaker.

Despite being illegal, 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 innocent, reportedly continued in rural areas. The government continued to conduct sensitization campaigns focusing on efforts to harmonize the traditional and formal justice systems. In particular, campaigns focused on the types of cases that needed to be addressed in the formal justice system, such as criminal cases including murder and rape, and those that could be resolved in either system, such as civil cases.

Prison and Detention Center Conditions.—Inadequate provisions for food, sanitation, ventilation, temperature, lighting, basic and emergency medical care, and potable water contributed to harsh and life-threatening conditions in the country's 15 prisons and detention centers. Many prisoners supplemented their meals by purchasing food at the prison or receiving food from visitors. With the support of the International Committee of the Red Cross (ICRC), the Bureau of Corrections undertook rehabilitation activities to improve access to clean water and sanitation facilities at Monrovia Central Prison, as well as the Bondiway, Buchanan, Fishtown, Gbarnga, Harper, Kakata, Robertsport, Tubmanburg, and Voinjama facilities. The Bureau of Corrections reported approximately 20 prisoner and detainee deaths during the year.

The government made efforts to improve recordkeeping, including training court clerks in Montserrado County and issuing case registration log books.

Conditions for women prisoners were similar to those for men.

The U.N. and nongovernmental organizations (NGOs) continued to provide medical services and improve basic sanitary conditions.

According to statistics from the Bureau of Corrections, half the country's 1,601 prisoners were held at Monrovia Central Prison. This prison operated at more than twice its capacity due to the large number of pretrial detainees. The total prison capacity was 1,164 individuals, and the population included 52 women and 44 juveniles. Prisons remained understaffed. Men and women were held in separate cells in larger facilities but were held together in some counties or cities that had only one detention cell. In many counties juveniles and adults were held together, and pretrial detainees generally were held with convicted prisoners.

Regular visitation hours and religious observances generally were respected. Officials from the Human Rights Division of the Ministry of Justice and Bureau of Corrections visited prisons to monitor conditions during the year. Internal reports and investigations into inhumane conditions were not accessible to the public.

The government permitted the independent monitoring of prison conditions by local human rights groups, international NGOs, the U.N., and the media. Some human rights groups, including national and international organizations, made regular visits to detainees held in police headquarters and prisoners in Monrovia Central Prison. The ICRC visited all 15 prisons and detention centers.

No ombudsman system was in place to serve on behalf of prisoners and detainees.

During the year the government and international partners continued renovations at several county prisons.

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, including overseeing the LNP and the National Bureau of Investigation. The Armed Forces of Liberia (AFL) provide external security but also have some domestic security responsibilities, primarily through the coast guard.

An estimated 7,775 United Nations Mission in Liberia (UNMIL) peacekeepers and 1,303 United Nations Police (UNPOL) officers had significant responsibility for maintaining security as the LNP takes on increasing responsibility. Approximately 459 UNPOL advisors and 844 officers in the U.N. Formed Police Units (armed foreign police detachments deployed in groups of 140 officers assigned to UNMIL) assisted with monitoring, advising, and training the LNP.

The LNP operated independently and retained arrest authority; however, UNPOL advisors regularly accompanied LNP officers on joint patrols around Monrovia. In addition to its regular force, the LNP comprised a Police Support Unit (PSU) that received additional training in weapons and crowd and riot control and the Emergency Response Unit (ERU). The ERU received specialized training and was charged with conducting special police operations in antiterrorism, hostage rescue, internal security, tactical anticrime, and search and rescue situations. The PSU and ERU were better trained and equipped than the regular force.

LNP officers remained poorly equipped, ineffective, and slow to respond to criminal activity, although the foot patrol program continued to show improvement in strategic areas. Low LNP salaries contributed to widespread corruption. Police had limited transportation, logistics, communication, and forensic capabilities, and did not have the capacity to investigate adequately many crimes, including murders. The lack of a crime laboratory and other investigative tools hampered police investigations and evidence gathering, which in turn hampered prosecutors' cases. Training by UNMIL and others led to some improvement within the LNP.

An AFL disciplinary board investigates alleged misconduct and abuses by security forces. Lacking a court martial system, criminal cases were handed over to the LNP and Ministry of Justice for prosecution.

On April 11, the president convened a special independent committee of inquiry to investigate allegations that the LNP used excessive force to subdue a March 22 student demonstration. Students demonstrated in support of their teachers who were striking for promised salary increases. The task force recommended the deputy director of police be dismissed and the director of police suspended without pay for two months. On August 1, the president suspended the deputy director for one month and the director received a letter of warning.

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, arrests were often made without warrants, or warrants were sometimes issued without sufficient evidence, and detainees, particularly the majority 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 did not always occur. The law provides for bail for all offenses except first-degree 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 in criminal and civil cases, but the government did not always observe such rights.

Pretrial Detention.—Although the law provides for the right of a defendant to receive an expeditious trial, lengthy pretrial and pre-arraignment detention remained serious problems. An estimated 79 percent of prisoners were pretrial detainees, in spite of the release of 594 during the year by the Fast Track Court to reduce overcrowding. The length of time detainees were held in pretrial detention varied, but averaged three to six months. Improved capacity for probation and ongoing police training helped reduce the number. However, incarceration of new detainees kept prisons overcrowded. In some cases the length of pretrial detention exceeded the maximum length of sentence that could be imposed for the alleged crime. Judicial inefficiency, corruption, and the lack of transport, court facilities, attorneys, and qualified judges caused trial delays.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, judges and magistrates were subject to influence and corruption. Uneven application of the law and the unequal distribution of personnel and resources remained problems throughout the judicial system. A Professional Magistrates Training Program for 61 university graduates ended in July; they were to be placed in magisterial courts throughout the country to improve judicial efficiency and access but had not been deployed at year's end.

Trial Procedures.—Trials are public, and juries are used in circuit court trials but not at the magistrate level. The pool of jurors was limited by low literacy rates. Jurors were also subject to influence and corrupt practices, which undermined their effectiveness and neutrality. 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 and to confront or question witnesses against them, present evidence and witnesses on their behalf, and 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 indigent defendants 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 no specialized court to address lawsuits seeking damages for human rights violations. 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. As with criminal courts, specialized courts were inefficient and in some cases corrupt. A commercial court with jurisdiction over debts incurred from commercial transactions opened in Monrovia in July. Individuals may appeal their cases, including human rights cases, to the Community Court of Justice of the Economic Community of West African States.

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.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech and press, and the government generally respected these rights in practice.

Freedom of Speech.—Individuals could generally criticize the government publicly or privately without reprisal. However, libel and national security laws did place some limits on freedom of speech.

Freedom of Press.—In Monrovia approximately a dozen newspapers were 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, newspaper distribution was largely limited to Monrovia.

Radio remained the primary means of mass communication, and stations mostly operated without government restrictions.

Although generally able to express a wide variety of views, some journalists practiced self-censorship, while the government and private citizens expressed concern that some journalists commonly accepted payments to publish articles and did not always check the accuracy of facts.

Violence and Harassment.—President Sirleaf suspended Liberian Broadcasting System Director General Ambrose Nah on September 24. No official reason was given for the suspension.

On November 7, the Ministry of Information, Culture and Tourism and the Ministry of Justice petitioned the courts to close three media outlets linked to the opposition party Congress for Democratic Change, citing inflammatory and inciting language in the period before the November 8 elections and their coverage of a violent demonstration on November 7. The judge ordered the radio and TV outlets closed. On November 15, the judge declared the government had authority to shut down the media outlets based on their news content, but ordered they be reopened that same day.

On January 22, the Supreme Court ordered Rodney Sieh, editor of the newspaper Front Page Africa, arrested for contempt of court in an October 2010 case in which the court contended the newspaper published an inaccurate story. The Executive Mansion intervened, and Sieh was released on January 24.

Nongovernmental Impact.—In October a journalist claimed opposition leader George Weah intimidated and ordered him to remove and destroy photos he had taken of Weah allegedly harassing a motorcycle driver while campaigning in Nimba County.

Actions to Expand Press Freedom.—The Ministry of Information, Culture and Tourism, in collaboration with the United Nations Development Programme (UNDP), initiated a short-term training program for rural female journalists. Under the program, female reporters and radio program producers were provided practical training at selected media institutions in Monrovia.

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.

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, and the government generally respected it in practice.

On November 7, law enforcement agents clashed with supporters of the opposition party Congress for Democratic Change (CDC) when CDC supporters, without a permit, left their headquarters to march into Monrovia. Other government agents and U.N. force personnel helped to end the violence, which resulted in one confirmed death. On November 14, the president convened a special independent committee of inquiry to investigate the violence; its investigation was ongoing at year's end. An initial report issued on November 25 recommended, and the president agreed, that Inspector General of Police Marc Amblard be relieved of command.

Freedom of Association.—The constitution provides for the right of association, and the government generally respected this right in practice.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 U.N. High Commissioner for Refugees (UNHCR), other humanitarian organizations, and donor countries in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees.—Access to Asylum.—The law provides for the granting of asylum or refugee status, and the government had an established system for providing protection to refugees and granted refugee status and asylum during the year.

Durable Solutions.—During the year the UNHCR assisted in the voluntary repatriation of 1,762 Liberian refugees from other West African countries. It also assisted in the voluntary repatriation of 730 Ivoirian refugees.

The Land Commission's review of land disputes between returning landowners and internally displaced persons who took over their land during the civil war and its review of disputes between villages trying to accommodate returning refugees resulted in decreased violence during the year.

Temporary Protection.—The government provided temporary protection to individuals who may not qualify as refugees under the 1951 refugee convention or its 1967 protocol. The government continued to provide protection to Ivoirian refugees who entered the country since November 2010. At year's end the UNHCR had registered 128,689 new Ivoirian refugees for a total of 135,208. UNHCR relocated nearly one-third of the refugee population to six refugee camps and 16 relocation villages by 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 free and fair elections based on universal suffrage.

The state is highly centralized, and the head of state appoints county superintendents. Local governments have no independent revenue base and relied entirely on the central government for funds. As a result there were very limited government services outside of Monrovia. Local officials were provided funds through the County Development Fund, but in some cases county government officials allegedly misused these funds.

Elections and Political Participation.—Recent Elections.—During the year Ellen Johnson Sirleaf won the national presidential election with 91 percent of the vote in a runoff election after her opponent, Winston Tubman of the Congress for Democratic Change (CDC), boycotted the second round of voting; voters also selected 15 senators and 73 representatives. The National Elections Commission (NEC) publicized its schedule for the conduct of national elections scheduled for October 2011. Sixteen candidates vied for the presidency; 865 candidates registered for the 15 contested Senate and 73 House of Representatives seats. On August 23, citizens voted on four issues during the National Referendum; the only measure that passed will allow legislative seats to be won by simple majority instead of absolute majority. The NEC conducted the national elections on October 11; international and national observers declared them to be free, fair, transparent, and credible, although some minor irregularities were noted. Because no presidential candidate won an absolute majority of 50 percent plus one, a runoff election was held on November 8. The NEC announced that President Sirleaf and the CDC's Tubman would proceed to the second round as the top two vote-getters. On November 4, Tubman announced the CDC was boycotting the elections, citing unsubstantiated claims of widespread fraud.

International and national observers also declared the November 8 runoff free, fair, and transparent, although marred by low turnout due to the previous day's violent protest and the boycott by the CDC.

Political Parties.—Registration of political parties and independent candidates took place during the year; 30 parties were registered.

Participation of Women and Minorities.—There were five female ministers and nine female deputy ministers. There were four women in the 30-seat Senate and seven women in the 64-seat House of Representatives. One female associate justice sat on the five-seat Supreme Court. Women constituted 33 percent of local government officials and 31 percent of senior and junior ministers.

Muslims occupied senior government positions, including one minister, two deputy ministers, one senator, five representatives, one Supreme Court justice, and one county superintendent.

Section 4. Official Corruption and Government Transparency

The law does not provide criminal penalties for official corruption, although criminal penalties exist for economic sabotage, mismanagement of funds, and other corruption-related acts. Officials engaged in corrupt practices with impunity. Low pay levels for the civil service, minimal job training, and few court convictions exacerbated official corruption and a culture of impunity. The government dismissed officials for alleged corruption and recommended others for prosecution. The Liberian Anti-Corruption Commission (LACC) and the Ministry of Justice are responsible for exposing and combating official corruption. The LACC is empowered to prosecute any case that the Ministry of Justice declines to prosecute; however, its capacity to

do so remained weak. During the year the LACC investigated 14 cases and recommended three for prosecution.

In July the Ministry of Justice dropped charges, over the LACC's objections, against former inspector general of police Beatrice Munah Sieh for irregularities in the procurement of uniforms.

On July 12, a former Liberia Telecommunications Authority chair was rearrested for alleged bail jumping in the 2010 case of his alleged misuse of \$71,022. That case ended in a hung jury, and he was awaiting a retrial.

Judges were susceptible to bribes for awarding damages 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 defendants pay bribes to secure favorable rulings from or appease judges, prosecutors, jurors, and police officers. The Ministry of Justice increased its calls to reform the jury system.

The Ministry of Planning and Economic Affairs and the Ministry of Internal Affairs coordinate management of the County Development Funds. The funds were previously administered at the county level, but were frozen by President Sirleaf in 2010 due to evidence of frequent misuse.

The government dismissed or suspended a number of officials for corruption. On July 6, the president dissolved the Board of Directors of the Liberia Petroleum Refining Company (LPRC) as recommended by the General Auditing Commission (GAC). GAC cited board members' alleged acts of amending by-laws to allow them to accept payments in addition to their salaries for services to the LPRC. The board was reconstituted on July 11.

Police corruption was a problem. During the year the LNP investigated reports of police misconduct or corruption, and authorities suspended or dismissed several LNP officers. For example, in April an LNP officer was dismissed for extortion and harassment after an LNP investigation found the officer had extorted \$255 from an individual.

During the year the government continued to take steps to improve transparency.

The GAC continued its ministerial audits and referred findings to the legislature. On March 25, the president announced she was not renominating the auditor general for another term. The legislature did not recommend any cases to the Ministry of Justice for prosecution.

The Ministry of Finance published the national budget and quarterly financial results, and state-owned enterprises published financial statements. Periodic short-term advisors continued to support the Ministry of Finance and other government entities during the year. Advisers 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 for natural resource concessions.

The 2010 Freedom of Information Act provides that the government should release government information not involving national security or military issues upon citizens' requests.

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.

Government Human Rights Bodies.—The Independent National Commission on Human Rights (INCHR) developed a one-year work plan including the creation of the Palaver Hut mechanism, where community members come together in their towns and villages to discuss their grievances and seek reconciliation at the community level.

President Sirleaf submitted one of four quarterly reports mandated by the Truth and Reconciliation Commission (TRC) Act on the government's progress in implementing TRC recommendations. In the report, submitted in January, the president stated the INCHR had devised a work plan under which it would begin to implement the TRC recommendations; however, the INCHR had not commenced the Palaver Hut mechanism as proposed by the end of the year.

In January the Supreme Court nullified the TRC report's recommended 30-year ban on holding public office. The ban sought to bar listed individuals from holding elective or appointed public office for 30 years effective the date of the report. The court determined that the ban would deny those listed due process and was therefore unconstitutional.

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 and own land.

Differences stemming from the country’s civil war continued to contribute to social and political tensions among ethnic groups.

Women.—Rape and Domestic Violence.—Rape is illegal but remained a serious and pervasive problem. The 2006 rape law legally defines rape but does not specifically criminalize spousal rape. The maximum sentence is life imprisonment for first-degree rape and 10 years for second-degree rape, and accused first-degree rapists are not eligible for bail. However, the government did not always effectively enforce the law. Judges had discretion to impose less than the maximum sentence. The government and NGOs attributed increased reporting of rape to an improved understanding of what constitutes rape. The Sexual Pathways Referral program, a combined effort of the government and NGOs, improved access to medical, psychosocial, legal, and counseling assistance for victims. The Women’s and Children’s Protection Section of the LNP stated that approximately 245 rape cases were reported to the unit, of which 101 were prosecuted. However, the true incidence of rape was believed to be much higher.

As mandated by the 2008 Gender and Sexually Based Violence Bill, the special court for rape and other violence has exclusive original jurisdiction over cases of sexual assault including abuse of minors in Montserrado County, which includes Monrovia. In the seven cases prosecuted during the year, the government won five convictions.

The sexual and gender-based violent crimes unit within the Ministry of Justice continued to coordinate with the special court and collaborate with NGOs to increase sensitization to sexual and gender-based violence issues.

There were 45 LNP Women’s and Children’s Protection Section (WCPS) offices, 21 of them outside Montserrado County. There were 217 WPCS officers, a third of whom were female, assigned throughout the country.

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 other 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 generally treated cases, if reported, 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.

During the year the Ministry of Gender and Development organized workshops and seminars to combat domestic violence.

Sexual Harassment.—The law does not prohibit sexual harassment, and it remained a major problem, including in schools and places of work. Government billboards warned against harassment in the workplace.

Reproductive Rights.—There are no laws restricting couples and individuals from deciding the number, spacing, and timing of their children; however, information and assistance on family planning topics was difficult to obtain, particularly in rural areas, where there were few health clinics. The government has included family planning counseling and services as key components of its new 10-year National Health and Social Welfare Plan. A 2011 government-led survey found contraceptive use below 15 percent for three north central counties. However, approximately two-thirds of women surveyed said they wanted to use family planning methods. This low usage compared to high desire suggests cultural barriers or pressure from the women’s partners. The maternal mortality rate was 994 deaths per 100,000 live births. Reducing maternal mortality was a priority of the government, and activities over the past four years included additional training of midwives, providing incentives to pregnant women, and a maternal home pilot project.

Discrimination.—Women have not recovered from the setbacks caused by the war, when almost all schools were closed, and they were prevented from maintaining their traditional roles in the production, allocation, and sale of food.

Women and men enjoy the same legal status. Women can inherit land and property, receive equal pay for equal work, and own and manage businesses.

Women experienced some economic discrimination based on historic traditions, but the government worked to promote women in the economic sector through programs and NGO partnerships to conduct workshops and microcredit lending programs. A number of businesses were female-owned or operated.

The law prohibits polygyny; however, traditional and religious customs 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 and the U.N. Security Council Resolution 1325 Secretariat (Women, Peace and Security) were generally responsible for promoting women's rights.

Children.—Birth Registration.—Citizenship can be derived through parentage if at least one parent is a Liberian citizen or by birth in the country if the child is of “Negro” descent. If a child born in the country is not of “Negro” descent, the child cannot acquire citizenship. As a result, non-“Negro” residents, such as members of the large Lebanese community, cannot acquire or transmit citizenship. The law requires parents to register their infants within 14 days of birth; however, fewer than 5 percent of births were registered.

In September the legislature passed the National Children's Act. The act sets the foundation for and promotes children's rights including parental responsibilities to provide food, shelter, clothing, education, healthcare, and other basic needs. It is also intended to protect children from illegal child labor practices and harmful traditional practices.

Education.—The legislature passed the New Education Reform Act of 2011, extending free and compulsory education in public schools from the primary (grades 1-6) through junior secondary (grades 7-9) levels. Despite this, many schools still charged informal fees to pay teachers and operating costs the government did not cover, which prevented many students from attending. Fees continued for secondary school, and the government was unable to provide for the needs of most schoolchildren. In both public and private schools, families of children were often required to provide their own uniforms, books, pencils, paper, and even desks.

Although the official primary-school-age population is six to 15 years old, the war disrupted the education of many students, and as a result primary school students in the country ranged in age from six to more than 20 years old. While education reforms were ongoing, overaged students continued to pose a significant challenge to an education system with limited resources. Girls accounted for fewer than half of all students in primary and secondary schools, with gender parity worsening progressively with each subsequent grade. Among the most vulnerable and underserved groups in terms of access to education were those with special needs and marginalized youth (including vulnerable children). Although the government increased its budget allocation for education, it was unable to adequately compensate teachers, provide schools with needed resources, or offset the opportunity costs to families of sending their children to school.

Child Abuse.—Widespread child abuse continued, and reports of sexual violence against children continued during the year. Civil society organizations reported continued incidents of rape of girls under 12, and there were 37 reported cases of child endangerment during the year, a statistic thought to greatly underreport the actual incidence.

Child Marriage.—The Domestic Relations Law sets the minimum marriage age at 21 for men and 18 for women. However, Section 2.9 of the Equal Rights of the Traditional Marriage Law of 1998 permits a girl to marry at age 16. Underage marriage continued to be a problem, especially in rural areas. The recently passed National Children's Act sets the marriage age for all Liberians at 18.

Female Genital Mutilation.—FGM was common and traditionally 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 prohibit FGM, and traditional institutions, such as the secret Sande Society, often performed FGM as an initiation rite, making it difficult to ascertain the number of cases. To combat harmful traditional practices like FGM, the government trained community leaders and women's groups during the year and provided training in alternative income-generating skills to FGM practitioners.

Sexual Exploitation of Children.—Young women and girls engaged in prostitution for money, food, and school fees. The minimum age for consensual sex is 18, and 17 of 38 reported cases of statutory rape—this is likely a small fraction of the true extent of the problem—were tried during the year. Statutory rape is a first-degree rape offense, and the maximum sentence for perpetrators is life imprisonment. The

law also prohibits child pornography, with a penalty of up to five years' imprisonment for violators.

Displaced Children.—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 internally displaced persons. Nearly all children older than 10 had witnessed atrocities during the 14-year civil war, and some children had committed atrocities.

Institutionalized Children.—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 adequate nutrition. They relied primarily on private donations and support from international organizations, such as UNICEF and the World Food Program, which provided food and care throughout the year. Many orphans lived outside these institutions.

International Child Abductions.—To address issues of child adoption and international child abduction, the government imposed a moratorium on child adoption in 2009; the moratorium continued during the year.

Liberia is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no significant Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

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, although new curbs in Monrovia were built to be wheelchair accessible. Many citizens had permanent disabilities as a result of the civil war. Persons with disabilities faced societal discrimination, particularly in rural areas. Children with disabilities had access to education; however, a 2008-09 survey found only 0.8 percent of students enrolled in school were identified as disabled. The Ministry of Education named a director of special education to address the needs of children with disabilities. The National Commission on Disabilities conducted an assessment on eight special schools in the greater Monrovia area during the year; its results were pending.

The Journal of the American Medical Association published a Harvard Humanitarian Initiative study that concluded that 40 percent of the population had Post Traumatic Stress Disorder or other mental disabilities.

The government identified an estimated 16 percent of the population as disabled, but that number was believed actually to be higher due to the civil conflict.

The National Commission on Disabilities and the Ministry of Health and Social Welfare were responsible for protecting the rights of persons with disabilities; however, they did not always do so effectively.

Following the October 11 general election, the National Union of Organizations for the Disabled noted that persons with disabilities were frequently unable to enter polling places, and there was no provision of tactile ballot guides for the blind.

During the year the commission and ministry conducted a series of sensitization programs about persons with disabilities, but with limited effect. The commission also began work on a plan for the government's promotion of the rights of such persons in education, employment, and livelihood. The plan was pending completion at year's end. 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 and 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 property rights as a result of this discrimination.

Indigenous People.—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 is strongly opposed to homosexuality. "Voluntary sodomy" is a misdemeanor with a penalty of up

to one year's imprisonment. There were no reported instances of violence based on sexual orientation. There were no civil society groups dedicated to lesbian, gay, bisexual, or transgender rights operating in the country.

Other Societal Violence or Discrimination.—There were no reports of societal violence against people with HIV/AIDS.

Mob violence and vigilantism—which resulted in part from the public's lack of confidence in the police and judicial system—resulted in deaths and injuries.

On December 22 and 23, youth seeking payment for their work in a short-term seasonal employment scheme rioted in Monrovia when some were denied payment because they were not listed on the employment roster or were inadequately paid. The payments were suspended until 2012 pending review of work logs and records. No deaths were reported, but there was damage to public and private property.

The LNP arrested six individuals in the April 15 mob killing of a Sierra Leonean national believed to have murdered their teacher the previous night.

In September a court indicted four persons in the February 2010 mob killing in Monrovia of an LNP officer who allegedly shot and killed a man, reportedly over a personal dispute.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows workers, except public servants and employees of state-owned enterprises, to form or join freely independent unions of their choice without prior authorization or excessive requirements. It allows unions to conduct their activities without interference by employers but does not provide adequate protection due to inadequate sanctions. The law prohibits unions from engaging in partisan political activity. It prohibits agricultural workers from joining industrial workers' organizations. Workers, except civil servants, have the right to strike. Collective bargaining is protected by law. With the exception of employees in state-owned enterprises and public servants, all workers have the right to organize and bargain collectively.

While the law prohibits antiunion discrimination and provides for reinstatement for workers dismissed for union activity, it allows for dismissal without cause if the company provided the mandated severance package. It also does not prohibit retaliation against strikers. However, the requirement to notify the Ministry of Labor of the intent to strike, and the ministry's resulting involvement, were thought to mitigate retaliation.

In general the government effectively enforced applicable laws, and workers exercised their rights in practice. The Singapore-based NOS Shipping Company signed a collective bargaining agreement with the United Seamen Ports and General Workers Union of Liberia Seafarers Section in December. New negotiations were launched in the rubber sector, but no new collective bargaining agreements had been reached by year's end. Union power increased during the year through increased membership at major plantations; however, the largely illiterate workforce engaged in few economic activities beyond the subsistence level. Unions were independent of government and political parties.

There were no reports of discrimination or employer retaliation against strikers during the year.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, such practices occurred.

Families living in the interior sometimes sent young women and children to stay with relatives in Monrovia or other cities with the promise that the relatives would assist the women and children in pursuing educational or other opportunities. However, in some instances, these women and children were forced to work as street vendors, domestic servants, or beggars on behalf of disabled or blind relatives. A 2011 International Labor Organization (ILO) report cited the southeastern region of the country for alleged practices of forced labor.

When victims were identified, the Women's and Children's Protection Section (WCPS) of the LNP, along with partnering NGOs, worked to reunite victims with their families in the interior or referred them to safe homes. Child labor was addressed as a child endangerment issue and as such, no reliable figures were available on the number of children removed from forced labor.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment and apprenticeship of children under age 16 during school hours. The law does not provide for additional restrictions on working hours nor for occupational safety and health. One of the provisions of the New Education Reform Act of 2011 addresses prior inconsistencies between the minimum employment age

and compulsory educational requirements. The new compulsory education requirement extends through grade nine or until age 15, also the minimum employment age. The National Children's Act has provisions intended to protect children from the worst forms of child labor and was expected to supplement other laws and efforts.

The Child Labor Commission is responsible for enforcing child labor laws and policies. The commission coordinated efforts to provide scholarships for children to enroll in school. The Ministry of Labor's Child Labor Secretariat, the Ministry of Justice's Human Rights Division, the Ministry of Gender and Development's Human Rights Division, the Ministry of Health and Social Welfare's Department of Social Welfare, and the LNP Women and Children Protection Section were also charged with investigating and referring for prosecution allegations of child labor.

However, the government did not effectively enforce child labor laws. The Child Labor Commission had inadequate staff and funding. Except for regularly scheduled sensitization and training activities, it undertook no significant actions to address child labor.

Child labor was widespread in almost every economic sector. 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 tapped rubber on smaller plantations and private farms. There were also reports that children worked 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 alluvial diamond mining and in agriculture.

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 of the worst forms of child labor.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The national law requires a minimum wage of 15 Liberian dollars (\$0.30) per hour, not exceeding eight hours per day, excluding benefits, for unskilled laborers. The minimum wage laws apply only to the formal economic sector. The law does not fix a minimum wage for agricultural workers but requires that they be paid at the rate agreed to 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 5,600 Liberian dollars (\$114) per month.

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 for every five hours of work. The six-day workweek may be extended to 56 hours for service occupations and 72 hours for miners, with overtime pay beyond 48 hours. The law also provides for pay for overtime and prohibits excessive compulsory overtime.

The law provides for paid leave, severance benefits, and occupational health and safety standards. The law does not give workers the right to remove themselves from dangerous situations without risking loss of employment. Penalties were not sufficient to deter violations. The government submitted the New Labor Law and Minimum Wage Bill to the legislature for passage in an attempt to modernize current labor laws and to strengthen the government's ability to deter violations.

The Ministry of Labor's Labor Inspection Department enforced government-established health and safety standards. The ministry had approximately 25 inspectors throughout the country to investigate allegations of labor violations. Officials conducted unannounced visits to consistent violators to improve standards. Enforcement of standards and inspection findings were not always consistent.

Due to the continued severe economic problems, most citizens had to accept any work they could find regardless of wages or working conditions. The current minimum wage does not provide a livable income, and workers often found other activities, like street selling, to supplement their wages. Individuals working in the formal economy, estimated at 15 percent of the workforce, were afforded labor protections, although working conditions varied from workplace to workplace. Those in the informal economy, particularly in street selling and small-scale farming, often worked more than the 48-hour workweek and faced harsher working conditions.

MADAGASCAR

EXECUTIVE SUMMARY

Madagascar is ruled by an unelected and illegal civilian regime that assumed power in a March 2009 coup with military support. Andry Nirina Rajoelina adopted the title of president of the High Transition Authority (HAT), at the head of a loose coalition of former opposition politicians, intending to remain in this position until elections are held. Former president Marc Ravalomanana, democratically elected in 2006, is in exile. On September 17, local political leaders signed a “Roadmap For Ending the Crisis in Madagascar,” brokered by mediators acting on behalf of the Southern African Development Community (SADC), which established a transitional process intended to culminate in free and open elections for the restoration of a legal government. In accordance with the letter, if not the spirit, of this roadmap, Rajoelina appointed a “Prime Minister of Consensus” on October 28, a 35-member “Government of National Unity” cabinet on November 21, and a “Transition Congress” with more than 160 members, and a “High Transitional Council” with more than 360 members on December 1. Military leaders continued to assert their autonomy from the current political leadership, despite their tacit support of Rajoelina and the SADC-endorsed roadmap. There were instances in which elements of the security forces acted independently of civilian control.

The three most important human rights abuses included unlawful killings and other security force abuses, arbitrary arrest and detention, and the inability of citizens to choose their government.

Other human rights problems included harsh prison conditions, sometimes resulting in deaths; lengthy pretrial detention; an inefficient judiciary that lacked independence; violence against and intimidation of journalists; restrictions on freedoms of speech, press, and assembly; official corruption and impunity; societal discrimination and violence against women, persons with disabilities, and the lesbian, gay, bisexual and transgender (LGBT) community; trafficking of women and children; and child labor, including forced child labor.

The government did not take steps to prosecute or punish officials who committed abuses, and impunity remained a problem.

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 de facto regime or its agents committed arbitrary or unlawful killings. Police and gendarmes continued to use unwarranted lethal force during pursuit and arrest.

For example, during the year law enforcement officers shot and killed at least 51 criminal suspects. Off-duty and intoxicated elements of the armed forces also killed civilians with their firearms. Witnesses reported seeing elements of the Rapid Intervention Group shoot and kill three criminal suspects on September 8 in Ankondrandrano, after they had already surrendered and raised their hands in the air. No action was taken against any of the security force members for excessive use of force or unwarranted use of lethal weapons.

On December 9, a police mob beat to death Michel Rehavana, a judge in Tulear. Another judge’s conviction of a police officer for renting out his weapons to bandits triggered the event, creating significant tension between police and judges across the country. At year’s end, central authorities brought some of those responsible for the killing to the capital for questioning, while the Magistrate’s Union went on strike to protest the killing, virtually shutting down the entire judicial system. The magistrates demanded the punishment of those responsible and the resignation of the de facto minister of internal security Arsene Rakotondrazaka, who was present in Tulear the day of the event.

On July 18, elements of the Police Intervention Force interrogated and beat taxi driver Hajamananirainy Clermont for allegedly using a slingshot to propel rocks at the presidential convoy. The next morning, Clermont was left at a hospital, where he died of his wounds. Authorities denied that the convoy passed at the reported location and time, and no action was taken against the security force members.

There were no further developments in any of the deaths resulting from actions by security forces in 2010.

In August 2010 former president Ravalomanana was tried in absentia, convicted, and sentenced to forced labor for life, for the 2009 killings by presidential guards of at least 30 protesters outside Ambohitsorohitra Palace in Antananarivo. Ravalomanana continued to claim his innocence while exiled in South Africa.

b. Disappearance.—There were no reports of politically motivated abductions or kidnappings during the year.

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, including torture.

On March 18, Alphonse Rafarahitsimba and Misa Arifetra Rakotoarivelo were sent to Ambatololma Prison after they testified that Mamy Rakotoarivelo, a leader of former president Ravalomanana's political faction, was the mastermind behind an alleged assassination attempt on regime leader Rajoelina on March 3. Family members of the two men publicly claimed their confessions had been coerced under threats and torture by electrical shock and physical violence. While the Directorate of Territorial Security rejected these claims, journalists were not permitted access to the detention center to view the physical condition of the two men.

There were no further developments in the following 2010 cases: the November arrest and reported physical abuse by proregime forces of a group of military officers who had led an attempted coup and the April injuries to six persons when Antsiranana police opened fire on a funeral procession that passed in front of the central police station.

Prison and Detention Center Conditions.—Prison conditions were harsh and life threatening. Severe overcrowding—due to weaknesses in the judicial system and inadequate prison infrastructure—remained a serious problem. Lengthy pretrial detention was pervasive.

As of November the country's 83 prisons and detention centers held approximately 19,870 prisoners; although they only had capacity for 13,000. These prisoners included 785 women, 444 juvenile males, and 17 juvenile females under age 18. A total of 47 percent (9,353) had been convicted.

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 2008 goal 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 nongovernmental organizations (NGOs) supplemented the daily rations of some prisoners.

In June and July 2010, there were four reported deaths in Taolagnaro Prison due primarily to malnutrition. However, NGO and media sources indicated substantial underreporting of prison deaths, and the total number of deaths in all prisons during the year was unavailable.

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 improvement in targeted sanitation activities at several facilities in the north. Ventilation, lighting, and temperature control in facilities were inadequate or hardly existed.

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 for food.

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 being imprisoned with the general prison population, but other political prisoners generally were held in the same facilities. Pretrial detainees seldom were held separately from the general prison population.

Prisoners and detainees were authorized to receive weekly visits from relatives and permitted religious observance.

There was no provision for ombudsmen to serve on behalf of prisoners and detainees.

There were no reports that the de facto regime permitted prisoners and detainees to submit complaints on inhumane conditions to judicial authorities, or that it investigated or monitored prison and detention center conditions or acted to improve them.

Prison conditions for male and female prisoners were essentially the same. Prison recordkeeping was inadequate and poorly coordinated with police and judicial authorities.

Authorities 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; the ICRC was able to hold private consultations in accordance with its standard modali-

ties. ICRC representatives also were permitted to visit detainees in pretrial or temporary detention for monitoring purposes.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, authorities did not always respect these provisions in practice. Persons were arrested on vague charges, and suspects were detained for long periods without trial.

Role of the Police and Security Apparatus.—The de facto minister for internal security oversees the national police, the gendarmerie, and the coast guard, with authority to preserve law and order in both urban and rural areas. The gendarmerie had previously been under the authority of the Ministry of Defense. Decree 2011-687, issued on November 21 by the de facto regime president Andry Rajoelina and “prime minister of consensus” Jean Omer Beriziky, elevates the de facto state secretary for the gendarmerie, Brigadier General Randrianazary, to one of 35 cabinet-level positions.

Lack of training and equipment, low salaries, unclear command structures, and rampant corruption severely diminished the security forces’ ability to respond effectively to the civil unrest that began in January 2009. By April 2009, however, security forces under the control of the de facto regime began to assert control over demonstrations in the capital, with an accompanying reduction in violence. The creation in March 2009 of the Joint National Investigation Committee, later renamed the Special Investigation Force (FIS), added an additional security force answerable directly to the regime leader and outside the authority of the de facto minister for internal security. The FIS began to pursue high-profile targets without resorting to regular judicial processes. Security forces routinely used excessive force during arrests and while dispersing demonstrations, employing tear gas, flash grenades, and live ammunition.

There was no systematic mechanism available for investigating security force abuses. However, victims may lodge complaints in the court of jurisdiction. This rarely, if ever, occurred. According to police authorities, 125 police agents were tried between March and September, primarily for abandonment of duty, corruption, and extortion. There were no reported trials for excessive or arbitrary use of force.

Arrest Procedures and Treatment While in Detention.—Although the law requires that authorities obtain arrest warrants in all cases except those involving hot pursuit, persons were often detained and jailed based on accusations or political affiliation. Defendants have a general right to counsel, and those who could not afford a lawyer were entitled to one provided by the state. Many citizens were unaware of this right or were too afraid to request an attorney. Defendants have the right to be informed of charges against them, but this right was not always respected. A bail system exists, but bail frequently was 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 writ. Regulations 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 to certain prisoners was more limited, such as those in solitary confinement or those arrested for political reasons.

Arbitrary Arrest.—Arbitrary arrest occurred. For example, on March 15, Mamy Rakotoarivelo, a leader of former president Ravalomanana’s political faction, was arrested and held in police custody for 15 days. Security forces stated that he was suspected of being the mastermind of a March 3 “assassination attempt” on regime leader Rajoelina. He was released on March 29, but three other persons arrested on the same charges remained detained at year’s end (see section 1.c.). Andry Rajoelina subsequently appointed Rakotoarivelo as a member of the Transitional Congress on December 1. On December 7, Rakotoarivelo was elected president of the Transitional Congress.

Journalists were arrested during the year (see section 2.a.).

In November 2010 Fetison Rakoto Adrianairina and Zafilahy Stanislas (leaders of the opposition group supported by former president Ravalomanana) and Pastor Edouard Tsarahame (a leader of the opposition group supported by former president Albert Zafy) were arrested for holding an unauthorized demonstration. They were subsequently moved to different prisons and to an undisclosed location for five days without the knowledge of their lawyers or family. On February 9, Adrianairina received a suspended prison sentence of 13 months. Pastor Tsarahame and Stanislas each received suspended prison sentences of 10 months for holding an unauthorized demonstration and an additional suspended sentence of six months for inciting a rebellion causing looting. The other 16 suspects each received suspended sentences of between six and 12 months.

In November 2010 regime forces arrested Raymond Ranjeva's pregnant daughter and searched his house, accusing him of being involved in a coup attempt. Ranjeva allegedly was told to turn himself in if he wanted his daughter to be released. Ranjeva obliged and was released a few hours later, but his daughter remained in custody for insulting regime forces and was sentenced to one month's probation (see section 1.d.).

There was a sharp increase in politically motivated detentions immediately before and after the 2009 coup. The number of arrestees remained disputed, but several remained imprisoned (see sections 1.e. and 2.a.).

Pretrial Detention.—The Ministry of Justice reported that approximately 53 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, authorities often detained individuals for significantly longer periods before charging or releasing them. Poor recordkeeping, 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 longer in investigative detention than they would have spent incarcerated following a maximum sentence for the charges faced.

Amnesty.—A June 26 presidential pardon led to the July 8 release of 3,500 detainees, including 430 from Antanimora Prison. Most released prisoners were over the age of 65.

The SADC-endorsed roadmap calls for the creation of a Transitional Parliament (inaugurated on December 2), which would draft and ratify an amnesty law as a prerequisite for national elections. To promote national reconciliation, the law would grant a blanket amnesty for all political events occurring between 2002 and 2009, except for crimes against humanity, war crimes, crimes of genocide, and other serious violations of human rights and fundamental freedoms. By year's end no action had been taken to draft amnesty legislation.

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 authorities, and intimidation surrounded every major judicial decision since 2009. The absence of any legitimate legislative body permitted the de facto government effectively to rule by decree, with no check on executive power. The de facto minister of justice, Christine Razanamahasoa, routinely expressed opinions on high-profile judicial decisions to the media before the court announced them.

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 juries. 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 trial of 13 military officers allegedly involved in the November 2010 attempted coup was scheduled for October 10 in Fianarantsoa. However, the defendants' families claimed that a fair trial could only occur in the capital, Antananarivo. The trial was postponed, and no new date announced.

The law provides traditional village institutions the right to protect property and public order. Some rural areas used an informal, community-organized judicial system, or "dina," to resolve civil disputes between villagers over such issues as alleged cattle rustling. This system garnered criticism for human rights abuses, particularly for imposing harsh sentences well outside the scope of formal law without due process. In the past, these sentences included beheadings, but recently focused more on exiling the convicted individual from the district where the crime occurred.

Trial Procedures.—The law provides for a presumption of innocence; however, this 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 they 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 held on criminal charges who cannot afford their own attorney; however, in practice, many citizens were not aware of this right, nor made aware of it by authorities. 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 incarcer-

ation of suspects for weeks without charge and continually postponed hearings while denying bail.

Political Prisoners and Detainees.—No definitive numbers were available, but in July 2010 a Ministry of Justice source stated that the de facto regime had placed 102 “political prisoners” in “preventive detention” since 2009, many with little or no evidence of having committed criminal or civil offenses. Subsequently, some were released conditionally or without being charged. 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.

The SADC-endorsed roadmap calls for transitional authorities and institutions to adopt security and confidence-building measures, to adhere to the rule of law and the principle of equal treatment, and to terminate ongoing legal proceedings against members of the opposition that appear to be politically motivated. It also calls on transitional authorities to allow all Malagasy citizens in exile for political reasons to return to the country unconditionally, ensure the political freedom of all citizens, and ensure an inclusive transition towards free, fair, and credible elections.

In November Tojo Ravalomanana, the son of ousted president Marc Ravalomanana, returned to Antananarivo from South Africa. Within days, senior HAT officials stated that he would be subject to detention and interrogation by the national gendarmerie or other security services, despite the absence of any criminal charges against him. Following protests by SADC officials, HAT authorities later declared that Tojo Ravalomanana was not being sought by security services, and allowed him to return to his private residence.

In August Ralitera Andrianandraina, former head of security for the courts, who was arrested for owning a hunting rifle, was released after 27 months in prison. Andrianandraina originally was arrested in 2009, charged with alleged murder after protesters were killed when storming the presidential palace, and sentenced to a year’s imprisonment for illegal possession of weapons.

Some prisoners remained difficult to classify due to the effects of corruption and intimidation in the judicial process. These prisoners generally received treatment equal to that of other prisoners, and international humanitarian organizations were permitted access to them.

Civil Judicial Procedures and Remedies.—The judiciary deals with all civil matters, including human rights cases, and individuals or organizations may seek civil remedies for human rights violations. However, the courts lacked independence, were corrupt, and 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. Regime forces also punished family members for alleged offenses committed by individuals (see section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press, but both the de facto regime and nongovernment groups actively impeded political criticism with threats and violence against individuals, reporters, media owners, and media outlets. A September 2010 report by international NGO Freedom House on the status of press freedom categorized the country as “not free,” downgraded from the previous year’s rating of “partially free.” The report noted that “both main parties routinely ignored constitutional protections for media freedom while in power, using harassment, intimidation, and censorship to restrict media operations. As a result, news coverage became extremely partisan and polarized, while diversity of views receded.”

Freedom of Speech.—There were no official restrictions on the ability of individuals to criticize the regime publicly or privately; however, several individuals reported that both the de facto regime and nongovernment groups actively impeded political criticism with threats and violence against individuals and opposition groups.

Freedom of Press.—There were 13 privately owned major daily newspapers and many other privately owned national and local news publications that were published less frequently.

More than 300 radio and television stations operated in the country, and many shifted to live call-in shows to distance themselves from editorial responsibility for content. During the year de facto minister of communication Harry Laurent Rahajason withdrew the broadcast licenses of an estimated 50 radio and television stations that had received licenses previously and ordered them to suspend broadcasting immediately. Meanwhile, de facto leader Andry Rajoelina’s media group, officially registered in his father’s name, was given the option to extend services in

the provinces and the right to continue to broadcast freely. After the November 2010 coup attempt, the regime sent warning letters to four television stations implying that airing anything seen as opposing the regime would be considered a threat to public order and security and could lead to suspension and even withdrawal of operating permits. Regime authorities repeatedly postponed trials for journalists arrested in 2010 and earlier.

Books published locally concentrated on culture and education, while self-censorship led to books of a political nature being published abroad.

Violence and Harassment.—During the year there were reports of individuals, some with ties to media outlets, who were threatened or arrested for distributing publications that the regime claimed could incite political instability. In November, James Ramarosaona, a journalist for a major daily, was threatened on his way home and told to “shut up” or his and his family’s security would be in danger. He had published articles on the importance of respecting national sovereignty and the SADC-endorsed roadmap.

On October 25, a judge postponed the trial of the 11-member staff of Radio Fahazavana, awaiting trial on bail since their 2010 arrest. The defendants did not appear for their trial on that day and, according to their lawyer, had not been notified of their trial date. The trial date was rescheduled for January 24, 2012.

All journalists released on bail remained subject to arrest again at any time.

In 2010 several journalists were jailed, and regime security forces attacked residences of editors or media owners. There were at least five incidents of authorities arresting radio journalists and/or suspending or closing radio stations. The two journalists from the FJKM Church arrested in 2010 had not been brought to trial by year’s end. The trial was scheduled for January 22, 2012.

Censorship or Content Restrictions.—Broadcasting licenses for radio and television were suspended arbitrarily (see above). To maintain access to sources and remain safe, all journalists practiced self-censorship.

Libel Laws/National Security.—National security often was cited as a justification for suspending licenses and arresting journalists (see above).

Internet Freedom.—There were generally no restrictions on access to the Internet or reports that the de facto 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.

Political groups, parties, and activists used the Internet extensively to advance their agendas, share news, and criticize other parties. Although there were allegations of technical sabotage of some Web sites during the year, the Internet was considered among the more reliable sources of information, as many Internet servers were outside the country and could not be regulated by the regime.

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. De facto government officials and security forces regularly impeded opposition gatherings around the country. Five days after the nomination of the “prime minister of consensus” Jean Omer Beriziky on October 28, the outgoing minister of interior’s chief of staff issued a note forbidding any political demonstration until the “Transition Government of National Unity” was set up “in order to ensure political appeasement.”

Opposition groups repeatedly were denied the right to hold political rallies in various public venues in Antananarivo, despite verifying the availability of the venues and applying for the proper permits.

On May 19, opposition protesters held an unauthorized protest near the Anosy Court and the National Radio. Former president Albert Zafy requested airtime on national radio, and in response, elements of the gendarmerie scattered protesters with tear gas.

On September 10, the “Rodoben’ny Gasy” (the new name for the “Trois Mouvances” representing the political factions of the three former presidents) was denied authorization to hold a rally at Democracy Square in celebration of Democracy Week. The regime then changed Democracy Square, the principal location where Rajoelina led demonstrations before the 2009 coup, into a children’s park to prevent future demonstrations there.

Guy Maxime Ralaiseheno, leader of the Association of Mayors of Madagascar, who was arrested in November 2010 for leading a protest, was released from prison on

January 25 but suspended from his mayoral duties. His suspension was renewed six times, most recently on September 26, and remained in effect at year's end.

In 2010 the de facto regime forbade protests during the November referendum period and continued the ban through the holiday season (Christmas to New Year's Day).

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, and the SADC-endorsed roadmap includes a requirement that the Transitional Parliament adopt new laws on political parties and the status of the opposition. However, by year's end no such laws had been drafted or ratified.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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 in practice. However, in high profile cases related to former presidents Ravalomanana and Ratsiraka, the de facto authorities prevented foreign travel and repatriation.

The de facto authorities cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian agencies in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign Travel.—On June 21, former minister of finance under the Ravalomanana government, Haja Nirina Razafinjatovo, was prevented from embarking at the Nosy Be Airport on a flight to South Africa. Authorities cited an exit ban imposed on him for alleged embezzlement of public funds.

Exile.—The constitution does not explicitly prohibit forced exile, and the coup regime utilized it selectively. Former president Ratsiraka was exiled in France until November, and former president Ravalomanana remained in exile in South Africa at year's end. Both had a Notice to Airmen (NOTAM) issued against them that forbid commercial airlines to allow them to board a plane bound for Madagascar. Ratsiraka's exile allegedly expired in November. An additional NOTAM against Ravalomanana was issued in September; it reportedly was lifted after the signing of the SADC-endorsed roadmap. On December 16, another NOTAM was placed against Ravalomanana but was lifted on December 20 after protests from the SADC and opposition groups.

While the SADC-endorsed roadmap calls for the unconditional return of political exiles, former president Ravalomanana had not attempted to return, subsequent to the signing of the roadmap, at year's end. In August 2010 the Antananarivo Criminal Court convicted Ravalomanana in absentia for his presumed involvement in the February 2009 presidential palace shootings and sentenced him to a life sentence of hard labor. On September 17, regime security forces issued an arrest warrant for Ravalomanana and publicly announced that he would be immediately arrested should he attempt to return to Madagascar.

Protection of Refugees.—*Access to Asylum.*—The law does not include provisions for the granting of asylum or refugee status, but the government provides protection to refugees. The government cooperated with 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 belonging to families that have lived in the country for generations. Reliable figures remained unavailable, but Muslim leaders estimated as many as 5 percent of the approximately two million Muslims were affected. Citizenship is transmitted through "blood," and birth in the country does not automatically 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 Madagascar'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. All stateless persons can apply for a foreign resident card which precludes voting rights, right to own property, and eligibility for a passport, thus limiting international travel. Stateless women can get Malagasy nationality if they marry a Malagasy citizen and request citizenship before the wedding date.

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 effectively was curtailed following a coup d'état and the overthrow of the elected government in 2009. Following the 2008 closure of his television station, VIVA TV, Andry Rajoelina, the former mayor of Antananarivo, led a March 2009 coup in opposition to then president Ravalomanana. Unable to consolidate his rule in the face of domestic and international condemnation, Rajoelina began negotiating with the opposition in August 2009. Unhappy with the results of those negotiations, Rajoelina unilaterally declared his intention to organize elections for as early as March 2010. The opposition rejected this plan, pushing for a return to dialogue and an inclusive transition government. Throughout 2010 Rajoelina unilaterally announced roadmaps to elections that were postponed multiple times. In November 2010 a constitutional referendum to adopt a new constitution was held, but neither the opposition nor most of the international community recognized it, due to considerable irregularities both in the drafting of the document and in the conduct of the referendum. Countrywide mayoral elections scheduled for December 20 were postponed indefinitely.

After a September 2010 National Conference that was seen as unilateral as the opposition either boycotted or was not allowed to participate, Rajoelina appointed a "transition" parliament, but it was not recognized by the international community.

On September 17, several political parties—including two of the three political factions associated with former presidents Ravalomanana, Ratsiraka, and Zafy—signed the "Roadmap for Ending the Crisis in Madagascar," endorsed by the SADC. The Roadmap outlines a plan for setting up neutral institutions, with the aim of holding free and fair elections. Basing his actions on the requirements laid out in the SADC-endorsed roadmap, Rajoelina nominated a "Prime Minister of Consensus" on October 28, a "Government of National Unity" on November 21, and members of a "High Transitional Council" (CST) and "Transitional Congress" (CS) on December 1. Members of the CST and CS were inaugurated on December 2.

Elections and Political Participation.—Recent Elections.—Indirect elections to the 33-member senate took place in 2008. The "I Love Madagascar" Party of then president Ravalomanana 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.

Political Parties.—Political parties could not operate without restriction or outside interference. Members of parties opposing the party or policies of the regime leader often had their individual rights, such as freedom of expression, violated. The regime often denied opposition parties the right to organize and publicize their opinions. Political parties also were dominated heavily by the urban elites from the more influential Malagasy tribes.

Participation of Women and Minorities.—The first de facto Rajoelina government had five women in the 31-member cabinet. When reshuffled on March 26, six women were nominated to cabinet-level positions out of 31; when reshuffled again on November 21, eight women were nominated out of 35 cabinet members. At year's end 77 of the 579 members were women. Before the March 2009 coup d'état, there were four women in the 21-member 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.

Until March 2009, 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 regime institutions.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the de facto government did not implement the law effectively, and corruption reportedly increased after the March 2009 coup. Corruption was rampant in the national police and gendarmerie. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a serious problem, as was impunity. NGOs and the media reported that anticorruption efforts in recent years were more effective in pursuing low-level violators than 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 hardwoods, primarily from the northern forests, which

was thought to have been facilitated by bribery and profiteering 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. Chinese businessmen were caught on tape asserting that they paid de facto leader Rajoelina directly for illegal logging rights.

The Independent Anticorruption Bureau (BIANCO), a nominally independent government agency with a presidentially appointed director and oversight from the Committee for the Safeguard of Integrity within the presidency, did not address corruption and abuses of power perpetrated by security forces and civilian officials, nor did it play a visible role in addressing corruption problems associated with the ongoing political crisis.

In 2008 the government created an agency to combat money laundering (SAMIFIN) and an ethics unit within each ministry. BIANCO and the Ministry of Justice signed an agreement in 2008 to increase cooperation on data collection and case referrals. However, implementation was weak, due to lack of financing and political will, especially since the March 2009 coup.

Public officials at the director-general level and above, excluding the president, were subject to financial disclosure laws. In practice, in 2008 only one-third of those required to disclose assets or income did so. Enforcement of disclosure laws remained ineffective.

There are no laws providing for public access to government information. Educational material on corruption, including statistics, was available to citizens and noncitizens, including foreign media. However, the information was limited, neither regularly updated nor thoroughly verified.

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

Numerous domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. Regime officials generally were unresponsive to their views, but international human rights groups were allowed to enter the country, conduct their work, and consult freely with other groups.

There were several domestic NGOs in the country that worked on human rights, but very few had 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. Several others worked to monitor human rights issues and actively participated in public and private fora on the subject. Political movements occasionally attempted to co-opt these organizations, leading to accusations of their increasing politicization, but they were not routinely suppressed or subjected to harassment.

U.N. and Other International Bodies.—Following the 2009 coup, the U.N. and other international bodies widely criticized the Ravalomanana government and Rajoelina's de facto regime for human rights abuses and for their continued failure to resolve the ongoing crisis through dialogue and new elections. The U.N. played an active role as part of the international mediation team, as did the International Contact Group on Madagascar, the African Union, the International Organization of the Francophonie, and the SADC, which took the lead role in mediation efforts from the middle of 2010.

Government Human Rights Bodies.—There is an Office of the Ombudsman that conducts minimal activities. There is normally a National Human Rights Commission led by the Ministry of Justice or Ministry of Foreign Affairs, but it was not functioning at year's end.

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, disability, language, and social status; however, no specific governmental institutions were designated to enforce these provisions.

Women.—Rape and Domestic Violence.—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. Rape of a child or a pregnant woman was 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 authorities did not always enforce these penalties. In 2008 the Morals and Minors Brigade, a department in the Ministry of Interior, 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. The

Union of Social Workers recorded cases at the Public Hospital of Befelatanana in Antananarivo from January to July and found 91 cases of rape out of 353 cases of sexual abuse. The majority of the victims were between the ages of 10 and 18. These figures greatly underestimated the extent of rape nationwide, but no reliable figures were available.

The law prohibits domestic violence, and it is punishable with two to five years in prison and a fine of four million ariary (\$1,800), depending on the severity of injuries and whether the victim was pregnant, but it remained a widespread problem. In 2007 the government's National Institute for Public Health estimated that 55 percent of women were victims of domestic violence. The U.N. Population Fund (UNFPA) estimated in 2006 that one-third of women in the southern and south-eastern region would suffer from violence at some point. A 2007 Ministry of Health survey on conjugal violence, conducted 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 Ministry of Health 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 impact correlated with a rise in the incidence of domestic violence, with two- or three-fold increases in cases reported.

Sexual Harassment.—Sexual harassment is against the law. Penalties ranged from one to three years imprisonment, plus a fine of one to four million ariary (\$450 to \$1,800). This penalty increases to two to five years' imprisonment plus a fine of two to 10 million ariary (\$900 to \$4,500), 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. In past years the authorities enforced sexual harassment laws when cases were brought to court; however, there were no reported court cases during the year.

Sex Tourism.—Sex tourism was an increasing problem with the growth of the tourism industry before the 2009 coup, and the economic crisis and lack of legitimate employment opportunities since the coup. The de facto authorities continued their national awareness campaign (begun by the Ravalomanana government before the coup) by posting signs throughout airports and hotels, including a full-page in the customs booklet given to arriving international passengers that warns against engaging in sex tourism.

Reproductive Rights.—Couples and individuals freely exercised their reproductive rights with no legal or policy discrimination or coercion. Citizens had free access to contraceptives and family planning information at public clinics, and services were also available in the private sector. According to the UNFPA, the modern contraceptive use rate was 28 percent. Skilled attendance during childbirth was estimated at 51 percent but was lower in rural areas where there were few trained health workers and people were unable to access reproductive health and maternity services. All delivery services, including caesarean sections, were free in government health facilities. A variety of programs were instituted to expand the availability of quality care, but these were limited given the constraint on resources. A National Statistics Institute survey issued in June 2010 concluded that the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) was 498, compared with 269 deaths in the 2004 report. The major factors that contributed to a high maternal mortality ratio were the distance from and high cost of health centers, the low quality of hospital services, maternal chronic malnutrition including anemia, high rates of adolescent pregnancy, and the lack of adequate spacing between pregnancies. Men and women had equal access to diagnosis and treatment of sexually transmitted infections. While there were no legal barriers to accessing these services, there were enormous infrastructure inconsistencies. Some social and cultural barriers also limited access.

Discrimination.—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 provisions 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. There was no special governmental 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 or state-owned companies. In rural areas, where most of the population was engaged in subsistence farming, more traditional social structures tended to favor entrenched gender roles. While there was 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 included 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.—Birth Registration.—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. UNICEF worked with the government to provide birth certificates for both newborn children and those who did not receive a certificate at birth. According to a 2010 UNICEF study, 25 percent of children in the country under the age of five were not registered.

Education.—The constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory. At the beginning of the school year, some schools asked parents to advance registration fees with the intent that government subsidies would reimburse these. At year’s end only some parents were reimbursed. Registration fees were 18,000 ariary (\$8) for primary school, 20,000 ariary (\$9) for middle school, and 25,000 ariary (\$11) for high school. Furthermore, a lack of public school teachers encouraged some schools to rely on their Parents’ Association to pay all or a portion of teachers’ salaries in an effort to attract/retain teachers.

Child Abuse.—Child abuse was a problem. Since the beginning of the political crisis, cases of child rape increasingly appeared in the media, including two high-profile cases. Authorities rarely intervened in cases of child abuse.

On April 24, Jao Jean, a member of the de facto parliament, was accused of kidnapping and raping a 16-year-old girl in Antsohihy. The Ministry of Justice issued an arrest warrant, but Jean remained free until arrested November 30. Police officials commented that “scrupulous application of democracy and tact” was required for the arrest.

In May, Patrick Nicaud, reportedly a French citizen, was accused of allegedly raping underage girls in the port city of Toamasina. The case was highly publicized, with pictures of the alleged acts appearing in local media. The de facto minister of justice reportedly met with Nicaud but took no action to investigate the claim.

Child Marriage.—Government statistics in 2008 indicated that one-third of girls and young women between the ages of 15 and 19 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 for both boys and girls. An estimated 39 percent of women between the ages of 20 and 24 were married before age 18, according to UNICEF data collected between 2000 and 2009.

Sexual Exploitation of Children.—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 resulted in a conviction. Law enforcement officials noted that the law was often not uniformly interpreted or applied.

Of the 353 victims of sexual abuse received at the Befelatanana Hospital between January and July, 339 victims were under the age of 18. No comprehensive data had been collected about the prosecution of the perpetrators, but the Social Workers’ Union (SPDTS) received reports that most incidences were acquaintance rapes (carried out by boyfriends, close family members, or neighbors). Of 36 cases that SPDTS followed, 21 presumed perpetrators were released on bail, and 15 remained under retaining writ.

Children increasingly engaged in prostitution for survival with or without third-party involvement. 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 younger than 18.

The Ministry of Health, in collaboration with UNICEF, operated more than 14 multi-sector networks throughout the country to protect children from abuse and exploitation. Several ministries worked with UNICEF to develop training manuals on child rights and safeguards for officials working in child protection networks.

A child sex tourism problem exists in coastal cities, including Tamatave, Nosy Be, Diego Suarez, and Majunga, as well as the capital city of Antananarivo.

Displaced Children.—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 governmental agencies generally tried to place abandoned children with parents or other relatives first. A traditional taboo 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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community is very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities, broadly defines their rights, and provides for a national commission and regional subcommissions to promote the rights of persons with disabilities. In practice, however, these rights rarely were 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. In general, access to education for persons with disabilities was limited, due to lack of adequate infrastructure, specialized institutions, and teachers. A network of women with disabilities, "Association des Femmes Handicapees de Madagascar," advocated for their rights.

The Ministry of Health is responsible for protecting the rights of persons with disabilities. 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 Antsiranana 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. A 2009 study found that the school attendance rate of children with disabilities was only 0.26 percent in 631 schools surveyed, due to the lack of specialized programs, poor understanding of the 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 politics. 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 penal code provides for a prison sentence of two to five years and a fine of two to 10 million ariary (\$900 to \$4,500) for acts that are "indecent or against nature with an individual of the same sex under the age of 21." There were reports of official abuses occurring at the community level, such as administrative officials denying health services to transgender persons or breaking confidentiality agreements, although no cases have ever been pursued in court.

There was general societal discrimination against the LGBT community. Sexual orientation and gender identity were not widely discussed in the country, with public attitudes ranging from tacit acceptance to violent rejection, particularly of

transgender 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 frequently were targets of aggression, including verbal abuse, stone throwing, and even murder. In recent years, awareness of “gay pride” increased through positive media exposure, but general attitudes have not changed.

Other Societal Violence or Discrimination.—Persons with HIV/AIDS were subject to stigma and discrimination.

In 2007 the government adopted a law providing for HIV/AIDS patients’ rights to free and quality health care, and specifying sanctions against persons who discriminated against or marginalized persons with the disease. This reportedly helped reduce discrimination, following public testimony and greater awareness of issues affecting those living with HIV/AIDS. The ministries of health and justice, and the National Committee for the Fight Against AIDS in Madagascar, enforced the law. Since the 2009 coup, foreign donors have largely suspended funding for HIV/AIDS programs.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides that public and private sector workers may establish and join labor unions of their choice without prior authorization or excessive requirements. Civil servants and maritime workers have their own labor codes. The maritime code governs workers in the maritime sector and does not contain sufficiently clear provisions ensuring the workers this right. In addition those classified as essential workers—including police, military, and firefighters—may not form unions.

The law allows unions to conduct their activities with a certain amount of government interference. The law provides most workers with the right to strike, including in EPZs. However, a strike is prohibited if there is a possibility of “disruption of public order,” or if the strike would endanger the life, safety, or health of the population. Workers must first exhaust conciliation, mediation, and compulsory arbitration procedures, which may take eight months to two and one-half years. Workers in other essential services (the labor code does not provide a comprehensive list of “essential services”), such as magistrates, have a recognized but more restricted right to strike. They are required by law to maintain a basic level of service and to give prior notice to their employer. The labor code also provides for fine and/or imprisonment for the “instigators and leaders of illegal strikes,” whether the strike is peaceful or not.

The law prohibits antiunion discrimination by employers. In the event of antiunion activity, unions or their members may file suit against the employer in civil court. However, civil servants and public sector employees are not afforded legal protection against acts of antiunion discrimination and interference.

The law also provides workers in the private sector, except for seafarers, the right to bargain collectively. Public sector employees not engaged in the administration of the state, such as teachers hired under the auspices of donor organizations or parent’s associations to work in public schools, do not have the right to bargain collectively on their conditions of employment.

Workers exercised some of these rights in practice, including the right to join a union and engage in strikes during the year. However, the Ministry of Civil Services and Labor indicated that some employees did not join unions due to fear of reprisal. The authorities generally respected the right of unions, including those in the EPZs, to conduct their activities without interference.

There were no specific reports that employers refused to bargain, or bargained with unions not chosen by workers, or used hiring practices to avoid hiring workers with bargaining rights. Collective agreements were signed, mainly in public enterprises.

Passage of an EPZ law in 2008 notably reduced worker rights, by allowing labor laws in EPZs to vary 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. Previously, EPZ activities centered mostly on textile factories, most of which were closed, and no specific violations were reported during the year.

b. Prohibition of Forced or Compulsory Labor.—Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/jtip>

c. Prohibition of Child Labor and Minimum Age for Employment.—There were laws to protect children from exploitation in the workplace, but they were not effectively enforced. Child labor was a widespread problem.

The minimum age for employment was 15, consistent with educational requirements. However, the de facto regime did not effectively enforce the law. 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 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 International Labor Organization's 2007 National Survey on Child Labor in Madagascar indicated that approximately 28 percent of 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. 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 gemstones or working as domestics. Some children were trafficked internally for the purposes of forced labor.

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. During the year the ministry had approximately 100 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.

A 2007 decree regulates the working conditions of children, defines the worst forms of child labor, identifies penalties for employers, and establishes the institutional framework for its implementation. NGOs reported the decree improved awareness of the issue, which was not matched with more effective pursuit of labor law violators. During 2010 the Ministry of Civil Services and Labor organized a child labor workshop for labor inspectors in Antsirabe and established an action plan for regional child labor inspectors to use mass media and private sector monitoring to combat child labor.

NGO-run welcome centers in Antananarivo, Tamatave, and Tulear continued to receive victims of trafficking and forced labor.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The monthly minimum wage was 90,235 ariary (\$40) for nonagricultural workers and 91,520 ariary (\$41) for agricultural workers. The official estimate for the poverty income level put the threshold at 468,800 ariary (\$211) per person per year. The Ministry of Civil Services and Labor was responsible for enforcing the working conditions and minimum wages prescribed in the labor code.

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 and required 2.5 days of paid annual leave per month. If the hours worked exceed the legal limits for working hours (2,200 hours/year in agriculture and 173.33 hours/month in other sectors), employers are legally required to pay overtime in accordance with a Labor Council decree, which also denotes the required amount of overtime pay.

The government is charged with setting occupational safety and health (OSH) standards for workers and workplaces. However, penalties for non-compliance are not defined in the labor code, which only requires an inspection before a company can open. 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. Workers, including foreign or migrant workers, have an explicit right to leave a dangerous workplace without jeopardizing their employment, as long as they inform their supervisors.

Authorities often encountered trouble enforcing the minimum wage and the workweek laws, due to inadequate resources and insufficient personnel. The labor inspectors in the Ministry of Civil Services and Labor were sufficient to effectively monitor conditions for workers only in the capital. 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. Employees often were required to work until production targets were met. In some cases, this overtime was unrecorded and unpaid. Workers' right to remove themselves from a dangerous workplace was not always respected in practice.

Violations of wage, overtime, or OSH standards were common in the informal sector and in domestic work, where many are paid below minimum wage and work extensive hours.

EPZ companies in general respected labor laws, as many foreign importers required good working conditions in compliance with local law before signing contracts with EPZ companies.

There was no specific action by de facto authorities during the year to prevent violations and improve wages and working conditions, other than standard inspections, which are not adequate or exhaustive.

MALAWI

EXECUTIVE SUMMARY

Malawi is a multiparty democracy. In 2009 voters reelected Bingu wa Mutharika of the Democratic Progressive Party (DPP) as president in what international observers characterized as a generally free and fair election. Constitutional power is shared between the president and the 193 National Assembly members. Security forces reported to civilian authorities.

Three major human rights issues in the country include the use of excessive force by security forces, which resulted in deaths and injuries; harsh and life-threatening prison conditions; and limits on freedom of speech, press, and political expression.

Other human rights problems included arbitrary arrest and detention; lengthy pretrial detention; official corruption; occasional mob violence; societal violence against women; trafficking in persons; discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons; and child labor.

In some cases, the government took steps to prosecute officials who committed abuses, but impunity remained a problem.

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 20 persons on July 20 and 21 during and after demonstrations against the government in Lilongwe, Blantyre, Mzuzu, and Karonga.

The demonstration was organized to protest President Mutharika and his ruling DPP's inaction on "poor economic and democratic governance." An injunction banning public demonstrations throughout the country delayed the start of the protest, but after the injunction was lifted protests went ahead. Only protesters in Blantyre secured last-minute legal permission for the demonstrations. Protests in all cities devolved into violence on July 20, with police firing tear gas and warning shots and disorganized groups destroying property. Civil unrest continued the following day with widespread looting in major cities. In an attempt to restore order, police used tear gas and live bullets. The Malawi Defense Force (MDF) deployed on both July 20 and 21 to quell violence and restore calm. The final death count, including victims who died later from injuries, was 20 persons. None of those who died was a participant in the demonstrations.

On November 30, a commission of inquiry into the events commenced work with several public hearings and another session planned for the northern region in early 2012. The commission has an eight-month window to complete its work. To date, police have admitted using live bullets and the inspector general of the Malawi Police Service (MPS) admitted to mishandling the protests and called for a return of bonuses paid to police who worked during the July unrest.

On September 24, Robert Chasowa, vice president of "Youth for Freedom and Democracy" and a student at the Polytechnic School, was found dead on campus under controversial circumstances. Chasowa was under police watch for the publication of "Political Update," which was highly critical of the government. Police claimed that he committed suicide by falling from a building, and as evidence, produced two suicide notes. Irregularities in the letters raised suspicions and Chasowa's family demanded further investigation. A postmortem in October concluded that he died from head injuries sustained from assault by a blunt instrument and not as a result of a fall. A commission of inquiry was to investigate the circumstances surrounding Chasowa's death, but no one had been named to the panel by year's end.

Police arbitrarily shot and killed suspects. For example, on December 20, police shot and killed four suspects in Limbe who were trying to escape after allegedly planning to break into a shop. The same night, police also shot and killed a man

in Blantyre suspected of attempted robbery. No action reportedly was taken against the police officers responsible.

Police were implicated in the death of several prisoners in custody. For example, in March Emmanuel Kafere died in a police cell at Mulenga police unit in Zomba. A postmortem indicated that Kafere died from internal bleeding after suffering head stab wounds, two broken legs, and a broken arm. The policeman accused of Kafere's death was charged with murder and appeared in court on March 21. At year's end, he was being held in pretrial detention and the case was awaiting trial.

On December 4, Kingsley Khope died in Ndirande police's custody in Blantyre. Family members were denied visitation and demanded a postmortem. Police claimed Khope died on arrival at the hospital after complaining of malaria, but the family accused police of causing the death by assaulting Khope.

Perpetrators of past abuses were occasionally punished, but investigations often were abandoned or remained inconclusive. For instance, there were no further developments in the following 2010 killings: the July shooting death of Silence Kapalamula by a police officer and the September death of a woman and her child, who were struck and killed by a speeding truck driven by a police officer.

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 used excessive force and other unlawful techniques, including sexual abuse, during the year. While senior officials publicly condemned prisoner mistreatment, their subordinates continued to employ unacceptable techniques. The Malawi Human Rights Commission (MHRC) and local nongovernmental organizations (NGOs) criticized police for human rights violations several times throughout the year.

On July 31, former soldier Ulemu Martin Nkhata was arrested and manhandled by police after he turned himself in. Allegedly, Nkhata illegally possessed a gun. He sustained several cuts on his body and was later hospitalized. While police claimed a mob beat Nkhata after he was caught stealing, Nkhata identified 13 policemen as his attackers. Nkhata's wife backed up his story as she was at the police station when he turned himself in. A regional police spokesman claimed that he was not aware of alleged police brutality, and no further action was taken by the authorities.

On December 18, police officers beat Joseph Nyirenda at a football match. Nyirenda claimed that following the assault, police took him into custody and ordered him to pay 5,000 Malawian kwacha (MWK) (\$30) police bail. After complaining to a human rights organization, Nyirenda was admitted to Karonga District Hospital. At year's end, no charges had been filed for alleged police brutality.

There were no further developments in the March 2010 beating of Harry Mwandama by police and the May 2010 beating of Mercy Lozani by three police officers.

Prison and Detention Center Conditions.—Prison conditions remained harsh and potentially life threatening. Overcrowding, inadequate nutrition, substandard sanitation, poor health facilities, and inadequate infrastructure remained serious problems. Prisons and detention centers, while generally well ventilated, had no provisions for temperature control other than wood fires. Basic emergency medical care generally was available in the daytime, but unavailable after regular working hours. For more involved cases of illness and injury, referrals were made to district medical clinics. Potable water was available. Prison recordkeeping was considered generally reliable.

The prison system's 30 facilities, built to accommodate approximately 5,500 inmates, routinely held at least double that number. According to the Prison Service, there were 12,033 inmates in the prison system at year's end. Police stations also held detainees, many for longer than the legal limit of 48 hours. Police stations were not built to accommodate humanely to long-term detention. A report on pretrial detention by Open Society Initiative for Southern Africa (OSISA) indicated that Lilongwe Police Station had 87 detainees, including four women and seven children. One of the detainees in Lilongwe had been held for seven months.

Prison staffing remained inadequate despite efforts to recruit more staff. Daily prison rations were meager. Family members were allowed to bring food items, and inmates were encouraged to grow vegetables and raise livestock; however, malnutrition in the prison population remained a problem.

While the exact number was not known, numerous inmates died in prison each month, largely due to HIV/AIDS, diarrhea, pneumonia, tuberculosis, and an inadequate diet. For example, 32 inmates died at Zomba Maximum Security Prison during the year. Eastern Region Prison spokesperson Kumbukani Chikomo attributed the deaths to prison congestion, which complicated identification and treatment of sick prisoners.

In 2009 the High Court noted that overcrowding had contributed to the death of 259 inmates in a span of approximately 18 months. The court decreed that the government had 18 months (which expired May 2011) to improve prison conditions. At year's end, the prison system was not in compliance with the judgment.

The 157 female prisoners were segregated within 16 prison compounds located in 30 facilities, and monitored by female guards and a female officer-in-charge, who keeps the keys to the female section of the prison. Pretrial detainees often were not held separately from convicted prisoners. The 2011 OSISA report found that the supervision of female detainees varied in police detention. In Lilongwe and Mzimba, both male and female officers supervise female detainees, while in Blantyre, Thyolo, and Zomba only female guards monitored female prisoners.

According to the Prison Service, at year's end there were 486 children in prison, either serving sentences or awaiting trial. Malawi Prison Service defines persons under age 18 as children, with those between the ages of 18 and 21 classified as "young offenders." Children could be detained in the country's reformatory centers, but for a maximum of six months, and only as a last resort or if the child is likely to be a repeat offender. There were two juvenile detentions centers (reformatory centers) in the country. The Mpemba boys' home could accommodate 370 children, and Chilwa 120 children. In practice, children were not always held separately, at least in police detention.

While Victim Support Units attended to the needs of vulnerable detainees such as women and children in Lilongwe and Zomba, other locations, such as Mzimba, had no protective measures in place due to a lack of facilities.

Prisoners generally were allowed to have visitors, observe their religious practices, and submit complaints to prison authorities.

Community service programs were available as alternatives to prison terms for first-time offenders with permanent addresses who were convicted of less serious crimes.

During the year the government permitted domestic and international NGOs, such as Amnesty International, and the media to visit and monitor prison conditions and to donate basic supplies. The International Committee of the Red Cross (ICRC) did not seek permission to visit any prisons during the year. However, the NGO Irish Rule of Law International and senior foreign diplomats visited prisons during the year.

The government increased the budget allocation for the Prison Service from the previous year's 1.2 billion MWK to 2.4 billion MWK (\$7.1 million to \$14.2 million). However, the bulk of the increase was slated for the construction of a new prison in Lilongwe, rather than improving current conditions.

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 MPS, controlled by the Ministry of Home Affairs and National Defense, had responsibility for law enforcement and maintenance of order. Police occasionally called on the army for support in operating roadblocks and assistance in manhunts.

The police force was inefficient, poorly trained, and corrupt (see section 4). Impunity was a problem. Inadequate resources and a lack of qualified candidates in the recruiting pool hampered efforts to improve MPS quality. Police service maintained a disciplinary committee chaired by the inspector general of police to investigate abuses; however, resources were limited and it met only sporadically. Officers were disciplined, but punishments often consisted of reassignment to another post or dismissal rather than more stringent sanctions.

Police continued efforts to improve their investigative skills, including training in internal investigations, victims' rights, sexual abuse, domestic violence, and trafficking in persons. Police continued to receive foreign assistance for training officials and procuring equipment.

Arrest Procedures and Treatment While in Detention.—The law provides an accused person the right to challenge the legality of detention, have access to legal counsel, and 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 police had probable cause. While arrest warrants were normally issued by a duly authorized official based on evidence presented in cases involving corruption or white-collar crime, poorer citizens were often arrested without warrants. The use of temporary remand warrants to circumvent the 48-hour rule was widespread. Police frequently demanded bribes to authorize police bail, which was often granted to reduce prison overcrowding rather than on the merits of the case (see section 4).

While the government is obligated to provide legal services to indigent detainees, in a vast majority of cases, such aid is only provided to homicide suspects. Due to limited resources, the Department of Legal Aid prioritizes its assistance, focusing on vulnerable groups such as women, children, the elderly, and those facing capital offense charges. Legal Aid access often was delayed, since there were only 24 lawyers and seven paralegals working as public defenders in the country. Relatives were sometimes denied access to detainees.

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, the young, and those subjected to long trial delays.

Arbitrary Arrest.—The government arbitrarily arrested persons, sometimes using colonial-era antisedition and treason laws to stifle criticism.

On February 28 and March 1, police arrested 54 persons in Blantyre City in an apparent effort to round up criminals. All were later fined and released under a colonial-era rogue and vagabond law.

In December police arrested more than 4,000 persons in a nationwide sweep designed to increase security over the holiday season. Arrest charges included robbery, theft, and violation of the colonial-era rogue and vagabond law. A police spokesperson noted that of the 4,000 detained, some were in police custody, some were fined, and others were in pretrial detention.

During the year the MHRC received six complaints of arbitrary detention related to excessively long pretrial detention, denial of bail, and unheard appeals.

There were no further developments in the 2008 treason cases against former president Bakili Muluzi and nine other persons, most of whom had close ties to the United Democratic Front.

Pretrial Detention.—A total of 1,480 persons, or 12 percent of the total prison population of 12,033, were in pretrial detention. Most pretrial homicide suspects were held in pretrial detention for two to three years, but there was evidence that many detainees remained in prison awaiting trial for much longer periods. Reliable data on the exact number and situation of these long-term pretrial detainees was unavailable. However, during a fall visit to Maula prison, a reputable NGO discovered that there were 1,986 prisoners, of which nearly 600 were detainees awaiting trial. Of these pretrial detainees, 122 were being held on expired warrants. In December the NGO identified three youthful pretrial detainees (two age seven and another age five) and worked to get them released on bail.

To reduce case backlog and excessive pretrial detention, minor cases are being directed to traditional courts (run by chiefs) and “camp courts” (led by civil society). Camp courts expedite cases by bringing magistrates to the prison. Paralegals gather cases of pretrial detainees who have overstayed, are held unlawfully or have been granted bail but cannot afford the terms set by the court. Magistrates, along with the court clerk and police prosecutor, work through the list granting bail to some, reducing bail, dismissing cases, or setting a date when the accused must appear for trial.

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 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 MDF has courts martial but no military or security tribunals. Military personnel accused and tried by courts martial are afforded the same rights as persons accused in civil criminal courts. MDF courts martial can try civilians in cases concerning military operations; however, this has not occurred.

Trial Procedures.—Defendants are presumed innocent and have the right to a public trial but not to a trial by jury. The Ministry of Justice continued its indefinite suspension of jury trials in murder cases, since murder suspects sometimes were incarcerated for years awaiting trial by jury. Juries were used in other types of cases. A Child Justice Court was set up in 2005 in Blantyre to handle cases involving child offenders. 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. Due to limited resources, such assistance generally was limited to homicide cases. Defendants have the right to present and challenge evidence and witnesses and have access to government-held evidence relevant to their cases. The law extends the above rights to all persons. All persons have the right of appeal; however, in practice appeals often were 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. The Department of Public Prosecutions had 27 prosecuting attorneys and 10 paralegals, who served as lay prosecutors for minor

cases in magistrate courts. Recruitment and retention of government attorneys remained 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 and 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 67 complaints of limited access to justice and four complaints of unfair administrative justice 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.

In 2009 parliament passed a law legalizing warrantless searches. The MHRC reported that 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.

The government sometimes detained the family members of persons suspected of criminal activity. For example, police regularly used “bait arrests” of relatives when a suspect could not be found to draw out the wanted individual from hiding.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The law provides for freedom of speech and press; however, at times the government attempted to limit these rights.

Freedom of Speech.—The government sometimes threatened the use of colonial-era antiseditious and treason laws to stifle criticism.

Following the president’s March 6 directive to quell dissent, several members of civil society, including some of the July 20 protest organizers, were victims of attempted violence and arson. The home of one human rights activist and the office of another human rights organization were firebombed. Other activists faced attempted home or office invasions.

On October 14, four human rights activists were arrested and charged with sedition and conducting a demonstration without permission. The four had held placards calling President Mutharika a dictator during a demonstration coinciding with a regional summit. On October 19, the magistrate granted bail to all four and ordered them to report to the police every two weeks. At year’s end, the case was awaiting trial.

Freedom of Press.—The independent media were active and expressed a wide variety of views; however, the government imposed some restrictions, such as the use of onerous licensing and registration provisions. A broad spectrum of political opinion was available in the country’s newspapers. Independent newspapers included two dailies, one biweekly and four weeklies.

There were 16 private radio stations that broadcast primarily in urban areas and six community radio stations. State-owned Malawi Broadcast Corporation (MBC) TV was the sole national television broadcaster. In November the Malawi Communications Regulatory Authority awarded four new radio and television broadcasting licenses. Three of the successful license recipients were either owned by or closely connected to President Mutharika’s family.

In January President Mutharika signed a law empowering the government to “prohibit the publication or importation” of publications deemed to be “contrary to the public interest.” The MHRC took the controversial “media freedom law” to the High Court and the case was pending at year’s end. The law was also referred to the Malawi Law Commission for review in December.

Violence and Harassment.—Journalists were harassed, intimidated, and threatened with arrest during the year.

A few journalists reported that they received death threats. For example, Nation Publications limited journalist Phillip Pemba reported death threats received in the aftermath of an article revealing that Robert Chasowa had dealings with police to stop the planned August 17 protests before his suspicious death in September (see section 1.a.). Similarly, a Radio Maria journalist received a death threat message on his cell phone after reporting on remarks by First Lady Callista Mutharika on the scarcity of fuel. In September a former employee of Malawi Institute of Journalism received death threats for allegedly publicizing a recording of “a private conversation” between President Mutharika’s brother and a former deputy minister of

sports and culture. On October 20, a Capital Radio host received death threats due to his critical reporting. Investigations into these cases were pending at year's end.

Police also questioned and arrested journalists. For example, on the weekend prior to the July 20 demonstrations, unidentified individuals set fire to vehicles belonging to private radio broadcaster Zodiak Radio, and when protests and civil unrest occurred as a result, journalists were detained and beaten while covering the events.

In October police questioned Weekend Nation Editor George Kasakula and Malawi News Deputy Editor Innocent Chitosi of Blantyre Newspapers Limited. These papers had carried detailed insights into Chasowa's death and dealings with the police.

Censorship or Content Restrictions.—Journalists sometimes practiced self-censorship, especially at government-owned media outlets such as MBC Radios One and Two and MBC TV.

Prior to the July 20 demonstrations, MBC TV characterized the planned protests as a gay rights campaign and only ran content with messages against the demonstrations. On July 20, the director general of the Malawi Communications Regulatory Agency (MACRA) warned private media they could face legal action for broadcasting live reports from demonstrations as they "may incite violence" leading to damage and loss of life. In a statement, he stated that "the authorities would like you to desist from such broadcasts with immediate effect in the interest of the security of the nation." Most private broadcasters complied with this order. MACRA shut down Joy Radio, Capital Radio, and Malawi Institute of Journalism FM for approximately four hours on July 20.

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 expression of views via the Internet, including by e-mail. Lack of infrastructure and the high cost of Internet connections continued to limit Internet access.

Academic Freedom and Cultural Events.—Unlike the previous year, there were government restrictions on academic freedom during the year. While there were no restrictions on cultural events, the government sporadically censored films that were deemed to contain culturally sensitive or sexually explicit material.

On February 12, police interrogated Blessings Chinsinga over his classroom lecture on the cause of mass protests in Egypt and Tunisia. Lecturers at the University of Malawi's Chancellor College publicly protested the interrogation, but their union's demand for academic freedom went unheeded. In response, lecturers boycotted the classrooms starting February 16. Four lecturers, including Chinsinga and the acting president of the Chancellor College Academic Staff Union, were suspended. Chancellor College officially closed twice, but reopened on November 14 after nearly nine months without classes. Although the four lecturers were reinstated, the underlying academic freedom issue had not been resolved to their satisfaction.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly, but the government fettered this right in practice. The law and government action chilled attempts of public protest. For example, the Police Act of 2010, which the Malawi Law Commission was reviewing at year's end, holds organizers accountable for any damages and injuries during a protest. City Councils and police routinely ignored or delayed responding to protest notifications, which prevented groups from receiving legal authorization to exercise their right to assemble. Injunctions and court orders were routinely used to block protests.

During a March 6 political rally, President Mutharika stated that demonstrations should be subject to a deposit of two million MWK (\$12,000). At year's end, the government had not enforced this proclamation.

On February 14, police arrested leaders of a planned demonstration about fuel shortages, preventing the protest from taking place.

On July 20, civil society groups organized demonstrations to protest the inaction of President Mutharika and his ruling DPP on "poor economic and democratic governance." Twenty persons died when violence broke out during protests that went ahead despite an injunction banning public demonstrations (see section 1.a.).

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. Registrations for new political parties and NGOs were routinely delayed and prevented domestic and international NGOs from registering. The Office of the President and cabinet were involved in the approval process for new registration, which added an element of politicization. On several occasions, ministers threatened to

deregister NGOs involved in protests or with views contrary to those of the government, although at year's end, no organizations had been deregistered.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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. However, delays in obtaining passports delayed travel for some citizens.

The government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Protection of Refugees.—Access to Asylum.—The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to some 13,000 refugees, primarily from Central Africa.

Nonrefoulement.—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. There were no reports of deportations of recognized refugees during the year.

Refugee Abuse.—Security forces sometimes intimidated refugees and asylum seekers. Police routinely detained refugees found illegally outside of camps and returned them to camps. Local citizens often accused refugees of theft and demanded their deportation.

Employment.—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 in previous years given work permits to pursue employment outside the camps. There remain some individuals, notably nurses and teachers, who have been issued such permits in the past and remain in employment based on them. UNHCR, NGOs, and the government collaborated to provide basic assistance, including education to children, in refugee camps.

The government cooperated with UNHCR in assisting refugees and asylum seekers but restricted refugees' ability to move freely and work outside of refugee camps.

Access to Basic Services.—Refugees have access to health services through a clinic in the camp, which serves both refugee and local community populations. Malawian laws and the justice system are applicable and accessible to refugees. In practice, access was limited by lack of knowledge on the part of refugees as to services available.

Durable Solutions.—By law the government does not accept refugees for permanent settlement.

Temporary Protection.—The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention relating to the Status of Refugees or the 1967 Protocol; however, no reliable statistics were available.

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 periodically through largely free and fair elections based on universal suffrage.

Elections and Political Participation.—Recent Elections.—In May 2009 the citizenry re-elected Bingu wa Mutharika of the DPP president in what international observers characterized as a generally free and fair election, although there were shortcomings. Observers criticized the inequitable access to the state-owned media faced by opposition parties and candidates. Opposition parties accused the government of using public funds for campaign purposes.

Nationwide local elections were last held in 2000 and have been repeatedly postponed since. In December 2010 the president unilaterally suspended the nine-member Malawi Electoral Commission (MEC), which was preparing for local polls scheduled for April 2011. The reason for the suspension was an investigation into missing funds. The investigation revealed the problem to be lack of documentation and not fraud, so the commissioners were reinstated on April 4. However, 10 MEC financial staff remained on suspension at year's end, which hindered MEC operations.

The executive branch exerted considerable influence over the unicameral national assembly, which followed a hybrid parliamentary system loosely based on both Brit-

ish and presidential-parliamentary models. All cabinet ministers were also members of the National Assembly, although they were not required to be.

Although the government did not prohibit 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.

Political Parties.—While parties generally were allowed to operate without restriction or outside interference, there were instances of intimidation by members of the ruling DPP.

The government delayed the registration of new political parties, which limited their ability to operate legally. Political parties were forced to resort to the courts for judicial relief. For example, the Peoples Party applied for registration in April, but its application was rejected. The party was finally registered July 28, but only after a Supreme Court ruling compelled the government to accept the application.

Participation of Women and Minorities.—There were 39 women in the 193-seat National Assembly and eight women in the 32-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 minority groups, defined as "white," "colored" ("mixed race"), and South Asian, in the National Assembly.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government has had some success prosecuting cases; however, officials frequently engaged in corrupt practices with impunity. The World Bank's 2010 Worldwide Governance Indicators reflected that corruption was a serious problem. President Mutharika spoke 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) investigated, indicted, and prosecuted persons charged with low-level corruption during the year; however, critics charged that the bureau generally avoided indictments of high-level government officials. The ACB was considered generally competent in its handling of low-level cases. Indictments of former high-level government officials proceeded slowly, often due to legal challenges filed in court 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 ACB reported that it completed 289 investigations during the year, which resulted in 77 referrals to prosecutors. A total of 65 corruption cases were prosecuted during the year, resulting in 11 convictions, five acquittals, and no withdrawals.

A final verdict in the 2007 corruption case against former president Muluzi was pending at year's end.

The constitution provides for public access to government information, in so far as such information is required for the exercise of an individual's rights. In practice, 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 existing laws and cultural practices, and investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

U.N. and Other International Bodies.—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.

Government Human Rights Bodies.—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 460 complaints of human rights violations during the year.

The Office of the Ombudsman is mandated to investigate government officials responsible for human rights violations and other abuses. The ombudsman does not take legal action against government officials, but may order an administrative action to redress the grievance. Between August 2009 and October 2010, when the ombudsman position was unoccupied, the office continued investigations of existing

cases, but no new investigations were authorized. The office continued to lack adequate resources and had difficulty retaining staff. At year's end, the office had seven lead investigators aided by 13 assistants. Some recommendations from the ombudsman were referred to parliament after they were ignored or challenged by government departments and agencies.

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.—Rape and Domestic Violence.—The law criminalizes rape with a maximum penalty of death. 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. The judiciary continued to impose penalties on persons convicted of rape. Although the maximum penalty for rape is death, the courts generally imposed the maximum assault penalty of 14 years in prison for child rape and assault.

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 and recognizes that both men and women can be perpetrators as well as victims. Police regularly investigated cases of rape and sexual assault but did not normally intervene in domestic disputes. Police support units provided shelter to some abuse survivors and dealt with human rights and gender-based violence, but officers' capacity to assist and document cases was limited.

Harmful Traditional Practices.—In a few isolated areas, widows were sometimes forced to have sex with in-laws as part of a culturally mandated "sexual cleansing" ritual following the death of the husband. In some cases, widows were "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.

Sexual Harassment.—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 woman or girl, 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, although it was thought to be widespread, or effectiveness of government enforcement.

Reproductive Rights.—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 access was more limited in rural areas. 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. Nurses and midwives were a critical component of prenatal and postnatal care, due to a shortage of doctors. The 2010 Malawi Demographic and Health Survey (DHS) reported the maternal mortality ratio to be 675 deaths per 100,000 live births. Skilled health providers assisted in 71 percent of births with another 14 percent assisted by a traditional birth attendant and 9 percent by untrained relatives or friends. Modern contraceptive use among married women between ages 15 and 49 was approximately 46 percent, according to the DHS. Men and women were entitled to equal access to diagnosis and treatment of sexually transmitted infections.

Discrimination.—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, and formal and nontraditional employment opportunities, as well as lower rates of 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 protest abuse and discrimination. Households headed by women were represented disproportionately in the lowest quarter of income distribution. More than half, 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 and those that did 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 use the formal legal system benefited from these legal protections.

The government addressed women's concerns through the Ministry of Gender, Child, and Community Development. The Organization for Economic Cooperation and Development's Gender, Institutions, and Development data reflected the elevated discrimination in social institutions and the high inequality to which women were subjected on a daily basis.

Children.—Birth Registration.—Citizenship can be derived from birth within the country or 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; however, the system had not been fully implemented by year's end. There were no reports of discrimination or denial of services due to lack of birth registration.

Education.—The government provided tuition-free primary education for all children, although education was not compulsory. Families were responsible for paying book fees and purchasing uniforms. However, students from poor families had access to a public book fund. Many girls, especially in rural areas, were unable to complete even a primary education due to poverty, lack of schools, and cultural factors, and were at a serious disadvantage in finding employment.

Child Abuse.—Child abuse remained a serious problem. The press regularly reported cases of sexual abuse of children, including arrests for rape, incest, sodomy, and defilement. 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.

In 2010 parliament passed the Child Care, Protection, and Justice Act, which prohibits subjecting a child to any social or customary practice that is harmful to the health or general development of a child. Targeted practices included child trafficking, forced labor, forced marriage or betrothal, and use of children as security for debts or loans. The law was passed in July 2010 but had not been fully enacted as it was awaiting final publication in the official legal records at year's end.

The Ministry of Gender, Child, and Community Development undertook activities to enhance protection and support of child 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.

Child Marriage.—The minimum age for marriage is 15, with marriage under age 18 requiring parental consent. "Girl Up", a U.N. Foundation campaign, reported in November that child marriage was widespread, with nearly 50 percent of girls marrying before age 18.

Harmful Traditional Practices.—The law does not specifically prohibit female genital mutilation (FGM). A few small ethnic groups practiced FGM. In most cases, FGM was performed on girls between 10 and 15 years of age.

Despite the Child Care, Protection, and Justice Act, many abusive practices, including the secret initiation of girls into their future adult roles, continued. 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, existed in some areas. The MHRC expressed concern over reports of parents forcing their daughters into marriages for food.

Sexual Exploitation of Children.—The widespread belief that children were unlikely to be HIV positive and that sexual intercourse with virgins could cleanse an

individual of sexually transmitted diseases, including HIV/AIDS, contributed to the widespread sexual exploitation of minors.

Reports of European tourists paying for sex with teenage boys and girls continued.

The trafficking of children for sexual purposes was a problem, and child prostitution for survival without third-party involvement also occurred. For example, at local bars and rest houses, owners coerced girls who worked at the establishments to have sex with customers in exchange for room and board. The Child Care, Protection, and Justice Act stipulates punishment up to and including life imprisonment for child traffickers, but the law had not officially taken effect by year's end.

The penal code outlaws carnal knowledge of females under the age of 16 and stipulates penalties up to and including the death penalty for offenders.

Displaced Children.—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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community was very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://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, limited resources prevented the government from protecting these rights in practice. The government had not mandated accessibility to buildings and services for persons with disabilities.

The Department of Persons with Disabilities and the Elderly, within the Ministry of Gender, Child, and Community Development is responsible for protecting the rights of persons with disabilities. There were 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.—Consensual same-sex sexual activity is illegal and is punishable by up to 14 years in prison in addition to corporal punishment, including hard labor. The Malawi Penal Code outlaws "unnatural offenses" and "indecent practices between males."

In January the president assented to a parliamentary penal code amendment that criminalizes "indecent practices between females." The amendment codifies the illegality of consensual same-sex sexual activity between women, setting a maximum prison term of five years for convicted offenders.

An environment conducive to discrimination based on sexual orientation was created and maintained by senior government officials. On World Tourism Day in September, the tourism minister said it was not proper for citizens to engage in same-sex sexual activity as "very un-Malawian." The mistaken notion that western donor countries were withholding financial aid unless the country permits same sex marriages enhanced a homophobic environment. In October the Malawi Council of Churches declared that the country needed aid, and millions of innocent citizens should not be penalized because same-sex sexual activity was outlawed.

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 had some success. The National AIDS Commission maintained that discrimination was a problem in both the public and private sectors. A 2011 report of the People Living with HIV Stigma Index also confirmed that HIV and AIDS discrimination and stigma exist in the country.

Mobs sometimes used arson as a tool of vigilante justice.

On October 17, angry villagers torched the entire police unit in Mitundu as well as seven police staff houses as a backlash against perceived police failure to provide security in the area. Violence started with the murder of Marko Chapola at Mitundu

Trading Center on October 16. Riot police were deployed to contain the situation, and in the ensuing battles between police and angry villagers, 49 villagers were arrested, and two injured with rubber bullets. All suspects were released on bail by October 26 and the case was pending at year's end.

On November 28, villagers burned and looted the house and compound of Mariam Nazeem in Kalilima Village. Nazeem, who was suspected of using witchcraft to cause several deaths in the area, was missing at year's end.

There were no further developments in the September 2010 killings of Ulemu Sesani and Moses Kachala by a mob in the Blantyre's Ndirande suburb.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—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. The law provides for unions to conduct their activities without government interference; however, in reality the law does not apply to the vast majority of workers in the informal sectors.

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. A strike can take place only after all complex and time-consuming settlement procedures established in a collective agreement and conciliation efforts have failed. 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). While there is a definition of "essential services," there is no defined list. Laws do not specifically prohibit retaliation against strikers. There is no prohibition on actions against unions that are not registered. The law prohibits antiunion discrimination and provides for remedial measures in cases of dismissal for union activity.

Workers in the formal sector have the right to organize and bargain collectively. 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. No known particular group of workers was excluded from relevant legal protections. There are no special laws or exemptions from regular labor laws in export processing zones (EPZ).

The government protected the right to collective bargaining. Workers exercised the right to form and join independent unions and the right to conduct strikes in practice. Malawi Congress of Trade Unions (MCTU) reported two incidents of alleged antiunion discrimination during the year. There was anecdotal evidence that union organizers were dismissed or had their rights violated in order to deter unionization.

On May 20, an employee of a freight forwarding company was dismissed for unauthorized absence while attending an International Labor Organization-sponsored course in Germany. The employee had applied for unpaid leave according to the company's leave terms, but was later informed that unpaid leave was no longer part of the company's conditions of service. The employee alleged that his dismissal was for his trade union activism and claimed that the company had previously fired employees for speaking out in favor of forming or joining a trade union. The employee believes that his dismissal marked an attempt to weaken the union. At year's end, MCTU was involved in the issue.

In November workers at a rubber plantation announced the formation of a union after two years of covert organization. The union leader was arrested and charged with "organizing workers without the consent of the Management, District Commissioner, and Labor officers." His case was pending at year's end.

Union membership was low due to the small percentage of the workforce in the formal sector, and because of lack of awareness of worker rights and fear of reprisals. Many companies in the EPZs resisted union activity, and union organizers stated they had little access to workers in the EPZs. Informal sector workers organized in the Malawi Union for the Informal Sector (MUFIS), which is affiliated with MCTU. However, informal sector employees were unable to obtain the same standard of protection as formal sector workers. This inequity is the result of a Ministry

of Labor decision that the MUFIS does not have sufficient standing to bargain collectively.

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. For example, ambiguities in the law regarding what services are considered to be “essential” could lead to unions having difficulties striking legally. There were, however, no instances of strikes being declared illegal during the year.

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. Prohibition of Forced or Compulsory Labor.—The government prohibits all forms of forced or compulsory labor. Forced labor is punishable by a maximum fine of 10,000 MWK (\$60) or two years’ imprisonment.

Laws against forced and compulsory labor were not effectively enforced due to lack of capacity and resources. The 2010 Child Care, Protection, and Justice Act specifically outlaws forced child labor, but the law had not been fully enacted at year’s end.

There were reports that forced child labor occurred. Children are subjected to domestic servitude and other forms of forced labor, including in cattle herding; agricultural labor, particularly on tobacco farms; and menial work in small business. 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, systematically leading to a situation of debt bondage to repay the inputs and other costs.

Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—²¹The law sets the minimum age for employment at 14, and children between the ages of 14 to 18 may not work in jobs that are considered hazardous or that interfere with their education. The law specifies legal work hour limits, but in practice, the Ministry of Labor lacks the capacity to monitor and enforce the law. The law specifies a maximum fine of 20,000 MWK (\$119) or five years’ imprisonment for violations. However, the law was not effectively enforced due to lack of resources, manpower and insufficient penalties to deter offenders.

Police and Ministry of Labor officials were responsible for enforcing child labor laws and policies; however, labor inspectors did not have law enforcement capabilities and must cooperate with the police to pursue violators.

The Ministry of Labor 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 29 district labor officers and an estimated 160 labor inspectors at year’s end. Approximately 1,340 inspections were carried out from January to September. The Labor Ministry’s 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.

Child labor remained a serious and widespread problem. A June 2008 report from the Ministry of Labor stated that more than 1.4 million children, or one of every three children, were engaged in some form of child labor.

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.

An August 2009 report issued by Plan International 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 the claim that 78,000 children worked in the tobacco industry was greatly inflated. Debate continued over the true extent of the problem.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>

d. Acceptable Conditions of Work.—The Ministry of Labor sets separate urban and rural minimum wage rates based on recommendations of the tripartite wage advi-

sory board (TWAB), which is composed of representatives of labor, government, and the private sector. The minimum wage, revised in January, is 178.25 MWK (\$1.06) per day; for both rural and urban areas. The poverty lines (at 2004 prices) were 16,165 MWK (\$96) per person per year for poor households and 10,029 MWK (\$60) per person per year for ultra-poor households. It is estimated that 52.4 percent of citizens live below the poverty line. 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 Ministry of Labor houses a Directorate of Occupational Safety and Health. The law includes extensive occupational health and safety (OSH) standards.

Poor functioning of the TWAB resulted in delayed and inadequate wage rate revisions. Official minimum wages apply only to the formal sector as the government lacks enforcement mechanisms for the informal 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.

The Ministry of Labor's enforcement of the work week and the OSH standards was also poor. The law specifies a maximum fine of 20,000 MWK (\$119) or five years' imprisonment for violations. These penalties were not sufficient to deter offenders. No jail terms have ever been reported.

Workers, particularly in industrial jobs, often worked without basic safety clothing and equipment. In tobacco fields, the handling of the leaves was done largely without protective clothing; workers absorb up to 54 milligrams of dissolved nicotine daily through their skin, equal to the amount of 50 cigarettes. Approximately 80,000 child tobacco workers reportedly suffered from a disease called green tobacco sickness, or nicotine poisoning. These children often worked 12-hour days, often without pay or received an average of 42 MWK (\$0.25) for long hours of work. 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.

Six workplace fatalities were reported during the year. Two restaurant workers and their employer died when the building collapsed in Blantyre. In Chikwawa a sugar factory employee fell into a broiler. A driver at a uranium mine near Karonga died, and one employee of a plastics company in Blantyre died.

The law protects foreign workers in correct legal status. Illegal foreign workers were subject to deportation.

MALI

EXECUTIVE SUMMARY

Mali is a constitutional democracy. International and domestic observers characterized the 2007 presidential election, which resulted in the reelection of President Amadou Toumani Toure, and the 2007 legislative elections, as generally free and fair; however, there were some administrative irregularities. Security forces reported to civilian authorities.

The most important human rights problems are related to gender inequality, failures of the justice system, and exploitative labor relationships. Women face domestic violence to which the legal system frequently turns a blind eye, a culture that widely condones female genital mutilation (FGM), and a legal system that gives preference to men in cases of divorce or inheritance. An ineffective and corrupt legal system has meant detainees face lengthy pretrial detention unless they are willing and able to pay bribes to obtain their release. Human trafficking and exploitative labor relationships are not uncommon in the country, especially in regards to child labor.

Other human rights problems included arbitrary and/or unlawful deprivation of life, police abuse of civilians, poor prison conditions, lack of enforcement of court orders, official corruption and impunity, societal discrimination against black Tamasheqs, discrimination based on sexual orientation, and societal discrimination against persons with HIV/AIDS.

The government took steps to prosecute military officials involved in the hazing-related deaths of five military trainees on October 3, but some impunity existed in the country.

Northern Mali experienced periodic violence involving banditry, drug trafficking, clashes between rival groups, and attacks by the terrorist organization Al-Qaida in the Islamic Maghreb (AQIM).

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 unlawful killings.

On September 21, customs officers shot and killed alleged drug trafficker Adama Diallo after a car chase outside Kadiolo, in Sikasso Region. No disciplinary actions were taken by year's end.

On March 7, in Koulikoro, a student died from a reaction to gas fired by police to disperse a demonstration (see section 2.b.).

There were no developments in the February 2010 case of minibus driver Mamadou Coulibaly, who was shot and killed while trying to flee a police checkpoint.

b. Disappearance.—There were no reports of 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 and gendarmes employed them.

Police abused civilians, including the use of excessive force to disperse demonstrations. On March 7, police used tear gas to disperse students protesting outside their hostel; one student died after inhaling the gas. There were no other reported major injuries to victims or disciplinary actions imposed on perpetrators resulting from those incidents.

No disciplinary action was taken against police and gendarmes involved in two 2010 incidents of violence in Timbuktu or against members of the Mobile Security Group who allegedly used excessive force to disperse demonstrators in November 2010 in Bamako.

Prison and Detention Center Conditions.—Overall prison conditions remained extremely poor and did not meet international standards. Prisons continued to be overcrowded. As of September 28, the central prison in Bamako housed 1,668 prisoners, including 1,092 pretrial detainees, in a facility designed to hold 400 persons. The Sikasso Prison held close to 615 prisoners, including 209 pretrial detainees, in a facility built for 50. Nationwide, the prisons in the eight regions and Bamako housed a total of 5,817 prisoners, including 2,522 pretrial detainees. Prison-provided food was insufficient, when it was provided, and medical facilities and sanitation were inadequate, posing serious health threats.

Prisoners have access to the same water as the local population. The drinking water is of good quality in Bamako, but there are not safe water sources at regional prisons. Prison ventilation, lighting, and temperature are comparable to many poor, urban homes. The most significant threat to prisoners' health was the lack of sanitation; prisoners have access to a bucket in their cells, but seldom an outhouse. There were not prison ombudsmen. Specific efforts were not taken during the year to improve recordkeeping or use alternative sentencing for nonviolent offenders.

In Bamako men and women were placed in separate prisons, although both male and female juvenile offenders were held in the women's prison. Conditions in the Bamako women's prison improved but did not meet international standards. 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. Detainees had reasonable access to visitors and were permitted to conduct religious observance. Authorities permitted prisoners and detainees to submit complaints directly or through the ombudsmen to judicial authorities without censorship and to request investigations of credible allegations of inhumane conditions, although it was not known if any prisoner had done so. The government's National Penitentiary Administration investigated and monitored prison and detention center conditions.

The government permitted prison visits by human rights monitors, and various human rights organizations conducted visits during the year. Nevertheless, 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 weeklong delay

hindered the ability of monitors to ascertain if there were human rights violations. The International Committee of the Red Cross (ICRC) conducted visits during the year in accordance with its standard modalities. The National Assembly's Law Commission sent a mission composed of lawmakers and parliamentary assistants to inspect all eight regional prisons during the year. Several NGOs, including the Malian Association of Human Rights and the Malian Association of Women Lawyers, also visited prisons during the year and worked with female and juvenile prisoners to improve conditions.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention, and the government generally respected these prohibitions; however, there were reports that arbitrary arrest and detention occurred in petty criminal cases.

Role of the Police and Security Apparatus.—Security forces include the army, air force, gendarmerie, National Guard, national police, and the General Directorate of State Security (DGSE). The army and air force are under the control of the Ministry of Defense. The National Guard is administratively under the Ministry of Defense; however, operational control rests with the Ministry of Internal Security and Civil Protection. The Ministry of Internal Security and Civil Protection's responsibilities include maintaining order during exceptional circumstances, such as national disasters or riots. The National Guard also has specialized border security units. The national police and gendarmerie are under the Ministry of Internal Security and Civil Protection. Policemen 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 is organized into districts. Each district has a commissioner who reports to the regional director at national headquarters. The National Police was moderately effective but seriously lacked resources and training.

Civilian authorities maintain effective control over the military and gendarmes, and the government has effective mechanisms to investigate and punish abuse and corruption. On March 29, the army arrested Colonel Satigui Sidibe and charged him with stealing 180 million CFA francs (\$350,000). There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention.—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 48 hours. Suspects must be transferred from a police station to a prison within 72 hours after being arrested; however, in practice detainees were sometimes held longer than 72 hours. Limited rights of bail and the granting of conditional liberty exist, particularly for minor crimes and civil matters. On occasion authorities released defendants on their own recognizance.

Judicial warrants are required for arrest. Bailiffs normally deliver warrants, which stipulate when a person is scheduled to appear at a police station. While individuals usually were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, there were occasions when warrants were not based on sufficient evidence or were not used.

Detainees are brought before the judiciary and have the right to a lawyer of their choice or a state-provided lawyer if they are indigent; however, an insufficient number of lawyers—particularly outside the cities of Bamako and Mopti—often prevented access to legal representation. Detainees were granted prompt access to family members, who are also their primary source for food.

Since June 2, former minister of health Ibrahim Oumar Toure has been held under house arrest for charges of abuse of public funds. 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.

Arbitrary Arrests.—Police sometimes arrested multiple suspects in a crime, even without much direct evidence. In a burglary on August 15, police arrested the gardener, the dog sitter, and three guards and held them in jail for questioning. Police released all five men without charges after five days.

Pretrial Detention.—The law stipulates charged prisoners must be tried within one year, but this limit frequently was 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 could not afford bail. Approximately 52 percent of the prison population consisted of persons awaiting trial.

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. Bribery and influence peddling were widespread in the courts, according to domestic human rights groups.

There were problems enforcing court orders. 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. Sometimes justices were absent from their assigned areas for months at a time.

Trial Procedures.—The constitution provides for the right to a fair trial, and the judiciary generally enforced this right. 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. 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. Defendants and attorneys have access to government evidence relevant to their cases.

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, although corruption in the judicial branch was widespread and laws are biased against women, particularly in cases of divorce or inheritance. 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, especially in cases of traditional slavery.

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.—Killings.—Northern Mali experienced periodic violence involving bandits, smugglers, paramilitary forces, inter- and intra-ethnic violence, and AQIM. For example, on March 11-16, a clash between Tuareg nomadic herders belonging to the Idnane and the Imghad clans resulted in the death of one person in the District of Menaka, in Gao Region, near the border with Niger.

During May and June, 15 people died in fighting between D'Aoussahak nomads in Kidal Region.

Abductions.—On November 23-24, armed individuals possibly affiliated with AQIM kidnapped two French nationals in Hombori, Mopti Region, and reportedly delivered them to AQIM, which was believed to be holding them in Mali. Security forces arrested two suspects involved in the kidnapping, and investigations continued at year's end.

On November 25, armed assailants kidnapped three European tourists and killed a fourth in Timbuktu city, Timbuktu Region. The hostages, Dutch, Swedish, and South African/British nationals, reportedly are being held in Mali. The individual who died while resisting the kidnapping attempt was a German national. Security forces reportedly arrested two of the assailants and investigations continued at year's end.

AQIM kidnapped three European aid workers on October 22 from a Saharoui refugee camp in Algeria and likely moved them to Mali.

AQIM kept some of the hostages it had taken during 2010. On March 9, AQIM released Mohamed Yahya Ould Hamid, a Malian whom it held following Mauritanian army attacks on AQIM bases in Mali.

On February 24, AQIM released a Togolese, a Malagasy, and a French citizen who were abducted in September 2010 but continued to hold as hostages four other Frenchmen taken in the same raid in northern Mali.

On January 5, an individual claiming connections to AQIM attacked the French Embassy in Bamako with a handgun and improvised explosive. Tunisian national Bachir Simoun was sentenced to death by a Malian court on November 29 but was extradited to Tunisia to be tried in that country on December 15.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The constitution provides for freedom of speech including for members of the press, and the government generally respected these rights in practice. An independent press

and a functioning democratic political system have ensured freedom of speech and of the press. Self-censorship was reported anecdotally to be a problem.

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, but home Internet was limited by cost. Outside of Bamako there were few sites where the Internet was available for public use.

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 March 7, in Koulikoro, police used tear gas to disperse students protesting the government's slowness in building an access road to their high school. One student died after having a fatal reaction to the gas.

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.—See the Department of State's International Religious Freedom Report at <http://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 in practice. Police routinely stopped and checked both citizens and foreigners to restrict the movement of contraband and to verify vehicle registrations.

The government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, and other persons of concern.

Internally Displaced Persons (IDPs).—The government provided some assistance to IDPs, allowed the ICRC access to IDPs, and permitted IDPs to accept assistance provided by humanitarian organizations. The distances involved, difficult terrain, and land mine concerns hampered assistance efforts. The government did not attack or target IDPs or forcibly return or resettle them. The government worked with the International Organization for Migration during the year to reintegrate citizens fleeing violence and government instability in Cote d'Ivoire, Tunisia, and Libya.

Protection of Refugees.—Access to Asylum.—The laws provide for the granting of asylum or refugee status. The government has established a system for providing protection to refugees. A national committee in charge of refugees operated with institutional assistance from UNHCR.

Nonrefoulement.—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.

Temporary Protection.—The government's Office of International Migration is responsible for providing temporary protection to individuals who may not qualify as refugees and provided it to 14 Mauritians, one Sierra Leonean, two Afghans, two Ivoirians, two Liberians, and two Burundians in distress 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.—Recent Elections.—In 2007 voters elected President Amadou Toumani Toure to a second five-year term with 71 percent of the vote. Legislative elections also were held in 2007. Domestic and international observers characterized these elections as generally free, fair, and without evident fraud, but there were administrative irregularities.

Political Parties.—Political parties generally operated without restrictions or outside interference.

Participation of Women and Minorities.—There were 15 women in the 147-member National Assembly. There were five women in the 29-seat cabinet, including

new Prime Minister Mariam Sidibe Kaidama Cisse. There were 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 eastern and northern regions of Gao, Timbuktu, and Kidal. The cabinet also had four 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. Corruption in the judiciary was widespread. Police often were not held accountable for corruption. Officials, police, and gendarmes frequently extorted bribes. There were reports of uniformed police or individuals dressed as police directing stopped motorists to drive to dark and isolated locations, where they robbed the victims. The gendarmerie conducted investigations of police officers, although the number of officers disciplined for infractions was not available.

The constitution requires the president, prime minister, and other cabinet members to submit annually a financial statement and written declaration of their net worth to the Supreme Court. These documents were not made public.

The Malian Anticorruption Agency (CASCA) and the independent Office of the Auditor General (OAG) are responsible for combating corruption. CASCA oversees a number of smaller anticorruption units within various government ministries and reports directly to the presidency.

The OAG's report for 2010 (released during the year) estimated that 34.8 billion CFA francs (\$70 million) in revenue had been lost in 2010 due to fraud and mismanagement, including lost revenue in agricultural and health programs.

On June 2, police arrested former health minister Ibrahim Oumar Toure, who faced charges of misappropriating millions of dollars from the Global Fund to Fight AIDS, Tuberculosis, and Malaria. Fifteen other former health ministry officials also were charged in the alleged corruption case.

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 generally were cooperative and responsive to their views.

For example, on December 6, Human Rights Watch published a major report on the use of child labor in the country's artisanal gold mines during the year. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies.—The National Commission on Human Rights (CNDH) is part of the Ministry of Justice. The CNDH is an independent institution under the constitution and was restructured significantly in 2009. During the year the government provided the commission with a headquarters and small staff. On May 26, the commission presented its 2010 report on human rights specifically focused on corruption and impunity.

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. In spite of relevant legislation, citizens generally were reluctant to file complaints or press charges of discrimination, based largely on cultural factors. Absent complaints or lawsuits, the government did not aggressively pursue violations of these laws.

Women.—Rape and Domestic Violence.—The law criminalizes rape and provides a penalty of five to 20 years' imprisonment; however, the government did not enforce the law effectively. Rape was a widespread problem. Only a small percentage of rape cases were prosecuted, since most such cases were not reported, and victims felt social pressure not to pursue charges against aggressors who were frequently close relations. There is no law specifically prohibiting spousal rape, but law enforcement officials stated 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. The Bamako Court of Appeals had six cases

of rape on its docket for the session held during the year; however, information on the number of convictions was not available.

Domestic violence against women, including spousal abuse, was prevalent. 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, sought to avoid social stigma, or feared further ostracism. The government's planning and statistics unit, established 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 (\$1,011) or, if premeditated, up to 10 years' imprisonment.

The Ministry for the Promotion of Women, Children, and the Family distributed a guide during site visits throughout the year regarding violence against women for use by health-care providers, police, lawyers, and judges, and many NGOs operated shelters for abused female domestic laborers.

Female genital mutilation (FGM).—FGM is legal in the country and widely practiced across faith and ethnic groups. While the government has taken steps to raise awareness about the harmful health effects of FGM and has successfully lowered the percentage of girls excised in at least one region of the country, it has not criminalized it. FGM was very common, particularly in rural areas, and was performed on girls between the ages of six months and six years (see section 6, Children).

Reproductive Rights.—Women's ability to make decisions regarding reproduction was limited. Women faced pressure to defer responsibility to their husbands and family on reproductive issues including the number, spacing, and timing of pregnancies and often lacked sufficient information about alternative choices. Women often did not have access to contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. According to the U.N. Population Fund (UNFPA), the contraceptive prevalence rate was 8 percent, with unmet need for family planning estimated at 29 percent. Reportedly 49 percent of births were attended by skilled health personnel. Women were equally diagnosed and treated for sexually transmitted infections, including HIV, but access to health care for both men and women was limited. According to UNFPA estimates, in 2008 the maternal mortality ratio was 830 deaths per 100,000 live births, and a woman's lifetime risk of maternal death was one in 22.

Discrimination.—Family law and traditional practices favor men. Women are legally obligated to obey their husbands and 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 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 Ministry for the Promotion of Women, Children, and the Family was charged with ensuring the legal rights of women. Women experienced economic discrimination due to social norms that favor men.

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

Children.—Birth registration.—Citizenship is derived from the father. The government did not register all births immediately, particularly in rural areas. During the year the government continued conducting an administrative census to collect biometric data and assign a unique identifying number to every citizen. The process allowed the registration of children who had not been registered at birth, although the number of new birth certificates assigned was unknown. Several local NGOs worked with foreign partners during the year to register children at birth and to educate parents about the benefits of registration.

Education.—The constitution provides for tuition-free universal education, and the law provides for compulsory schooling from ages seven to 16; however, many children did not attend school. Parents often had to pay for their children's school fees 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 Tamasheq community reported that some Tamasheq children were denied educational opportunities due to traditional and hereditary practices.

Koranic masters often require students under age 10, known as “garibouts,” to beg for money on the streets or work as laborers in agricultural settings (see section 7.d.).

Child Abuse.—here were no comprehensive statistics on child abuse; however, the problem was widespread. Most child abuse cases went unreported. Sexual exploitation of children occurred. The police and the social services department under the Ministry of Social Development, Solidarity, and the Elderly investigated and intervened in some reported cases of child abuse or neglect; however, the government provided few services for such children.

FGM was very common, particularly in rural areas, and was performed on girls between the ages of six months and six years. Approximately 92 percent of all girls and women had been subjected to FGM, although a Ministry of Health demographic study in 2006 reported that among girls and women ages 15 to 19, the rate was 85 percent. The practice was widespread except in certain northern areas, occurred among most ethnic groups, and was not subject to class boundaries. Some Malians erroneously believe the Koran prescribes the practice. There are no laws specifically prohibiting FGM; however, a government decree prohibits FGM in government-funded health centers. Government information campaigns regarding the dangers of FGM reached citizens throughout the country, and human rights organizations reported that FGM decreased among children of educated parents. Unlike previous years there were no reports of Burkinabe families crossing into Mali to evade strict FGM laws in Burkina Faso.

Child Marriage.—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. On December 2, the National Assembly passed a new Family Code that would raise the age of legal marriage to 18 for men and 16 for women; however, at year’s end it was not signed by the president. Underage marriages would still be legal if approved by the child’s father, or a family council if the father is deceased. 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. The revised Family Code has been the primary way the government has combated early marriage, although joint awareness campaigns were mounted with NGOs.

Sexual Exploitation of Children.—The law does not specifically address child prostitution, but Article 229 prohibits pimping of both adults and children. The penalties are six months to three years in prison and a fine of between 20,000 and one million CFA francs (\$40-\$2,000). The country has a statutory rape law that defines 18 as the minimum age for consensual sex. However, the law is inconsistent with the legal minimum marriage age of 15 and was not enforced. 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 National Police’s Division for Protection of Children and Morals conducted sweeps of brothels to ensure that prostitutes were of legal age and arrested brothel owners found to be holding underage girls.

For example, on May 26, police arrested Aminata Keita Diallo, director of the national infant orphanage, on charges of neglect, kidnapping, trafficking in children, and manslaughter related to the deaths of 33 children in her care between August 2010 and February, as well as at least two illegal adoptions.

Anti-Semitism.—The Jewish population was estimated at fewer than 50, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—For information on trafficking in persons, please see the Department of State’s Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—There is no specific law protecting the rights of persons with physical, sensory, intellectual, 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, such as the

Malian Federation of Associations for Handicapped Persons, which provided basic services. There was a Bamako-based school for the deaf that ostensibly falls under government responsibility, but support and resources were practically nonexistent.

National/Racial/Ethnic Minorities.—Societal discrimination against “black” Tamasheqs, often referred to by the label Bellah, continued. Some black Tamasheqs were deprived of civil liberties by other ethnic groups due to traditional slavery-like practices and hereditary servitude relationships between certain ethnic groups. Black Tamasheqs in 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 to a gay rights association. Although there was no official discrimination on the basis of sexual orientation at the national level; in practice, societal discrimination was widespread. The Family Code passed by the National Assembly on December 2 would forbid “homosexuals” from adopting children, but it has not been signed by the president and is not yet in force.

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.

Mob violence occurred. For example, on June 7, high school teacher Alassane Libo Diarra was beaten to death by an angry mob after being falsely accused of stealing a handbag. Seven people were in jail at year’s end awaiting trial for suspicion of involvement in his death. They remained in jail at year’s end.

On July 19, clashes between gangs in Bamako’s heavily populated neighborhoods of Bagadadji and Niarela resulted in the death of one child. Two suspects were awaiting trial at year’s end.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—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.

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.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, such practices occurred.

Most adult forced labor was found in the agricultural sector, especially rice production, domestic services, gold mining, and the informal economy. Forced child labor was seen in the same sectors, but sometimes with different tasks. Some Koranic school masters also require children to work longer hours than is socially acceptable.

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 is involved.

Many black Tamasheqs continued to be subjected to forced labor practices and hereditary servitude relationships, particularly in the eastern and northern regions of Gao, Timbuktu, and Kidal. A legal clinic in Gao recorded and filed eight new civil cases regarding traditional slavery between August 18 and October 17. According

to NGOs, the judiciary was reluctant to act in forced labor cases. There were no developments in 2010 cases of traditional slavery.

Debt bondage occurred in the salt mines of Taoudenni, located in the North. Individuals, primarily of Songhai ethnicity, including some children, worked as salt miners to pay off debts owed to businessmen in Timbuktu.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. 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 sector, especially rice production, domestic services, gold mining, Koranic schools, and the informal economy.

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 engage in domestic or light seasonal work, and limits the number of hours they may work. No child is permitted to be employed for more than eight hours per day under any circumstances. Girls who are 16 to 18 years old cannot be employed for more than six hours per day. These regulations were not enforced in practice.

Approximately half of children between the ages of seven and 14 were economically active, and more than 40 percent of children in this age group were subjected to the worst forms of child labor. Child trafficking occurred. Children, especially girls, were used for forced domestic labor. Child labor in the mining sector, including salt mining in Taoudenni and gold mining, was also a problem. Black Tamasheq children were forced to work as domestic and agricultural laborers.

An unknown number of primary school-aged children throughout the country, mostly under age 10, attended part-time Qur'anic schools that were funded by students and their parents and taught only the Qur'an. As part of their work requirement, Koranic masters often required students, known as "garibouts," to beg for money on the streets or work as laborers in agricultural settings.

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. The Ministry of Labor and State Reforms employed approximately 50 labor inspectors, up from eight in 2007.

On June 8, the Council of Ministers adopted a National Action Plan to combat child labor, especially the worst forms of child labor identified by a 43-member national committee for child labor and trafficking issues chaired by the Ministry of Labor and State Reforms. The government regularly acts in a supporting role for donor projects dealing with child labor.

d. Acceptable Conditions of Work.—The national minimum wage was 28,465 CFA francs (\$58) 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 Ministry of Labor 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, 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

EXECUTIVE SUMMARY

Mauritania is a highly centralized Islamic republic with a president as head of state. The legislative function is exercised by the Senate and National Assembly, the former consisting of representatives chosen indirectly by municipal councilors and the latter directly elected by the voters. The legislative bodies were weak relative to the executive. The election of Mohamed Ould Abdel Aziz as president in 2009 ended a political crisis caused by Aziz's 2008 coup d'état against then president Sidi Ould Cheikh Abdallahi. International observers declared the 2009 presidential election to be generally free and fair. In 2009 the majority party, Union for the Republic (UPR), won most of the seats in the indirect election to refill one-third of the Senate seats. The government indefinitely postponed new Senate, National Assembly, and municipal elections scheduled to take place during the year in accordance with the opposition's initial request, although controversy over the constitutionality of the election timetable continued throughout the year. Security forces reported to civilian authorities.

Continuing slavery, slavery-related practices, and trafficking in persons were central human rights problems. Popular concern over control of the security forces was highlighted when police clashed with demonstrators protesting social, political, and economic problems, resulting in at least one death attributed to police. Prison conditions remained far below acceptable standards.

Other reported human rights problems were the use of torture by police to extract confessions, arbitrary arrests, lengthy pretrial detention, government influence over the judiciary, limits on freedom of the press and assembly, restrictions on religious freedom for non-Muslims, corruption, discrimination against women, female genital mutilation (FGM), child marriage, political marginalization of southern-based ethnic groups, racial and ethnic discrimination, child labor, and inadequate enforcement of labor laws.

The government took some steps to punish officials who committed abuses and prosecuted a number of them. Civil society organizations objected to the small number indicted and alleged that some of the prosecutions, particularly those involving official corruption, were politically motivated.

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

a. Arbitrary or Unlawful Deprivation of Life.—On September 27, a gendarme who fired on demonstrators in Maghama reportedly shot and killed one person and wounded eight others. The demonstrators were protesting a national registration campaign, which the government launched in May and which they believed would discriminate against Afro-Mauritanians due to an alleged lack of ethnic balance among officials evaluating nationality. Demonstrators demanded greater Afro-Mauritanian representation and an unbiased nationality verification procedure. On September 27, Minister of the Interior Mohamed Ould Boilil publicly confirmed the reports and declared that the government would not permit disturbances of the peace. There was no reported investigation of the death 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, and according to the governmental Commissariat for Human Rights, Humanitarian Action, and Relations with Civil Society, there were no documented cases of torture during the year. Independent human rights observers, however, stated that security personnel tortured detainees to extract confessions. Torture methods reportedly included electric shocks, burning, beating, pulling out of hair, and sexual violence. For example, one person involved in ethnically motivated protests in Kaedi reported being so severely beaten while held in a government building that he had to be evacuated to Nouakchott for medical treatment and lost jaw function.

Prison and Detention Center Conditions.—Prison conditions were harsh, and the government's capacity to administer detention facilities remained poor. There were credible reports of torture, beating, and abuse in police detention centers, several prisons throughout the country, and gendarmerie and military facilities.

A new prison facility was opened in Aleg on November 28, and another prison facility neared completion in Nouadhibou, but the government failed to allocate suffi-

cient funds for improving prison conditions in the existing facilities during the year, and overcrowding, violence among inmates, and poor medical care in prisons continued. Many prisoners were unable to leave their extremely crowded cells or breathe fresh air for months or years at a time. Sanitation conditions were poor due to the lack of hygienic products such as soap and detergent and prison management's inability to dispose of waste properly. Malnutrition was a more serious problem, affecting vulnerable members of the prison population, particularly foreign inmates, prisoners without familial support, and individuals suffering from untreated diseases. The government did not respond robustly to allegations of inhumane conditions, although some progress was made in improving the quality of health care.

Serious overcrowding and a lack of running water contributed to the spread of diseases. Prisoners with health problems received little or no care, and medical supplies remained insufficient. For example, the Dar Naim Prison, built to hold 300 prisoners, held approximately 1,200. Reports continued of malnutrition, poor health, and deficient hygiene in that institution. There were reports that one Dar Naim prisoner was accidentally electrocuted during the year. On May 21, local media reported that another prisoner, Mohamed Ould Ahmed Salem Ould Amail, died at the National Hospital after authorities transferred him from Dar Naim because of his deteriorating health.

The holding areas in police stations were also reportedly overcrowded, unsanitary, and poorly ventilated.

There are no ombudsmen at the prison level. Regulations allowed the inmates in an institution to choose one of their number to represent them in dealings with management, and inmates occasionally did so during the year.

Steps were been taken to improve recordkeeping: the EU purchased 28 computers and at year's end was training the penitentiary administration on database management to improve recordkeeping and the integrity of each prisoner's file.

According to the penitentiary administration directorate, the women's prison is less crowded and therefore more comfortable than the men's. On the other hand, male guards participated in monitoring female inmates, who risked becoming victims of sexual violence.

Nongovernmental organizations (NGOs) continued to denounce overcrowding and long pretrial detention. The large number of pretrial detainees exacerbated prison overcrowding. On March 5, four inmates at the Dar Naim prison reportedly reacted to their detention conditions by sewing their mouths closed to initiate a hunger strike, and on July 8, 17 individuals escaped from the detention center in Kaedi.

Pretrial detainees were frequently housed with convicted and often dangerous prisoners. On May 23, authorities removed a reported 13-14 suspected terrorists awaiting trial from Nouakchott Central Prison to an undisclosed location in order to improve prison security and disrupt illicit activity. The prisoners protested their removal.

Due to poor security conditions and the fact that dangerous prisoners shared cells with less dangerous ones, prisoners lived in a climate of violence, and some had to pay bribes to other prisoners to avoid being brutalized and harassed. As of October 19, according to Ministry of Justice statistics, the prison population totaled 1,695, of whom 861 were convicts and 834 were unconvicted detainees. A full breakdown of the prison population by gender was unavailable. Of the 54 children in detention, 34 were in a segregated courtyard of the Nouakchott Central Prison at year's end after a juvenile detention center in Beyla suffered structural damage. Seventeen were being held in a detention center for the "reception and insertion" of youth in conflict with the law. The center's goal is to facilitate the social reintegration of children and youth. During the year officials released 30 children from this center and monitored their subsequent activities.

Women and female minors under 18 years of age were housed together in a separate location from the men and male minors. 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 NGOs, such as the Noura Foundation, Caritas, and Terre des Hommes, provided educational and economic opportunities to current and former juvenile and female detainees.

Prisoners had access to visitors. There were no reports that men were denied the right to observe Muslim prayer obligations individually, but the penitentiary administration confirmed that inmates did not have regular access to imams. In January 16 imams visited the prisons to meet with inmates for religious discussion and mental health counseling.

The government permitted prison visits by NGOs, diplomats, and international human rights observers. The International Committee of the Red Cross had access to prisons and conducted multiple prison visits, including visits to terrorism sus-

pects, in accordance with its standard modalities. They distributed hygiene items and books.

The Ministry of Justice estimated that approximately 200 inmates benefited from a 10-day campaign begun on July 5 by the National Association of Dental Surgeons in partnership with the penitentiary authorities to provide free dental care to adult and juvenile inmates across the Nouakchott prison system. According to the Directorate of Prisons and Penitentiaries, a larger budget allowed the directorate to purchase more medical supplies and increase the number of medical consultations from three to approximately 50 each day. During the year the government completed construction of a new prison in Aleg, designed to accommodate 300 inmates, and a new prison in Nouadhibou with a capacity for 600 inmates was nearing completion.

The Commission for Human Rights, Humanitarian Action, and Relations with Civil Society continued to supply detention centers with medical staff, as well as medications, hygiene products, and foodstuffs.

There were reports that police did not inform family members or friends of the location and condition of detainees in a timely manner, preventing them from receiving adequate food.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention, but authorities did not observe these prohibitions.

In some cases authorities arbitrarily arrested and detained protesters and journalists (see section 2.a.).

Human rights and other observers accused the government of exceeding the legal limits for pretrial detention. Security forces at times arrested demonstrators engaged in sit-ins, marches, or rallies, and held them longer than the regulations allow. On September 29, the media reported that following a violent protest in Nouakchott against the national registration initiative, security forces entered private residences without warrants and arrested approximately 20 individuals (see section 1.f. and section 6, National/Racial/Ethnic Minorities).

On September 27, the Mauritanian Association for Human Rights criticized the continued detention of former human rights commissioner Mohamed Lemine Ould Daddeh in violation of a one-year maximum pretrial detention period. The government's Human Rights Directorate contended that Ould Daddeh's detention could last a maximum of two years because the limits on length of detention were different for the economic crimes with which he was charged. He remained in detention awaiting trial at year's end.

By law a minor may not be held for more than six months while awaiting trial. Nevertheless there were reports that a large number of individuals, including minors, remained in pretrial detention for extended periods due to judicial ineptitude.

Role of the Police and Security Apparatus.—The National Police, under the Ministry of the Interior, are responsible for law enforcement and maintaining order in urban areas. The National Guard, also under the Ministry of the Interior, performs limited police functions in keeping with its peacetime role as security support at government facilities. The National Guard may also be called on by regional authorities to restore civil order during large-scale disturbances such as rioting. The gendarmerie, a specialized paramilitary group under the Ministry of Defense, is responsible for maintaining civil order within and outside of metropolitan areas, as well as providing law enforcement services in rural areas. On October 11, a new police force, the General Group for Road Safety, began operations under the Ministry of the Interior.

The police were poorly paid, trained, and equipped. Corruption and impunity were serious problems (see section 4).

The government rarely held security officials accountable or prosecuted them for abuses. The Ethics Police operates as an internal affairs division and as a mechanism to investigate security force abuses. In practice this unit did not publicly review security force 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 in most cases courts review the legality of a person's detention within 48 hours of arrest, but police may 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 deadline for formally arraigning or releasing terrorism suspects in national security cases. Only after the prosecutor submits charges does a suspect have the right to contact an attorney. By law indigent defendants are entitled to attorneys at state expense, but in practice attorneys were not provided. There was a bail system, but sometimes judges arbitrarily refused lawyers' requests for bail or set inordinately high bail amounts.

Pretrial Detention.—Lawyers highlighted the lengthy incarceration of detainees and delays in organizing court hearings, but no statistics on the average length of detention or length of pretrial procedures were available.

Amnesty.—During the year President Aziz pardoned 269 prisoners, including eight women sentenced for “zina,” or sexual relations outside marriage. Human rights activists and individuals associated with drug trafficking were also among those released.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, but it was not independent in practice. The executive branch continued to exercise significant influence over the judiciary through its ability to appoint and remove judges. On September 12, the Mauritanian Bar Association criticized the executive branch for removing Magistrate Mohamed Lemine Ould Moctar on disciplinary grounds for his role in acquitting the defendants in a drug-related case. The association described the removal as a clear example of government interference in the justice system. There was no government response by year’s end. The government generally respected court orders.

Poorly educated and trained judges were susceptible to social, financial, and tribal pressures that limited judicial fairness. For example, on May 15, three juveniles received the death penalty, in violation of national legislation and ratified international conventions, for their role in the death of another minor. Observers suggested that the court was influenced by tribal and social factors. On December 12, the sentences were reduced to 12 years in prison and a combined 1.2 million ouguiya (\$4,130) fine.

During the year, international donors, including the International Organization for Migration (IOM) and the World Bank, funded training for prosecutors and judges with the aim of increasing judicial professionalism.

Trial Procedures.—The law provides for due process. Defendants enjoy a presumption of innocence. They have a right to a public trial. Juries are not used. Defendants have the right 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 proceedings. Although the court should appoint an attorney free of charge to represent defendants lacking the ability to pay, this measure was rarely enforced during the year. Defendants have the right of appeal. Defendants can confront or question witnesses and present witnesses and evidence in both civil and criminal cases. By law defendants have access to government-held evidence, but access was difficult in practice. These rights were extended to minorities. The foregoing rights generally were observed in practice for men but did not extend equally to women.

Sharia 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 such considerations as a woman’s caste or nationality.

A special court hears cases involving persons 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 years old. Children between the ages of 12 and 18 who are convicted of a crime are sentenced to detention centers for minors.

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

Civil Judicial Procedures and Remedies.—Complaints of human rights violations are within the jurisdiction of the Administrative Court. Individuals or organizations can appeal decisions to international regional courts. NGO representatives stated they collaborated with the court, but the court was not impartial in practice. There are administrative and judiciary remedies through the social chamber of the Court of Appeals and through the Supreme Court.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice. However, there were reports that after a violent protest against national registration in Nouakchott on September 29, security forces entered private residences without warrants and arrested approximately 20 individuals (see section 1.d. and section 6, National/Racial/Ethnic Minorities).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech, and the government generally respected this right in practice. Individuals could criticize the government publicly or privately. Two daily newspapers and all broadcast media were government-owned, but

several independent daily publications were active and generally expressed a wide variety of views with limited restrictions.

Violence and Harassment.—The independent media outlet Agence Nouakchott d'Information reported that police arrested and beat journalist Cheikh Ould Nouah, a reporter for the Web site Al-Hurriya when he was covering clashes between police and protesters in Kaedi on September 24. Djibril Diallo, a journalist and member of the unauthorized Initiative for the Resurgence of the Abolitionist Movement (IRA), was reportedly detained for his coverage of protests.

Censorship and Content Restrictions.—Some journalists practiced self-censorship when covering topics deemed sensitive, including the military forces, corruption, and the application of Sharia, and there were reports that police detained and questioned journalists during the year in connection with their coverage of such topics as protests and slavery. Some opposition leaders asserted that they had no effective access to official media.

Independent media remained the principal source of information for most citizens, followed by government media. Government media focused primarily on official news but provided some coverage of opposition activities and views through the year. The government-owned TV Mauritania occasionally broadcast programs covering opposition activities. During the national political dialogue in September and October, government media maintained balanced coverage of opposition and progovernment statements.

Actions to Expand Press Freedom.—On October 5, the legislative branch adopted amendments to the 2006 Press Freedom Law that abolished prison sentences for slander and defamation of individuals, including heads of state and accredited ambassadors. Fines for these offenses remain in effect. Some journalists continued to object to the “elastic” application of the law, which they assert could be interpreted loosely to penalize journalists for their reporting.

Signaling the end of the government's 51-year monopoly of the broadcast media, on September 18, the High Press and Audiovisual Authority (HAPA) began taking applications for five new radio stations and five new television channels to be owned by nongovernmental entities. HAPA received 17 applications for radio stations and nine applications for television channels. On November 20, HAPA announced that two independent television stations and five independent radio stations received permission to broadcast. Some members of the opposition asserted that the permits issued favored progovernment interests.

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 expression of views via the Internet, including by e mail.

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. The law requires that organizers apply to the local prefect (hakim) for permission to hold large meetings or assemblies. Authorities generally granted permission but on some occasions denied it in circumstances that suggested the application of political criteria.

Security forces on several occasions forcefully dispersed unauthorized demonstrations organized by the Youth of February 25, a group seeking political, social, and economic reforms, and the Do Not Touch My Nationality movement, which was protesting the registration drive. During protests organized in March and April by the Youth of February 25, police responded to stone-throwing protesters with tear gas and batons. Police also violently dispersed a demonstration organized by the Do Not Touch My Nationality movement in Kaedi on September 24, after protesters set fire to a government building. On September 27, police violently dispersed a Do Not Touch My Nationality protest in Maghama, resulting in the fatal shooting of one protester. Following the death in Maghama, demonstrators burned tires and a vehicle in Nouakchott on September 29, before being violently dispersed by police. A subsequent demonstration on October 8 was authorized and took place peacefully. Two protesters were reportedly injured in a clash with police during a November 28 demonstration in Nouakchott, authorized for a certain area, when protesters attempted to assemble in an unauthorized location near the presidency.

On August 4, according to Amnesty International, authorities arrested four anti-slavery activists, members of the IRA, for participating in a protest against the alleged enslavement of a 10-year-old girl. The four men were charged with “unauthorized gathering” and “rebellion” and were given six-month suspended sentences by

a Nouakchott court. Another participant whom police detained alleged that police kicked and punched him.

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. The government encouraged local NGOs to join the government-sponsored Civil Society Platform during the year. The approximately 300 NGOs that are members of the platform do not receive government funding.

There were approximately 78 accredited political parties and NGOs, and they generally functioned openly, issuing public statements, and choosing their own leadership. The government generally did not prevent unrecognized political parties or NGOs from functioning. However, in July 2010 the Ministry of the Interior ordered the international NGO, National Democratic Institute (NDI), to suspend its operations because it lacked formal accreditation, although NDI had attempted to obtain accreditation since 2005. NDI resumed some of its activities later in 2010 but had not received formal accreditation at the end of 2011.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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. The government generally respected these rights, but there were exceptions.

The government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR), the IOM, 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. In practice resources provided by the government were inadequate.

In-country Movement.—Persons lacking identity cards could not travel freely in some regions. During the year, in response to what it described as an increased terrorist threat, the government set up mobile roadblocks where gendarmerie, police, or customs officials checked the papers of travelers. These roadblocks often provided the occasion for officials to demand bribes.

Foreign Travel.—Unlike in the previous year, authorities did not restrict international travel of some opposition members.

Protection of Refugees.—Access to Asylum.—The laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The National Consultative Commission for Refugees (CNCR) is the national body for determining refugee status. The UNHCR carries out refugee status determinations under its mandate and presents cases to the CNCR for recognition.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedoms would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government provided protection to approximately 500 refugees during the year.

In accordance with agreements with the Economic Community of West African States on freedom of movement, the government allowed West African migrants to remain in the country, deporting only those found illegally seeking to reach the Canary Islands. According to Interior Ministry statistics, 2,001 migrants were returned to their country of origin during the year.

The decree that sets forth the procedures for implementation of international refugee conventions adopts the principles set forth in the 1951 Convention relating to the Status of Refugees and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa.

Employment.—Legislation provides refugees with access to the job market and basic services. The UNHCR provided assistance to refugees with revenue-generating activities throughout the year.

Access to Basic Services.—By law refugees had access to basic services, including health care and education.

Durable Solutions.—Under an official multiyear repatriation agreement with Senegal that originally ended in January, 20,484 refugees from that country returned to Mauritania. On August 21, the government informed the UNHCR of its willingness to repatriate a further 5,460 individuals who remained in Dakar. Under the new agreement, approximately 1,300 individuals were repatriated in November and December, and the remaining 4,160 were scheduled to return in 2012.

The National Agency for the Welcome and Reintegration of Refugees (ANAIR) is responsible for overseeing the reintegration of repatriated refugees, providing administration and identification support, and contributing to the social and economic development of resettlement areas. Reintegration of returnees into communities was challenging due to inefficient sanitation, health, and education infrastructure, and land disputes. Initially the majority of Afro-Mauritanian returnees were unable to obtain identity cards and birth certificates, but according to ANAIR, all returnees are included, or scheduled to be included, in the new national registration database that was launched on May 6.

During the year the government worked with the European Commission, the Mauritanian Red Crescent, and the Spanish Red Cross at the migrant reception center in the Nouadhibou region to process returned migrants and to provide nutritional and medical care during detention and repatriation.

During the year ANAIR constructed 83 school classrooms for repatriated children and delivered 110 pounds of rice and 44 pounds of cooking oil to each family. Nevertheless, returnee associations complained that reintegration efforts were slow, as was the settlement of land disputes.

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 the country accomplished a peaceful transition from military rule with the presidential election of 2009, followed the same year by the indirect election of one-third of the seats in the Senate. However, the government indefinitely postponed scheduled elections of municipal councilors, the members of the National Assembly, and another third of Senate seats, due to inability to reach agreement with opposition parties.

Elections and Political Participation.—The country returned to constitutional rule in 2009 following the Dakar Accord, which resulted in the agreement of president Abdallahi to resign and the formation of a Transitional Government of National Unity.

Recent Elections.—In an election held in 2009, former High State Council leader General Aziz won 53 percent of the vote. Although some opposition groups claimed the election was fraudulent and requested an investigation, the Constitutional Council certified the election.

Elections by municipal councils to fill one-third of the seats in the Senate, also in 2009, resulted in a large win for the UPR. Opposition and independent candidates denounced what they characterized as heavy pressure on the municipal councilors to vote for majority party candidates and on independent candidates to withdraw. Authorities did not investigate these complaints.

Indirect elections for another one third of the Senate seats were originally scheduled for April 24, but they were postponed twice due to the inability of the government and a coalition of opposition parties to agree on the opposition's demand that the electoral code be rewritten, the ruling coalition dissolved, and laws regulating the media reformed. The opposition coalition indicated it would not participate in elections until its demands were met. The majority and opposition parties engaged in a national dialogue from September 17 to October 19 to resolve their political impasse, but no timetable for Senate, National Assembly, or municipal elections had been established at year's end. The Constitutional Council subsequently ruled that a delay of parliamentary elections through May 2012 would be legal.

Participation of Women and Minorities.—There were 18 women in the National Assembly and six in the 56-seat Senate. The 27-member cabinet included three women, three Black Moors, and five Afro-Mauritanians.

The law requires that women make up at least 20 percent of candidates on legislative candidate lists. It was observed in practice.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, but authorities 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 Worldwide Governance Indicators reflected that corruption was a severe problem.

There were reports that government officials frequently used their power to obtain such favors 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 Ministry of the Interior's Economic Crimes Brigade and the Office of the Inspector General were responsible for investigating corruption. On January 16, the Judiciary Council created the Criminal Division for Economic and Financial Crimes, a special chamber responsible for economic crimes, to reinforce the legal efforts against corruption. During the year this body completed seven investigations resulting in the dismissal of several government officials.

President Aziz's government placed fighting corruption at the top of its agenda and made high-profile arrests during the year such as that of Moulaye El Arbi Ould Moulaye Mohamed for his alleged involvement in the misappropriation of \$49 million from the parastatal import-export firm SONIMEX in 2008. A 2008 corruption dispute involving the Global Fund to Fight Aids, Tuberculosis, and Malaria was resolved after the government reimbursed the Global Fund and agreed to implement new procedures.

Corruption and impunity were also serious problems in the police force, and the government rarely held security officials accountable or prosecuted them for abuses. Police regularly demanded bribes at nightly roadblocks in Nouakchott and at checkpoints between cities. There were numerous reports that police arbitrarily detained individuals for several hours or overnight at roadblocks in Nouakchott or other towns. According to these reports, police detained motorists or passengers without asking for identity papers or vehicle registration, and without searching the vehicles. Judicial corruption was also a problem.

The government implemented anticorruption measures. A Procurement Regulation Authority was created in July with membership from the Office of the Inspector General, the private sector, and civil society to monitor independent regulation of the public tender and procurement system. The government also enforced laws prohibiting the use of government vehicles outside working hours and eliminated benefits such as free housing for high-level government officials.

The government enforced the requirement that senior officials, including the president, file a declaration of their personal assets at the beginning and end of their service. Senior officials reportedly disclose their assets through an internal procedure, but the information is not released to the public. President Aziz publicly declared his assets in October 2010 due to popular pressure.

The law provides for public access to government information, and the government granted such access to citizens and noncitizens, including foreign media, 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.

An independent ombudsman organization, the National Commission on Human Rights, includes government and civil society representatives. It actively monitored human rights and advocated for government action to correct violations.

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

The constitution and law provide for the equality for all citizens regardless of race, national origin, sex, or social status and prohibits racial or ethnic propaganda, but 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.—Rape and Domestic Violence.—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. In practice the government did not enforce the law effectively. According to the penal code, rapists who are single men faced penalties of forced labor and flagellation. Married rapists could be subject to the death penalty. In practice rape cases rarely went to trial. In several cases wealthy rape suspects reportedly avoided prosecution or, if prosecuted, avoided prison. 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 reported that rape victims were stigmatized, persecuted, and even imprisoned. Since rape was tied to the concept of adultery, judges could hold the victim responsible for the rape. During the year the local NGO, Mauritanian Association for the Health of Mothers and Children (AMSME), provided assistance to 127 girls and six adult women who were victims of sexual violence. There were no convictions for rape during the year.

Domestic violence was considered a serious problem. Spousal abuse and domestic violence are illegal, but the government did not enforce the law effectively, and most cases went unreported. There are no specific penalties for domestic violence, and convictions were very rare. No reliable government statistics on prosecutions, convictions, and sentences for domestic violence were available. In 2010 the Association of Female Heads of Families (AFCF) provided legal assistance to 1,753 domestic violence victims.

Police and the 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. Many domestic violence cases are handled by a traditional judge under Sharia outside the secular system. NGOs reported that in certain cases they had turned directly to police for help to protect victims of domestic violence, but police declined to investigate. The AFCF and other women's NGOs provided psychologists and shelter to some victims.

Female Genital Mutilation.—FGM is practiced primarily on young girls (see section 6, Children).

Other Harmful Traditional Practices.—Traditional forms of mistreatment of women appeared to decline during the year. One of these is the forced feeding of adolescent girls (gavage) prior to marriage practiced only among White Moor tribal groups. Increased government, media, and civil society attention to the problem, including the health risks associated with excessive body weight, led to a marked decline in the traditional encouragement of female obesity. Nevertheless, overeating to conform to cultural standards remained a problem; it was practiced primarily in rural areas, but many urban women endangered their health by taking pills to gain weight or increase their appetite.

Sexual Harassment.—There are no laws against sexual harassment. Women's NGOs reported that it was a common problem in the workplace.

Reproductive Rights.—The government recognized the right of individuals and couples 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, violence, or coercion. Reproductive issues were a sensitive topic and a focus of some women's groups. Government health centers did not provide unmarried women with access to contraception, and did so for married women only with the consent of the husband. Contraception was available at private health centers for those who could afford it.

In 2008 the World Health Organization estimated the rate of maternal mortality to be 550 per 100,000 live births, due to lack of appropriately equipped medical facilities, low participation in programs to promote prenatal care, births without the assistance of health professionals, poor sanitary conditions during birth, and maternal malnutrition.

The AFCF stressed that these deficiencies applied in particular to poor women and women from traditionally lower castes such as slaves and former slaves, who also often lacked access to contraception, obstetric and postpartum care, and treatment for sexually transmitted infections. The AMSME, which operated a center for rape victims, provided emergency contraception to victims.

Discrimination.—Women have legal rights to property and child custody, and these rights were recognized among the more educated and urbanized members of the population. However, women's legal rights were restricted in comparison with those of men. 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 obtain the consent of their existing spouse or spouses before marrying again. Government awareness programs encouraged women 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 addition the validity of and right to establish prenuptial agreements were not always respected. 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. Cultural resistance to marriages among members of different castes persisted, and NGOs reported that 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 Sharia as applied in Mauritania, 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 to the family of a

man. Formulas for property distribution varied widely from case to case. Human rights lawyers reported that judges treated differently cases concerning White Moor women, female slaves or other lower-caste women, and foreign women. The personal status code provides a framework for the consistent application of secular law and Sharia-based family law, but it is not uniformly employed.

Women did not face legal discrimination in areas not addressed specifically by Sharia. The law provides that men and women should receive equal pay for equal work. The two largest employers, the civil service and the state mining company, observed this law, although most employers in the private sector did not apply it in practice. 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 traditionally filled by men, such as diplomacy, health care, communications, police, and customs services.

Women's groups and national and international NGOs organized meetings, seminars, and workshops throughout the year to publicize women's rights.

Children.—Birth Registration.—By law 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, or if the child was born in the country to a citizen mother and repudiates the father's nationality a year before reaching majority. Children born abroad to citizens can acquire citizenship one year before reaching majority. Minor children of parents who have become naturalized citizens are also eligible for citizenship.

In most of the country, the government generally registered births immediately, but in the South many citizens reported not having birth certificates or national identity papers. In addition some slaves did not have birth certificates. There was no official data about the number of unregistered births.

The law makes special provision for children's welfare, and there were government programs to care for abandoned children, but inadequate funding hampered the effectiveness of these programs.

Education.—The law mandates six years of school attendance for all children, but the law was not effectively enforced. Many children, particularly girls, did not attend school for six years. Children of slave-caste families often did not receive an education.

Public education was tuition-free through university level. Classes were fully integrated, including both boys and girls and students from all social and ethnic groups.

In addition to public schools, almost all children, regardless of gender or ethnic group, attended Qur'anic school between the ages of five and seven and gained at least rudimentary skills in reading and writing Arabic.

Child Abuse.—Child abuse was reported, but no data was available to indicate its prevalence.

Child Marriage.—The legal marriage age is 18, but the law was rarely enforced, and reports of child marriage were widespread. Since consensual sex outside of marriage is illegal, a "weli" (tutor) can present a case to local authorities requesting permission for a girl younger than 18 years old to marry. In practice authorities frequently granted this permission.

Harmful Traditional Practices.—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 (\$410 to \$1,034) 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 decline in the practice among urban dwellers. Infibulation, the most severe form of excision, was not practiced.

The government and international NGOs continued to coordinate their anti-FGM efforts, which were focused on eradicating the practice in hospitals, discouraging midwives from practicing FGM, and educating the population. The government, the U.N. Population Fund, the U.N. Children's Fund, and the national Imams' Association joined other civil society members to emphasize the serious health risks of FGM and correct the widespread belief that the practice was a religious requirement. Government hospitals and licensed medical practitioners were barred from performing FGM, and several government agencies worked to prevent others from perpetrating it. According to several women's rights experts, these efforts appeared to be changing popular attitudes.

The Forum of Islamic Thought and Dialogue between Cultures, whose January 2010 roundtable resulted in a fatwa (Islamic ruling) against FGM in the country, organized an international roundtable on the subject in Nouakchott in cooperation

the German Society for International Cooperation (GIZ). The roundtable was attended by approximately 60 religious leaders from West Africa and Egypt. On September 13, at the end of the conference, participants issued a regional fatwa against FGM based on the Mauritanian model.

On March 1 and 2, GIZ and the Ministry of Social Affairs, Children, and the Family (MASEF) held an event focusing on raising women's awareness of the harmful impact of FGM.

Sexual Exploitation of Children.—The law prohibits adult sexual relations with a child, with penalties of six months to two years in prison and a 120,000 to 180,000 ouguiya (\$410 to \$620) fine. The possession of child pornography is also illegal, with penalties of two months to one year in prison and a 160,000 to 300,000 ouguiya (\$550 to \$1,034) fine. Commercial sexual exploitation of children is illegal and conviction carries penalties of two to five years in prison and a fine of 200,000 to 2 million ouguiya (\$690 to \$6,900). In some instances men from the Middle East contracted "temporary marriages" as a means to traffic and exploit young Mauritanian girls and women in the Middle East.

Displaced Children.—Although MASEF monitored 900 of the estimated 1,200 street children in Nouakchott through its youth insertion centers in Dar Naim and El Mina, government assistance to street children was limited. During the year the local NGO Infancy and Development in Mauritania monitored 760 children in Nouakchott and Nouadhibou who lived on the streets largely as the result of poverty and the urbanization of formerly nomadic families.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—A very small number of expatriates practiced Judaism. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

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 discrimination against persons with disabilities. However, persons with disabilities generally did not have access to buildings, information, and communications, and there were no government programs to provide such access. The government did not mandate preference in employment, education, or public accessibility for persons with disabilities, although it did provide some rehabilitation and other assistance for such persons. MASEF oversees social reinsertion programs for persons 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 many 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) remained 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 earlier efforts at "arabization." Neither the Afro-Mauritanian national languages nor the local Hassaniya Arabic dialect were used as languages of instruction. On April 20, a riot between Afro-Mauritanian and Moor students broke out at Nouakchott University over allegations of fraud during a student union vote that was split mainly along ethnic lines.

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 to obstruct access to water and pastures.

Human rights NGOs reported numerous cases of inheritance disputes between slaves or former slaves and their masters. Traditionally, slave masters inherited their slaves' possessions.

The government's Program to Eradicate the Effects of Slavery, begun in 2009, continued during the year. Its goals were to reduce poverty among the 44,750 former slaves in the Assaba, Brakna, Gorgol, and Hodh Chargui regions and improve their access to water, health, education, and income-generating opportunities. However, the program's activities were reduced during the year after former human rights commissioner Ould Daddeh was arrested along with and senior-level staff, including its coordinator and its financial director, on findings of corruption in a government inspection. NGOs maintained that the commissioner was arrested for political reasons.

The government also continued its collaborative program with the U.N. on conflict prevention aimed at promoting democratic values and the rights of marginalized populations, including former slaves. According to the NGO SOS Esclaves, these programs focused on fighting poverty and the effects of slavery rather than the practice of slavery itself.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Under Sharia, as applied in the country, consensual same-sex sexual activity between men is punishable by death if witnessed by four individuals, and such activity between women is punishable by three months to two years in prison and a 5,000 to 60,000 ouguiya (\$17 to \$207) fine. There were no criminal prosecutions during the year. There was no evidence of societal violence, societal discrimination, or systematic government discrimination based on sexual orientation. 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 governmental discrimination against persons with HIV/AIDS, but societal taboos and beliefs associated with the disease in some areas caused infected persons to face isolation or exclusion.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows workers to form and join independent unions of their choice and provides the right to conduct legal strikes and to bargain collectively, although long and complex procedures must be followed before a legal strike can be called. Under the law all workers except members of the armed forces and police were free to associate in and establish unions at the local and national levels.

Laws prohibit antiunion discrimination. Nearly 90 percent of industrial and commercial workers were unionized. However, only 25 percent of workers were employed in regularly paid positions. A majority worked in the informal sector, primarily subsistence agriculture and animal husbandry.

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 the ministry believes that the union has not complied with the law. Workers and unions organized several strikes during the year. International labor observers reported that authorities also repressed a number of strikes. For example, in May, during a protest by dockworkers in Nouakchott, riot police used violence against the demonstrators and many were injured. The International Trade Union Forum reported that the National Local Authorities' Workers Union had applied unsuccessfully for authorization for the demonstration several times.

The law provides for the right to strike, but long and complex procedures must be followed before a legal strike can be called. The government can also dissolve a union for what it considers an illegal or politically motivated strike, but it did not dissolve any unions 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.

Unions exercised their right to organize workers during the year. However, the head of government decides how negotiations are to be conducted once the Ministry for the Civil Service agrees on negotiations.

While antiunion discrimination is illegal, national human rights groups and unions reported that authorities did not actively investigate alleged antiunion practices in some private firms owned by very wealthy citizens.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. The law criminalizes the practice of slavery and imposes penalties on government officials who do not take action on reported cases. The law includes criminal penalties also for contracting to benefit from forced labor and for exploiting forced labor as part of an organized criminal network. Although significant advances were made during the year, government efforts to enforce the antislavery law were widely acknowledged to be inadequate when compared with the dimensions of the problem.

There were reports of forced child labor.

Slavery-like practices, typically flowing from ancestral master-slave relationships and involving both adults and children, continued. Former slaves and their descendants were impelled to remain in a dependent status in part of the lack of marketable skills, poverty, and persistent drought. Such practices occurred primarily in areas where educational levels were generally low or a barter economy still prevailed, and in urban centers, including Nouakchott, where slavery-like domestic service existed. The practices commonly occurred where there was a need for workers to herd livestock, tend fields, and do other manual labor. Some former slaves and descendants of slaves were pushed into working for their old masters in exchange for some combination of money, lodging, food, and medical care. Individuals in these subservient circumstances were vulnerable to mistreatment. Women with children faced particular difficulties and could be compelled to remain in a condition of servitude, performing domestic duties, tending fields, or herding animals without remuneration.

Some former slaves reportedly continued to work for their former masters or others without remuneration in order to retain access to land they traditionally farmed. Although the law provides for distribution of land to the landless, including to former slaves, authorities have enforced it in only a few cases. NGO observers suggested that deeply embedded psychological and tribal bonds also made it difficult for many individuals whose forbearers had been slaves for generations, 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 punishment if that bond were broken. Former slaves were often subjected to social discrimination and limited to performing manual labor in markets, ports, and airports.

Forced labor also occurred in urban centers where young children, often girls, were retained as unpaid household servants. Some individuals self-identified as slaves or masters and claimed with varying degrees of plausibility that they 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.

Men, women, and children were trafficked for and subjected to domestic service, street begging for unscrupulous religious teachers, and slave-like relationships as domestic servants or herders. The law criminalizes the practice of slavery and imposes penalties on government officials who do not take action on reported cases.

The government organized training workshops about the antislavery law for administrative authorities and judges. The Program to Eradicate the Effects of Slavery continued to provide one billion ouguiya (\$3.4 million) per year in development assistance to communities of former slaves. These funds were focused on development assistance, not on the social and legal enforcement of the antislavery law.

On April 13, the government tried its first case under this law. The defendants were acquitted the same day. On November 20, the first conviction for slavery was obtained in the case of two enslaved youths. The master received a sentence of two years' imprisonment and his family members received suspended sentences. They were also ordered to pay a fine of 1.35 million ouguiya (\$4,655). The mother of the two youths received a one-year suspended sentence.

The government also prosecuted an alleged slaveholder using the lesser charge of child exploitation, and on January 16, a court convicted her and prescribed a jail sentence. In March, however, the Nouakchott Court of Appeals acquitted her.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits employment of children under the age of 12. Those under age 13 may not be employed in the agricultural sector unless the minister of labor grants an exception due to local circumstances. Those younger than 14 may be employed in most forms of family enterprise with authorization from the Ministry of Labor as long as the work does not affect the child's health, exceed two hours per day, or occur during school hours or holidays. The law states that employed children 14 to 16 should receive 70 percent of the minimum wage and those 17 to 18 should receive 90 percent

of the minimum wage. Children should not work more than eight hours a day with one or several one-hour breaks, and they are prohibited from engaging in night work. The law prohibits employing or inciting a child to beg with penalties ranging from one to eight months imprisonment and a fine of 180,000 to 300,000 ouguiya (\$620 to \$1,034).

MASEF is the main governmental body responsible for enforcing all laws relating to children. The Office of Childhood promotes and protects children's rights, elaborates and executes child welfare programs, coordinates actions in favor of childhood educational development, and elaborates and executes a national policy. The Ministry of Justice is involved through the Direction of the Judiciary for Protection of Children and the Ministry of the Interior through the Special Police Brigade for Minors. The Ministry of Labor also collaborates through its Labor Office and Inspection Office.

Enforcement of laws was inadequate. No mechanisms existed for exchanging information among agencies or to assess effectiveness. There was no specific mechanism for making complaints other than labor inspectors or the Special Police Brigade for Minors. NGOs were the only organizations that handle cases of child victims, refer them to the Special Brigade for Minors, and pressure the government to adjudicate the cases or integrate the victims in social centers or in schools.

During the first six months of the year, there were only 21 inspectors to receive and investigate complaints; during the year the government recruited 46 inspectors who were trained at the National School of Administration, and 60 inspectors were on duty at year's end. None of them, however, were dedicated to investigating compliance with child labor regulations. The 2011 budget provided 10.4 million ouguiya (\$35,700) to the Office of Childhood, but nothing was specified for investigations. As a consequence no child labor investigations took place during the year.

An unknown number of "talibes" (young students), nearly all from Halpulaar tribes, begged in the streets and gave the proceeds to their "marabouts" (religious teachers) as payment for religious instruction. There were reliable reports that a small number of marabouts forced their talibes to beg for more than 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.

Child labor in the informal sector was common and a significant problem, particularly within poorer inner city areas. Several reports suggested that young girls, as young as the age of seven, from remote regions, and possibly from western Mali, continued to be forced to work as unpaid housemaids in some wealthy urban homes.

Street gang leaders forced children to steal, beg, and sell drugs in the streets of the capital. Children were reportedly forced to work in agriculture, construction, and livestock herding.

Young children in the countryside were commonly engaged 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 the informal sector. Reporting by some human rights NGOs, including SOS Esclaves, strongly suggested that domestic employment of girls as young as the age of seven, often unpaid, continued to be a problem.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The nationally mandated minimum monthly wage for adults, which was not enforced, was 30,000 ouguiya (\$103), increased from 21,000 ouguiya (\$72) on September 24. The poverty level for 2008 was an annual income of 129,600 ouguiya (\$447) and the extreme poverty level for 2008 was an annual income of 96,400 ouguiya (\$332).

The law provides that the standard legal nonagricultural workweek must not exceed either 40 hours or six days without overtime compensation, which was to be 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 sets health and safety standards. Workers have the right to remove themselves from hazardous conditions without risking loss of employment. The law applies to all workers in the formal economy.

According to the General Confederation of Workers of Mauritania, the National Agency of Social Security registered 501 workplace fatalities or injuries during the year, 189 of them at the national mining company, SNIM. It is likely that the number of accidents was greater because many accidents in the informal economy were unreported.

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.

Despite the law, labor unions pointed to conditions approaching modern slavery in several sectors, including the food processing industry. In these sectors, workers do not have contracts or receive pay stubs. Their salaries were below the official minimum wage, and they worked in very unfavorable conditions. Sometimes they were not paid for several months.

Despite the law, workers could not remove themselves from hazardous conditions without risking loss of employment.

MAURITIUS

EXECUTIVE SUMMARY

Mauritius is a multiparty democracy governed by a prime minister, a council of ministers, and a National Assembly. The Alliance of the Future, a coalition led by Prime Minister Navinchandra Ramgoolam, won the majority of national assembly seats in the May 2010 elections, judged by international and local observers to be generally free and fair. Security forces reported to civilian authorities.

The most important reported human rights problems were violence and discrimination against women.

Other reported human rights problems included security force abuse of suspects and detainees, prison overcrowding, official corruption, abuse and sexual exploitation of children, discrimination against persons living with HIV/AIDS, discrimination and abuse based on sexual orientation, restrictions on labor rights, antunion discrimination, and child labor.

The government took steps to prosecute and punish officials who committed abuses, whether in the security services or elsewhere in the government; however, impunity at times occurred.

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.

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. On December 30, the Director of the National Security Service allegedly assaulted a motorcyclist with a baton after the official reproached the rider for his dangerous driving. Two of the motorcyclist's relatives were arrested and brought to court for incitement to rebellion after a crowd gathered in front of the police officer's house. The investigation regarding the initial incident was ongoing at year's end, and the senior police officer was not arrested or suspended.

An investigation continued in the 2010 case involving a motorcyclist and six plainclothes police officers. According to media reports, motorcyclist Wesley Agathe narrowly avoided hitting a plainclothes police officer, who allegedly had been pushed in front of Agathe's bike by five other plainclothes officers. Agathe stopped his motorbike to reproach the six plainclothes officers for the near collision and reported the incident to uniformed police officers who drove towards him. During the incident one of the six plainclothes police officers accused Agathe of stealing a mobile phone and 7,000 rupees (\$242). The six plainclothes officers took Agathe to the Pamplemousses police station, and in view of two uniformed police officers, beat Agathe so severely that he lost consciousness and sustained bruises on his face and neck. Agathe subsequently was released without charge. The police officers involved in the beating retained their positions pending an investigation.

There were no developments in the June 2010 incident in which some of the 34 inmates who escaped from Grand River North West Prison were observed with bruises and facial swelling after they were recaptured and transferred to the Beau Bassin Central Prison. A detainee's relative reported that prison guards had beaten some of the inmates.

Prison and Detention Center Conditions.—The media reported cases of overcrowding and drug abuse in the country's five prisons. Prisoners did not file complaints of abuse with the National Human Rights Commission (NHRC). There were no reports of threats to life and health; food shortages; inadequate potable water, ventilation, temperature, or lighting problems; however, hygiene, sanitation, and basic medical care remained a problem.

As of November 30, the Central Prison, which has a capacity of 1,064, held 1,476 prisoners, including 138 female prisoners and 1,338 male prisoners. Three boys and three girls were held in a juvenile detention facility. Men and women were held in separate buildings. Pretrial detainees were held with convicted prisoners.

Prisoners and detainees had access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions.

The government permitted prison visits by independent observers, including the press, the NHRC, local nongovernmental organizations (NGOs), and the U.N. The country had no ombudsman to serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders; circumstances of confinement for juvenile offenders; or improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offense.

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 and suspects were problems. The Office of the Ombudsperson, the NHRC, and the Police Complaints Bureau are the mechanisms available to investigate security force abuses.

The NHRC investigates allegations of police abuse and may report such cases to the office of the director of public prosecutions. The NHRC had received 26 complaints of physical or verbal abuse by police: nine complaints were withdrawn or dismissed for lack of evidence, and 17 cases remained under investigation.

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 respected 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. 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 agree 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. Courts accepted bail for most alleged offenses.

Pretrial Detention.—Due to a backlogged court system, approximately 20 percent 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.

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 felony 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 the 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.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, at times the government did not respect the rights of the press in practice.

Freedom of Speech.—Individuals could criticize the government publicly or privately without reprisal.

Freedom of Press.—The independent media were active and expressed a wide variety of views, although the government at times restricted press freedom. The government owned the sole domestic television network, MBC TV, 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.

The boycott by government agencies on subscriptions to the newspapers of La Sentinelle Group was still ongoing at year's end.

Violence and Harassment.—The prime minister regularly warned the press about tougher media laws that were being developed, although no such legislation was introduced during the year.

Publishing Restrictions.—The Satanic Verses by Salman Rushdie continued to be banned, as it had been since 1989, and officially bookstores did not import the book; however, authorities did not fine bookstores for carrying the book 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 chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

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.—See the Department of State's International Religious Freedom Report at <http://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 in practice.

The government cooperated with the Office of the U.N. 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.

Protection of Refugees.—The laws do not provide for the granting of asylum or refugee status. The government has not established a system for providing protection to refugees. However, 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.

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.—Recent Elections.—International and local observers characterized the May 2010 National Assembly elections as free and fair. The constitution provides for 62 National Assembly seats to be filled by election. It also provides for the Electoral Supervisory Commission to allocate up to eight additional seats to unsuccessful candidates from minority communities through a system known as the “best loser system” (BLS). In the May 2010 legislative elections, the ruling coalition Alliance of the Future (AF), led by the Labor Party, won 41 parliamentary seats; the Alliance of the Heart coalition (AH), led by the Mauritian Militant Movement (MMM) won 18; the Rodrigues Movement (MR) won two; and the Mauritian Solidarity Front won one seat. Subsequently, under the BLS, the AF obtained four additional seats, the AH two, and the Rodrigues Peoples Organization obtained one.

The constitution requires all candidates to declare themselves as belonging to one of the following four “communities”: Hindu, Muslim, Sino-Mauritian, or general population (all persons who do not belong to one of the other three categories). The BLS is based on the demographic makeup of the country as found in the 1972 census. However, there were concerns the 1972 census results no longer reflected the country’s demographic composition. Various political observers stated that the BLS undermined national unity and promoted discrimination. At year’s end, there were active public discussions of legislative modifications to, or elimination of, the BLS.

International election observers noted some problems including unequal representation due to electoral constituencies not being redrawn, the inability of persons who turned 18 between January 2009 and May 2010 to vote due to use of the 2009 voters roll, lack of accommodations for persons with disabilities, and lack of legal provisions to provide for domestic election observers. Also various candidates stated that some politicians distributed gifts in their constituencies prior to the May 2010 election, and that some polling materials were not available in Creole, a language spoken by more than 90 percent of the population.

Political parties operated without restriction or outside interference. Opposition parties stated that the government-owned TV station, MBC TV, favored the ruling party. Opposition and MMM leader Paul Berenger stated that MBC TV provided more airtime to and better picture quality of the prime minister.

Participation of Women and Minorities.—There were 13 women in the 70-seat National Assembly. Following the May 2010 National Assembly elections, there were two female ministers in the 25-member cabinet. Of the 20 Supreme Court judges, eight were women.

Although historically the Hindu majority dominated politics, no groups were excluded from the political system. In the National Assembly there were 37 Hindus, 20 members of the general population, 11 Muslims, and two Sino-Mauritian. In the cabinet there were 17 Hindus, four Muslims, four 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 January 6, opposition MMM party leader Paul Berenger told the media that the government bought a private clinic for 144.7 million rupees (\$5,006,920) that was initially appraised at 75 million rupees (\$2,595,160). Two ministers were shareholders in the private clinic when it was sold. A minister and five civil servants were arrested, and an investigation continued at year’s end.

There were no developments in the December 2010 case in which police arrested Johnson Roussety, the leader of the Rodrigues Regional Assembly and an MR member, for influence peddling in forcing a civil servant to employ 200 workers who were allegedly MR partisans.

During the year the governmental Independent Commission Against Corruption (ICAC) registered 73 complaints of corruption against police officers: 35 cases were rejected for irrelevancy, 15 cases remained under investigation, one case was referred to the director of public prosecutions, and 22 were discontinued for lack of substantiation.

ICAC continued to investigate the following 2009 cases: the District Council of Pamplemousses-Riviere du Rempart overpayment for a cleaning contract, and bribery by the then director of the National Art Gallery.

Ministers of the national government and commissioners of the Rodrigues Island Regional Assembly are required to make a public disclosure of family assets, including the assets of spouses, children, and grandchildren, upon taking office and at the dissolution of the National Assembly or of the Rodrigues Regional Assembly.

There is no law that provides public access to government information; however, members of the public may request information by writing to the permanent secretary of the appropriate ministry. The government generally complied with requests from 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 often cooperative and responsive to their views.

U.N. and Other International Bodies.—The government cooperated with international organizations and permitted visits by U.N. representatives and other international organizations.

Government Human Rights Bodies.—The president appoints an ombudsman to investigate complaints against public servants, including 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 makes recommendations to the appropriate government office for injustices committed by a public officer or authority carrying out official duties as an alternative to filing charges in the court system.

The NHRC enjoyed the government's cooperation and operated without government or party interference. The NHRC had adequate resources and was considered effective. The commission did not issue a report during the year.

In 2009 the Parliament established the Truth and Justice Commission (TJC). The mandate of the TJC is to conduct inquiries into slavery and indentured labor during the colonial period in Mauritius. On November 25, the TJC presented a comprehensive report of its activities and findings based on factual and objective information and evidence.

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.—Rape and Domestic Violence.—The law prohibits rape, including spousal rape, but police and the judicial system did not effectively enforce the law. According to women's rights NGOs, police were not always effective in protecting domestic violence victims who had been granted protection orders from the court. The penalty for rape is 20 years' imprisonment, with a fine not exceeding 200,000 rupees (\$6,920). As of November 2010, the police Family Support Bureau had received six reports of rape; 2010 statistics on prosecutions of rape were not yet available. However, rape was widespread, and most 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 stated that police did not effectively enforce the law. As of August 2010, more than 1,600 domestic violence cases were reported during the year; no information was available on the number of abusers prosecuted during the year. Penalties for domestic violence that constitutes assault ranged from 10 years' to 20 years' imprisonment and a fine not exceeding 200,000 rupees (\$6,920) depending on the extent of injuries involved. Anyone found guilty of violating a protection order under the Domestic Violence Act may be fined up to 25,000 rupees (\$865) 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 Gender Equality, Child Development, and Family Welfare maintained an abuse hotline and a Web site on legal protections for victims.

Sexual Harassment.—Sexual harassment was a problem, and the government was not effective at enforcing prohibitions against it. The law prohibits sexual harassment, which is punishable by up to two years' imprisonment. During 2010 the Sex

Discrimination Division of the NHRC received 20 complaints; two involved sex discrimination, four involved sexual harassment, and 14 involved moral harassment, a term which refers to nonsexual harassment. At year's end four cases remained under investigation, authorities dismissed three for lack of evidence, plaintiffs withdrew one case, five cases were referred to other authorities for appropriate action, and the commission completed seven investigations.

Reproductive Rights.—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 able to access contraception and skilled attendance during childbirth, which was provided free of charge in government run hospitals, which also provided free essential obstetric and postpartum care. The maternal mortality ratio was 22 per 100,000 live births, according to a 2010 UNICEF report. Women were equally treated for sexually transmitted infections.

Discrimination.—Men and women enjoy the same rights under the constitution and the law, and these rights were upheld before the courts. The Ministry of Gender Equality, Child Development and Family Welfare is mandated to promote the rights of women. The National Women Entrepreneur Council, a semiautonomous government body, was set up in 1999 to promote the economic empowerment of women, and operates under the aegis of the Ministry of Gender Equality.

Cultural and societal barriers prevented women from playing a bigger role in society. For example, the first female firefighter was only recruited in 2011. There were few decision-making positions in the private sector filled by women; there were even fewer women sitting on boards of directors. A large majority of women were employed in unskilled labor jobs.

However, women had equal access to education, employment, and government services. Women had equal access to credit and could own or manage businesses; however, in the private sector, women were paid less than men for substantially similar work. 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 states that women should not be forced to carry loads above certain weight limits.

Children.—Birth Registration.—Citizenship is derived by birth within the country's territory. Births were registered, and the law provides for late registration. Failure to register births resulted in denial of some public services.

Education.—The law requires that children attend school until the age of 16, and tuition-free public education is available through the secondary level. Books and uniforms were required and provided.

Child Abuse.—Child abuse was more widespread than the government 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, the Ministry of Gender Equality, Child Development, and Family Welfare, and the Office of the Ombudsperson for Children 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.

The media reported that a seven-year-old girl, Patricia Martin, was found dead in Richelieu on September 13. The post mortem examination revealed that she was raped and burned alive. Police arrested her uncle, Marie Jose Tristan Casimir, on the same day. He remained in police detention pending trial at year's end.

Sexual Exploitation of Children.—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. Any person found guilty of statutory rape may face a sentence of up to 20 years' imprisonment and a fine not exceeding 100,000 rupees (\$3,460).

The government assisted victims of child abuse by offering counseling at a drop-in center in Port Louis 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.

Anti-Semitism.—Approximately 120 Jews resided in the country. There were no reports of anti-Semitic acts during the year.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services, and the Training and Employment of Disabled Persons Board effectively enforced it. The law requires that buildings be accessible for persons with disabilities; however, many older buildings remained inaccessible to persons with disabilities, making it difficult for organizations in those buildings to hire many persons with disabilities. 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. The government effectively implemented programs to ensure that persons with disabilities had access to information and communications. The state-run television station aired a weekly news program for persons with disabilities. The government does not restrict the right of persons with disabilities to vote or participate in civic activities; however, during the May 2010 legislative elections, private radio stations reported that a few persons with disabilities were not able to vote because the polling stations were not accessible.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law does not specifically criminalize same-sex sexual activity. It does criminalize the act of sodomy, and this prohibition is equally applied to homosexual and heterosexual couples.

Sodomy cases that reach the courts almost exclusively involve straight persons, especially in divorce cases. The sodomy statute rarely is used against homosexuals, unless one of the partners claims sexual assault, including sodomy.

Lesbian, gay, bisexual, and transgender victims of verbal abuse or violence within the family reported such incidents to local NGO Collectif Arc en Ciel; however, victims always refused to file complaints with police for fear of reprisal from family members.

At year's end, there were no reports of societal or governmental discrimination based on sexual orientation in employment and occupation, housing, statelessness, or access to education or health care.

Other Societal Violence or Discrimination.—The law provides that persons living with HIV/AIDS should be free from stigmatization and discrimination; however, there were reports of discrimination against such persons and their relatives.

Unlike in previous years, there were no reports that HIV-positive detainees at the Central Prison were forced to wear yellow badges so that they could easily be identified during routine medical checkups.

During the year local NGO PILS recorded three cases of discrimination against HIV/AIDS patients and their relatives. PILS also reported that breaches of confidentiality regarding HIV/AIDS patients' medical records in public hospitals, including Rodrigues Island, remained a problem.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The constitution and law provide for the rights of workers, including foreign workers, to form and join independent unions, conduct legal strikes, and bargain collectively. 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 the 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. The law provides 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, it also establishes a required process for declaring a legal strike. This process calls for labor disputes to be reported to the Commission for Conciliation and Mediation 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. 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. The law prohibits antiunion discrimination, but does not provide for reinstatement of workers fired for union activity. Dismissed workers can resort to the Industrial Relations Court to seek redress.

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.

The government effectively enforced applicable laws, and there were few delays in procedures and appeals.

Freedom of association and the right to collective bargaining were generally respected in practice, and workers exercised these rights in practice. Most unions collectively negotiated wages higher than those set by the National Remuneration Board (NRB). Worker organizations were independent of the government and political parties. There were no reports of government interference in union activities, including targeted dissolving of unions and use of excessive force to end strikes or protests.

Despite the law, antiunion discrimination remained a problem in the private sector. Some employers in the EOE reportedly continued to establish 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.

On December 7, former trade unionist Rehana Ameer of the Mauritius Broadcasting Corporation (MBC) was reinstated. In August 2010, the governmental MBC had suspended her for allegedly sending an anonymous letter to MBC employees criticizing management practices. MBC dismissed Ameer in December 2010 for allegedly authoring the letter and for speaking to the media about her suspension. Ameer claimed that she was suspended as a result of her trade union activities. Since 2008 four MBC trade union activists were suspended or dismissed.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, including by children. There were no reports of forced child labor during the reporting period.

c. 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. According to the law, the penalties for employing a child are a fine of no more than 10,000 rupees (\$346) and imprisonment not to exceed one year.

While the government generally respected this law, it did not effectively enforce this law.

The ministry 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. There were no statistics on the number of child labor cases fined during the reporting period.

The ministry developed vocational training programs to prevent employment of underage children and conducted programs to identify and integrate street children in its vocational training program.

However, child labor occurred. Children worked in the informal sector, including as street traders, in small businesses, in restaurants, in agriculture, and in small apparel workshops.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—In the private sector, the NRB sets minimum wages for nonmanagerial workers outside the EOE. The established minimum wages varied by sector. The government mandated that the minimum wage rise each year based on the inflation rate. The minimum wage for an unskilled domestic worker in the EOE was approximately 607 rupees (\$21) per week, while the minimum wage for an unskilled domestic factory worker outside the EOE was approximately 794 rupees (\$27) per week.

The standard legal workweek in the EOE was 45 hours. By law no worker can be forced to work more than eight hours a day, six days a week. According to the Mauritius Labor Congress, 10 hours of overtime a week is nonetheless mandatory at certain textile factories in the EOE. 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. The law provides that, in cases of overtime violations, the ministry is required to investigate, and employers are encouraged to take remedial actions, failing which a court action is initiated.

The government set occupational safety and health standards, and Ministry of Labor officials inspected working conditions. The ministry effectively enforced the minimum wage law. These standards were generally enforced for both foreign and domestic workers. However, the inadequate number of inspectors limited the government's enforcement ability. Penalties were sufficient to deter violations.

Although the minimum wage 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. There were reports that full-time employees in the cleaning industry were not always paid the NRB-recommended minimum wage; they reportedly earned up to 1,500 rupees per month (\$51).

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.

Employers did not always comply with safety regulations, resulting in occupational accidents. There were reports of foreign workers living in dormitories with unsanitary conditions. Workers had the right to remove themselves from dangerous situations without jeopardizing their continued employment, and they did so in practice.

During the year there were three workplace fatalities. Major industrial accidents in which workers were injured or killed occurred mainly in the construction sector.

MOZAMBIQUE

EXECUTIVE SUMMARY

Mozambique is a constitutional democracy. In 2009 voters reelected President Armando Guebuza 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. Domestic and foreign observers and local civil society expressed concern over the electoral procedures that 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. There were instances in which elements of the security forces acted independently of civilian control.

Incidents of serious human rights abuse occurred during the year; the three most important were unlawful killings by security forces, harsh and life-threatening prison conditions including beating of prisoners, and domestic violence.

Other human rights problems included lengthy pretrial detention; an inefficient, understaffed, and inadequately trained judiciary influenced by the ruling party; and political and judicial decisions involving independent media outlets that constrained press freedom. Societal problems including domestic violence; discrimination against women; abuse, exploitation, and forced labor of children; trafficking in women and children; and discrimination against persons with HIV/AIDS remained widespread.

The government took some steps to punish and prosecute officials who committed abuses, but impunity remained a problem.

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

a. Arbitrary or Unlawful Deprivation of Life.—There were several reports by human rights activists and domestic media sources that the government or its agents committed arbitrary or unlawful killings; most concerned border security forces and prison guards.

For example, in March police officers shot and killed a citizen in his home in Nampula while looking for his brother. There were no further developments by year's end.

There were no reports of criminal or disciplinary actions against members of the security forces who shot and killed between 13 and 18 protesters in September 2010 (see section 2.b.).

There were a few reports of death resulting from police abuse. For example, in July the director of Cagore Open Prison in Barue, Manica Province, was arrested for beating a prisoner so severely that the prisoner succumbed to his injuries 48 hours later. The director was subject to an internal disciplinary procedure but remained in his post.

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 frequently used excessive force and harsh physical abuse when apprehending, interrogating, and detain-

ing criminal suspects and prisoners. Human rights advocates and the media reported occurrences of torture and other cruel, inhuman, or degrading treatment, including several cases involving sexual abuse of women, beatings, and prolonged detention.

There were reports of beatings at several prisons. For example, in February, according to the weekly *Publico*, former inmates of a detention center in Sofala Province claimed to have been beaten and deprived of food, as well as forced to work for the financial benefit of the guards.

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.

The National Prison Service, under the Ministry of Justice, operated 184 prisons in 10 provinces. The Ministry of Interior is responsible for jails at police stations. In October the Justice Ministry reported there were 16,304 prisoners, but the jails and prisons were designed to hold only 6,654 prisoners. Slightly more than 66 percent of prisoners had been convicted; the rest were awaiting trial. The National Prison Service spends approximately 3,600 meticaís (\$133) per month to house, feed, clothe, educate, and provide medical care for each prisoner.

Overcrowding remained the most serious problem. Prisons held more than twice as many prisoners as they were built for and prisoners often slept in bathrooms, standing up, or in shifts.

The Mozambican League of Human Rights (LDH) made numerous visits to prisons and detention facilities. Based on those visits, the LDH continued to note the following conditions in the prisons and detention facilities: harsh treatment, inadequate food, poor hygiene, overcrowding, adults and juveniles held together, and prisoners kept beyond their sentences.

In many cases prison officials did not provide even basic food to the prison population. It was customary for families to bring food to prisoners, but not all prisoners had families able to provide them food. In the prisons visited, the LDH characterized the food provided by the prison authorities as “poor” and generally ignored by prisoners if their families were able to provide them with something better. It was reported that the prison food consisted mainly of corn meal, rice, and beans lacking in both quality and quantity.

Malaria, tuberculosis, cholera, and HIV/AIDS were commonplace among prisoners in nearly all prisons, and the Justice Ministry publicly acknowledged these problems. Other illnesses were caused by malnutrition, including paralysis and blindness. Both healthy and sick prisoners regularly were kept in the same cells. Provisions for sanitation, ventilation, temperature, lighting, basic and emergency medical care, and access to potable water were inadequate. Few prisons had healthcare facilities or the ability to transport prisoners to outside facilities. Prisons that do have healthcare facilities often lacked basic supplies and medicines, leaving most without medicine unless they could afford to buy them privately. Almost all prisons were constructed in the colonial era, and very few have been refurbished since, leaving many in an advanced state of dilapidation that puts the prisoners and staff at risk.

Pretrial detainees were held with convicted prisoners.

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.

International and domestic human rights groups had access to prisoners, although at the discretion of ministries of justice and interior. In 2009 the LDH entered into a memorandum of understanding with the Ministry of Justice allowing it to visit prisons unannounced. In exchange, the LDH would submit to the government copies of its findings prior to release, although it would be free to publish its own independent findings. There were delays in obtaining the required credentials to visit prisons, but the LDH confirmed that by the beginning of the year, these delays had been resolved, and these visitation rights continued during the year. However, there is no such agreement with the Ministry of Interior, which controls detention facilities in police stations, making visits to those facilities more difficult for the LDH as it requires formal requests to the Ministry of Interior and a commitment of scarce time and resources on the part of the LDH.

Prisoners generally were allowed access to visitors and permitted religious observances. On several occasions during the year, prisoners and detainees submitted complaints about their treatment to their prison directors, the LDH, and other authorities, although no formal system or ombudsmen exists for entering complaints or following through to see them resolved. Complaints were also reported in the local press.

The Ministry of Justice and the National Prison Service acknowledged that pretrial detention, bail, and recordkeeping were inadequate and launched efforts in

2010 to improve their systems and lessen the possibility of prisoners serving time in excess of their sentences or maximum legal detention periods. These efforts were ongoing to improve prison conditions and reduce overcrowding, including the devotion of almost the entire annual leadership meeting of the Ministry of Justice in June to efforts to maintain prisoner's rights.

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 Criminal Investigative Police (PIC), the national police (PRM), and the Rapid Intervention Force (FIR), are responsible for internal security. The border security force, known as Força Guarda-Fronteira, is also under the Interior Ministry and is responsible for protecting the country's borders and for conducting normal police patrol duties in areas within 24 miles of the borders. 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.

Civilian authorities generally maintained control over the PIC, PRM, and FIR, and the government has mechanisms to investigate and punish abuse and corruption. However, there were numerous reports of impunity involving security forces, and occasions when security forces acted without orders or exceeded their orders. Police routinely removed their identification at checkpoints after dark and refused to identify themselves or their police precincts.

There were unconfirmed reports of several deaths when FIR was unable to contain a protest by workers of a private security company in April (see section 7.a.).

Corruption by police was widespread (see section 4).

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.

In January the daily *Diário de Mocambique* reported the arrest of five police officers for selling or renting out their guns and uniforms to criminals and being involved in robberies.

Implementation of the 2003-12 strategic plan of action and modernization of the PRM continued; seven of its nine "guiding principles" emphasize respect for human rights. While the plan acknowledges 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 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 if 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 be informed of the charges against them within the period required by law, as well as the 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 non-governmental organizations (NGOs) continued to complain that police and prison officials demanded bribes to release prisoners.

Arbitrary Arrest.—Arbitrary detention or false arrest occurred, although they were not commonplace. For example, in May a citizen in Nampula was handcuffed, taken to a police cell, and beaten by a police officer for allegedly disobeying orders by not responding to a question. The officer took the person's cell phone and money, told him to leave and that he would be shot if he looked back. The incident was confirmed to the press by the head of public relations at the Nampula Provincial Command Center, who also reported that the officer was interrogated by the PIC, would face disciplinary and likely criminal proceedings, as well as be made to return the goods and money and pay for the citizen's medical care. There were no further updates by year's end.

Pretrial Detention.—Excessively long pretrial detention continued to be a serious problem, due in part to an inadequate number of judges and prosecutors and poor communication among authorities. Approximately 35 percent of inmates were in pretrial detention. The LDH reported in many cases authorities held inmates far beyond the maximum allowed under law before their trials began and that in the city and Province of Maputo alone in the first half of September there were 532 detainees that were being held beyond the legal limit. In August the Ministry of Justice inaugurated a system of appeals courts with 25 judges, designed to reduce the burden on the Supreme Court, allow the court system to process cases more quickly, and reduce the length of pretrial detention.

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, according to civil society groups, the executive branch and the ruling Front for the Liberation of Mozambique (Frelimo) party heavily influenced an understaffed and inadequately trained judiciary, particularly in the lower tiers. The judicial system continued to suffer from lack of transparency and often did not comply with the principles of promotion and protection of human rights. Civil society organizations also asserted inadequate training and corruption in the ranks of the PIC resulted in such poor quality of some criminal case files that trial judges were unable to find sufficient evidence for judgment.

Alternative measures such as work brigades, conditional release for prisoners who have completed half of their sentences, and traveling tribunals continued to be employed.

Trial Procedures.—In regular courts, accused persons are presumed innocent and have the right to legal counsel and appeal, but 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 government entity in charge of providing this free legal aid, the Mozambican Legal Aid Institute, significantly expanded its presence to several remote areas during the year.

The LDH reported that many citizens remained unaware of the right to a legal counsel and had no such access. Some NGOs, including the LDH, offered limited legal counsel at little or no cost to both defendants and prisoners. According to the law, only judges or lawyers may confront or question witnesses, although in practice members of the community occasionally were allowed to question witnesses. All citizens have a right to self-defense and can present witnesses and evidence on their own behalf and have access to government-held evidence. Such rights were upheld during the year. There is no trial by jury.

Persons accused of crimes against the government, including treason or national security cases, 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, to protect the privacy of the plaintiff in a sexual assault case, or prevent interested parties outside the court from destroying evidence.

Outside the formal court system, local community courts and traditional authority figures often adjudicated matters such as estate and divorce cases. Local arbiters with no formal training presided over community courts, and sometimes overstepped legal limits. For example, in Manica Province in February a community court sentenced an alleged thief to be tied to a tree and beaten; he subsequently died from the beating.

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

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.

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.—Status of Freedom of Speech and Press—*The constitution and law provide for freedom of speech including for members of the press, and the government generally respected these rights in practice.

*Freedom of Speech.—*Individuals could generally criticize the government publicly or privately without reprisal. Some individuals expressed fear that the government monitored their private telephone and e-mail communications.

*Freedom of Press.—*By some estimates newspapers reached approximately one million of the country's 22.4 million citizens. The print media was published exclusively in Portuguese, making it inaccessible to a majority of the population. The government maintained majority ownership of Noticias, the main newspaper, while Diario de Mocambique and the weekly Domingo largely mirrored the views of the ruling party. Other publications reported news items critical of government policies.

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, offering programming to the largest audience in at least 18 languages. Some commentators questioned the independence of Radio Mocambique due to majority government funding. 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 of TVM, the television station that contends with STV for the largest viewership. TVM's news coverage demonstrated a bias favoring the incumbent government and ruling party Frelimo.

*Violence and Harassment.—*Some journalists reported receiving threats. While most were anonymous, some were overt, such as the February threat to a journalist in the city of Xai-Xai, Gaza Province, by three police officers after the journalist reported the officers' beating of a man. The provincial police commander condemned the actions of the officers following news reports of the threat. In August the Media Institute of Southern Africa (MISA) reported that a journalist from the weekly Publico received an undisclosed threat from the governor of the central bank, following Publico's report that the governor had been detained while in transit at a Paris airport. MISA also reported that in May, unknown assailants attacked a Radio Mocambique journalist in Chimoio, Manhica Province, for no apparent reason. Police were investigating the matter. In January, also according to MISA and press reports, computer equipment belonging to a Savana journalist was stolen from his home, while all other valuables were left.

*Censorship or Content Restriction.—*Many journalists reported self-censorship amongst media practitioners, while others were hesitant to report on sensitive topics. Some media officials stated critical reporting could result in cancellation of government and ruling party advertising contracts. The largest advertising revenue streams for local media came from ministries and state-controlled businesses, and MISA noted that progovernment media received more advertising contracts from the government than media critical of the government.

Media analysts noted that, as a way of lessening self-censorship and negative government reaction to independent reporting, most independent media outlets adopted the practice of reporting potentially sensitive topics simultaneously. Such was the case in media reporting of the corruption case involving the then president of the constitutional court, Luis Mondlane, who later resigned from his position following extensive press coverage of the various charges against him.

*Libel Laws/National Security.—*MISA reported that despite the press freedom provisions in the constitution and the 1991 Press Law, other legislation inhibits the media. For example, a clause in the law on crimes against state security treats libel against the president, prime minister, and other senior political and judicial figures as a security offense. These laws were not invoked during the year. In response to the September 2010 violent protests, the government temporarily disabled the local cell-phone texting system, the protesters' primary method of communication, and subsequently required that all purchasers and owners of prepaid cell phones register with cellular service providers.

*Internet Freedom.—*Although there were no government restrictions on access to the Internet, opposition party members reported that government intelligence agents monitored e-mail. There were no confirmed instances of the government attempting to collect personally identifiable information. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail and through political blogs, as well as small-scale use of social media.

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, there were some abuses during the year. In February police stopped a peaceful demonstration by former workers of a private security company in Zambezia Province and arrested several of the protesters.

There were no reports of disciplinary or criminal proceedings resulting from police abuses during the September 2010 riots. Police used tear gas, rubber bullets, and live ammunition, and shot and killed between 13 and 18 persons protesting price increases in basic foodstuffs in several cities.

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

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. The government cooperated with the Office of the U.N. 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 in the Maratane Camp. However, at year's end, the government had not officially approved a smaller processing or transit center in Palma at the country's northern border, as the UNHCR had requested.

In-country Movement.—Traffic checkpoints are under the jurisdiction of traffic police. Checkpoints occasionally limited freedom of movement, and according to press reports, authorities often abused and demanded bribes from citizens. 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 also routinely harassed, detained, and extorted bribes from foreigners for supposedly committing infractions or violations, and did the same to local citizens for failure to carry identity papers.

Foreign Travel.—There are no requirements to obtain exit permits or reports of discriminatory issuance of passports.

Emigration and Repatriation.—Locally based UNHCR officials reported that individuals living in Mozambican-heritage communities in South Africa, Zimbabwe, and other neighboring countries would have difficulty returning to Mozambique because they lacked identity documents. The government, however, had not placed restrictions on return of citizens.

Protection of Refugees.—Access to Asylum.—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. 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 UNHCR and other humanitarian organizations in assisting several thousand recognized refugees and asylum seekers.

The government continued to work closely with UNHCR to implement a local integration program for refugees, primarily from Somalia, Ethiopia, and the Great Lakes Region, at the Maratane camp in Nampula Province. The government did not officially authorize a transit camp in Palma to screen potential asylum seekers, claiming that migrants arriving at the northern border were mostly or entirely economic migrants, so an additional transit camp was unnecessary.

The government provided modest assistance to Zimbabwean citizens crossing the border into the country. Although it considered these Zimbabweans to be economic migrants, it supported UNHCR in providing assistance and protection to this group.

Nonrefoulement.—There were no reports of the government forcing asylum seekers to return to countries where their freedom may be threatened. While the government did not officially close its borders to asylum seekers, there were numerous reports that police patrols near the Tanzanian border refused entry to migrants, forced thousands of migrants that were already in Mozambique over the border into Tanzania, or forced them to return in potentially life-threatening conditions at sea and in the wilderness borderlands. UNHCR called on Mozambican authorities to stop deporting asylum seekers, who included women, children, and elderly men.

Refugee Abuse.—The government allows refugee movement within the country. Refugees must formally request authorization to move outside the geographic region in which they have been registered, but, if authorized, they are free to settle elsewhere in the country.

Durable Solutions.—The government in practice allowed refugees from third countries to resettle, though it did not facilitate extensive integration efforts.

Temporary Protection.—The government provided temporary protection to individuals who may not qualify as refugees at the Maratane Camp and provided it to several thousand persons during the year.

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. The 2009 national elections were widely criticized for numerous irregularities and lack of transparency, including exclusion of several presidential and parliamentary candidates. The December 2011 special elections for mayors of three cities were boycotted by the largest opposition party, Renamo, but other opposition parties participated. There were concerns regarding use of government resources in support of Frelimo candidates, voter registration, and lack of transparency, but candidates were allowed to run freely.

Elections and Political Participation—Recent Elections.—In the 2009 elections, Frelimo secured approximately 75 percent of the presidential vote and more than 75 percent of the seats in parliament. Frelimo mayors were elected in 42 of 43 municipalities, and it was the largest party in municipal assemblies, controlling approximately 80 percent of all seats. Frelimo gained a sufficient majority in the National Assembly to amend the constitution without the support of other parties.

The main opposition parties, Renamo and the Democratic Movement of Mozambique (MDM), complained of election fraud and noted 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 local authorities failed to respond to such provocative acts and that Frelimo candidates suffered no such impediments during their campaigns. Independent reporting corroborated opposition parties' accusations that Frelimo used state funds and resources for campaign purposes, in violation of electoral law.

In November 2009 the National Elections Commission (CNE) announced that Armando Guebuza of the ruling Frelimo party had been reelected president in the October 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.

The Electoral Institute for Sustainability of Democracy in Southern Africa questioned the transparency, integrity, impartiality, and independence of the CNE, noting that improvements were required to "level the playing field, afford equal opportunity to all, and improve the transparency of the electoral process." The CNE disqualified several political parties and candidates from participating in legislative elections. The MDM, for example, was prevented from running in nine of 13 legislative districts. The CNE's action, which included backdating documents and other questionable acts, provoked protests from the diplomatic community and civil society and extensive commentary in the media. Also the Constitutional Council (CC) disqualified six of nine presidential candidates for application irregularities. 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 response to these various actions by the CC and the CNE, local NGO the Center for Public Integrity (CIP) called for an independent audit of electoral processes while highlighting several significant flaws. The government granted MDM formal status in the National Assembly, which entitled its eight members of parliament to certain financial and logistical support, as well as the right to speak during parliamentary plenary sessions. The government also announced a two-year legislative process to amend the electoral code and began consultations with civil society organizations as part of this process.

Political Parties.—Frelimo continued to dominate the political process, and its influence continued to grow. Opposition political parties were permitted to operate but were sometimes subject to restrictions, including unlawful arrest, and other interference by the ruling party and the government. Membership in the ruling Frelimo party was widely perceived to confer advantages.

Participation of Women and Minorities.—Women 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. Eight of the 29 ministers were women. Women held 98 of the 250 seats in the National Assembly. The National Assembly also had an office dedicated to raising awareness of women's issues, including family law, domestic violence, and trafficking in persons. While there were no women on the Supreme Court, the justice minister, two of the six assistant attorneys general, and 91 of the 279 judges 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 often engaged in corrupt practices with impunity. Corruption in the executive and legislative branches was generally perceived to be widespread. Some internationally respected organizations indicated that corruption was a serious problem. Petty corruption by low-level government officials to supplement low salaries and high-level corruption by politically and economically connected elites continued to be the norm. In some cases high-level bribery was related to narcotics trafficking.

Under the governance initiatives introduced in March 2010, the government agreed to the adoption of a comprehensive set of anticorruption laws. Robust public debate continued throughout the year on anticorruption issues.

On February 26, the former transport and communications minister was sentenced to 20 years in prison for embezzling 54 million meticaís (\$2 million) from the Mozambican Airport Company. In May the sentence was reduced to four years and five months.

On March 22, Almerino Manhenje was sentenced to two years in prison for embezzlement of government funds while he was the interior minister from 1996 to 2005.

In March Luis Mondlane, the former chairman of the Constitutional Council, resigned under pressure from the other judges on the council, as well as from the press and local NGOs, for abuse of office funds, including using them to pay the mortgage on his house.

The Supreme Court reported that from 2010 until October 2011 disciplinary proceedings were started against 12 judges. Two of the cases were dismissed for lack of evidence, two were ongoing, and the remaining eight cases resulted in penalties ranging from an official warning to dismissal.

Corruption including extortion by police was widespread, and impunity remained a serious problem. 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. Corruption largely resulted from a lack of checks and balances, minimal accountability, and a culture of impunity. Local NGOs, such as the CIP, and media groups continued to be the main civic forces fighting corruption, reporting on and investigating numerous corruption cases.

The law requires that all members of the government declare and report their assets to the Constitutional Council, but it does not require that such information be made available to the general public.

The Central Office for Preventing and Combating Corruption functions as an autonomous unit under the Attorney General's Office with its own state budget. It investigates theft of state funds in the central government and in provincial administrations.

There are no laws providing for public access to government information, and in practice the government failed to respond to citizens' requests for or restricted citizens' 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 often were cooperative and responsive to the views of domestic and international human rights groups. Activities of foreign NGOs were subject to governmental regulation. Some foreign NGOs and religious groups reported that registration regularly required several months. The government generally had good relations with human rights NGOs, including both local NGOs, such as LDH, and international NGOs, such as CARE and Save the Children, and was willing to work with them. However, some NGOs were concerned with an increase in government registration requirements of

mainly foreign NGOs operating in the country, which the government claimed were intended to prevent duplication of efforts.

U.N. and Other International Bodies.—In February Mozambique presented its report for the Universal Periodic Review Mechanism on Human Rights to the U.N. Human Rights Council in Geneva, and in October it hosted a public presentation and discussion of the report in Maputo.

Government Human Rights Bodies.—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.—Rape and Domestic Violence.—The law prohibits rape, including spousal rape, but it was not effectively enforced, and the law was largely unknown in rural areas where the majority of rapes took place. 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 few reports of rape cases successfully prosecuted during the year. Judges commonly exercise strict confidentiality regarding these sorts of cases, accounting for limited media reporting of this issue.

The law 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 sexually contagious disease. The LDH reported that a few cases were being investigated at year's end but that there had been no arrests or formal charges.

Domestic violence against women, particularly spousal rape and beatings, remained widespread, and despite the domestic violence law, a 2008 Multiple Indicators Cluster Survey (MICS) by UNICEF, the Ministry of Health, and the National Statistics Institute indicated that 36 percent of women believed it was acceptable for their husbands to beat them, with greater acceptance in rural areas than urban. Cultural pressures discouraged women from taking legal action against abusive spouses. A national plan approved in 2008 to combat violence against women had been announced but not yet implemented in five provinces—Niassa, Tete, Sofala, Inhambane, and Gaza, and in Maputo City—but was generally unknown in the rest of the country. During the year the Ministry of Women and Social Action carried out a national campaign on the radio and television to fight physical and sexual violence, as well as to educate women about the law and their rights. The messages were broadcast regularly, including at prime times.

With the exception of some ethnic and religious groups, the groom's family provided a bride price 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 government and NGOs often worked together to combat domestic violence. The PRM operated special women's and children's units in police squadrons that received high numbers of 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 were in the process of installing "green lines" (toll-free telephone lines) to receive complaints of violence against women and children.

Sexual Harassment.—Sexual harassment is illegal; however, it was pervasive in business, government, and schools. Although no formal data existed, the media reported numerous instances of harassment during the year. The relevant sexual harassment law is based on the 1920s Portuguese penal code; sexual harassment incidents are usually regarded as acts of "indecentcy" with a maximum penalty of two years' imprisonment.

Reproductive Rights.—The government generally 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 contraceptives, but the continued high rate of HIV/AIDS suggested that they were not sufficiently used. The 2008 MICS estimated that 12 percent of married women between the ages of 15 and 49 used some form of contraception. There were few doctors and nurses in the country, but according to this survey, nearly 90 percent of women received at least some prenatal care.

The 2008 MICS estimated the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) to be 500 and that while approximately 55 percent of births in the previous two years were attended by skilled personnel, only 2 percent were attended by doctors. Factors in this high rate of maternal mortality included a severe lack of doctors and nurses in the country, especially in rural areas; poor infrastructure; a high HIV/AIDS rate; and a near total lack of ambulances outside of the major cities, resulting in medical care often being days away.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections.

Discrimination.—The 2005 Family Law eliminated husbands' legal 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, more than five years after taking effect, many women remained uninformed about the law.

Women continued to experience economic discrimination and 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. 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.

"Purification," whereby a widow is obligated to have unprotected sex with a member of her deceased 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.

Children.—Birth Registration.—Citizenship can be obtained by birth either in the country or birth to a citizen 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.—Education is compulsory through completion of primary school, grades one to seven. However, primary school completion remained beyond the reach of many families, especially in rural areas, as geographical coverage of upper primary school (grades six and seven) does not match the almost full national coverage of lower primary school (grades one to five). While public primary school education is officially free, there are indirect costs associated with supplies and uniforms. Despite joint government-NGO initiatives in some localities and districts to improve girls' school attendance, it continued to be significantly lower than for boys, especially at the secondary and higher levels.

Child Abuse.—UNICEF 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 press reports during the year about the large numbers of high school-age girls coerced into having sex by their teachers in order to pass to the next grade. In July, in response to these abuses, the Ministry of Women and Social Action launched a nationwide radio campaign against sexual abuse of children, with influential members of society calling for an end to the abuse of minors. The LDH reported that there were many court cases and several convictions for sexual harassment and abuse by teachers during the year, but could not provide numbers.

While the government continued to stress the importance of children's rights and welfare, significant problems remained. A 2008 law on child protection 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. The LDH reported successful resolution of cases in juvenile courts regard-

ing support for children after divorces or the end of relationships and that the courts, in the LDH's estimation, had ruled according to the rights and best interests of the children.

The Network against the Abuse of Minors 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.

Child Marriage.—The 2005 Family Law sets the minimum age of marriage for both genders at 18 for those with parental consent, and 21 for those without it. Local custom, primarily in the northern provinces and in Muslim and South Asian communities, allowed underage marriage. According to UNICEF data collected between 2000 and 2009, approximately 38 percent of women between the ages of 20 and 24 were married before the age of 18.

Sexual Exploitation of Children.—Without specifying prison terms or fine amounts, the law prohibits pornography, child prostitution, and sexual abuse of children under 18; however, exploitation of children below the age of 18 and child prostitution remained problems. While the law on protecting children is being implemented, regulations for many sections of the law had not been fully drafted by year's end. For example, during the year there were prosecutions for sexual abuse of children, although no prosecutions for pornography or child prostitution were reported. Child prostitution appeared to be most prevalent in Maputo, Nampula, 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, primarily girls, engaged in prostitution.

Displaced Children.—Zimbabwean children, many who had 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, largely due to lack of resources. Coercion, both physical and economic, of Zimbabwean girls into the sex industry was common, particularly in Manica Province.

Child beggars, who appeared to be living on the streets, were visible in major urban areas, but no nationwide figures were available.

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 and other vulnerable children, 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, but their scope of action was limited due to lack of funding. It also offered special classes in local schools to children of broken homes. NGOs sponsored food, shelter, and education programs in all major cities.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was a very small Jewish population, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The constitution and law stipulate that citizens with disabilities shall fully enjoy the same rights as all other citizens. However, the government provided few resources to implement this provision, and persons with disabilities frequently could be seen begging at traffic intersections. There were an estimated 300,000 persons with disabilities in the country. Discrimination was common against them in employment, education, access to health care, and the provision of other state services. Unequal access to employment was often cited as one of their biggest concerns. The law does not mandate access to buildings for persons with disabilities, and although the Ministry of Public Works and Habitation worked to ensure that public buildings in Maputo city provided access for persons with disabilities, progress has been very slow. 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. Facilities with special access 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 assert non-receipt of 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 discrimination by police against Zimbabwean and Somali immigrants during the year.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws criminalizing consensual same-sex sexual activity. However, there were occasional reports of discrimination based on sexual orientation, 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. With an increased public awareness of this law, there have been no public reports of people being dismissed because of their HIV status.

Reports continued of many women expelled from their homes and/or abandoned by their husbands and relatives because they were HIV-positive. Some women 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 the body parts of persons with albinism contained special curative or sexual strength, such persons could be subjected to violent attacks that resulted in mutilation or death.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—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 as well as to conduct legal strikes and bargain collectively. Public sector workers require government permission to form unions, which has not been granted, although a number of employee associations do exist, and these organizations present grievances and pursue the interests of their members. The law prohibits antiunion discrimination. Unions were responsible for negotiating wage increases. No group of workers is excluded from these legal protections.

Workers exercised some of these rights in practice. For example, concerted work actions, such as strikes, were infrequent but did occur. In April the PRM was unable to contain a protest by workers of a private security company over unpaid wages and overtime, as well as improper deductions from wages. Some of the strikers engaged in violent acts including destruction of company property, resulting in the FIR being called in and subsequently beating several workers and attempting to obstruct the work of reporters at the scene. There were unconfirmed reports of several deaths. These actions were later condemned by the interior minister, who reported that the FIR had received no instructions from their commanders to employ excessive force and that several officers would be disciplined.

Similarly, 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. Furthermore, there were reports that many companies continued to engage in antiunion discrimination by replacing people at the end of contracts, dismissing workers for striking, and not abiding by collective bargaining agreements.

The country's leading trade union organization, OTM-Central Sindical, was widely perceived to be biased in favor of the government and the ruling party, Frelimo, but during the year it acted more independently than in the past. For example, in April OTM-Central Sindical criticized the government for not consulting with it on plans for measures to alleviate the rising cost of living, despite the organization's membership in the tripartite forum on cost of living issues.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including that of children. Nonetheless, forced labor of adults and

children occurred. There were numerous reports of forced child labor in the domestic and agricultural sectors. Women and girls from rural areas, lured to cities with promises of employment or education, were exploited in domestic servitude as well as forced into prostitution. Women and girls from Zimbabwe and Malawi who voluntarily migrate to Mozambique were subsequently exploited in domestic servitude. Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—Child labor 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 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, 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 a common problem, especially in rural areas. Out of economic necessity, especially in rural areas, parents often forced their children to work, particularly in commercial agriculture, as domestic employees, or in prostitution.

Children, including those under age 15, commonly worked on family farms in seasonal harvests or on commercial plantations, where they picked cotton, tobacco, or tea leaves and were paid on a piecework basis for work completed rather than an hourly minimum wage.

Trade unions indicated that in the northern provinces of Zambezia, Nampula, and Cabo Delgado, adults hired to work in tobacco cotton, cashew, and coconut plantations routinely had their children work also to increase their income. These children worked long hours and were prevented from attending school.

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. However, there were no mechanisms in place for making complaints about hazardous and forced child labor. Violations of child labor provisions are punishable with fines ranging from one to 40 months of the minimum wage salary. 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. There were 130 labor inspectors, none of whom specialized in child labor issues. Inspectors receive low wages, making them vulnerable to bribes. The inspectors often do not have the means to travel to sites independently and are therefore reliant on the company that they are investigating for committing violations to provide travel to the site of an alleged violation. 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. Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—Trade unions estimated that a minimum livable monthly wage to provide for a family of five was 7,250 meticaís (\$268). The minimum wage varies by sector from 1,681 meticaís (\$62) to 5,320 meticaís (\$197). In April the government updated the minimum wage for various sectors, however, many employers had not implemented these minimum wages by year's end. For example, there were threats of a strike in July by employees of state-owned Radio Mocambique and a government public transport company, TPM, who complained they had not yet received the increases. The strike was called off after negotiations and an agreement for future raises, dependent on economic performance.

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 holding 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 does so 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.

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, but 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.

In theory workers have the right to remove themselves from situations that endangered their health and safety without jeopardy to their employment; in practice, threats of dismissal and peer pressure restricted this right. There were no special provisions for foreign and migrant workers.

NAMIBA

EXECUTIVE SUMMARY

Namibia is a multiparty democracy. The presidential and parliamentary elections held in November 2009 resulted in the re-election of President Hifikepunye Pohamba and the retention by the ruling South West Africa People's Organization (SWAPO) of its large parliamentary majority. SWAPO is a multiethnic party, but it is dominated by the large Ovambo ethnic group. Despite some reported irregularities and a legal challenge by nine opposition parties that was ongoing at year's end, international observers characterized the election as generally free and fair. Security forces reported to civilian authorities.

Three predominant human rights abuses in the country included police use of excessive force, poor detention center conditions, and violence and discrimination against women and children, including rape, child abuse, and child labor.

Other human rights problems included prolonged pretrial detention and long delays in trials, harassment and political intimidation of opposition members, and official corruption. Other societal abuses included discrimination against ethnic minorities and indigenous people; child trafficking, mostly for use as labor; and discrimination and violence based on sexual orientation and gender identity.

The government took steps to prosecute or punish officials who committed abuses, whether in the security services or elsewhere in the government, although impunity occurred.

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

a. Arbitrary or Unlawful Deprivation of Life.—There were few reports that the government or its agents committed arbitrary or unlawful killings. Namibian Rights and Responsibilities, Inc. (NamRights), a local human rights organization, reported that police allegedly shot and killed Matheus Shipanga on February 6 when he failed to stop at a roadblock. A case of murder was opened against the police officers, but no trial had begun by year's end.

Police reported that in March, four police officers allegedly assaulted a suspect, Albert Shinvula, during his arrest in Katima Mulilo in the Caprivi Region. Shinvula died from his injuries. Police continued to investigate the matter. All four suspects were arrested and released on bail.

The government took no action during the year to investigate five of six mass graves discovered in 2008 along the country's border with Angola that contained, among others, the remains of five political activists who allegedly were killed without trial by South African security forces in 1972. On May 4, President Pohamba claimed an additional seven people were buried in the same grave as the activists.

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. Human rights bodies and prison officials reported the detention of both pretrial and

convicted prisoners in overcrowded conditions. The country's main penal code does not define "torture," potentially leading to legal ambiguity over any claims.

According to NamRights, in September 2010 Windhoek City police assaulted and beat John Haufla until he lost consciousness at the Wanaheda Police Station. The attack occurred in view of Namibian Police Force (NAMPOL) officers, who did not intervene, according to Haufla. NAMPOL officers subsequently instructed city police to take Haufla to the hospital, where, according to Haufla, police told doctors his injuries occurred in a fall. Police later opened a case against Haufla, claiming he had prevented them from executing their duties. In September 2010 police released Haufla on bail. The case was pending at year's end.

Prison and Detention Center Conditions.—Prisons were generally overcrowded, and some prison buildings were dilapidated; however, the government continued to make significant improvements, working to renovate and expand overcrowded prisons and holding cells. Renovations and extensions were completed in 2010 and 2011 in half of the 13 prisons. Windhoek Central Prison, the second largest prison, made significant improvements over the past three years, including the introduction of a case management system that classifies inmates according to risk and assigns accommodations, training, and counseling based on this model. The prison also oversees five vocational skills training workshops targeting unemployment and reducing recidivism.

According to the Ombudsman's Office, which had criticized prison conditions throughout the country in earlier years, general prison conditions have risen to "acceptable" levels in the last one or two years. Authorities try to comply with minimum standards of sanitation, provide three meals per day (although resource limitations mean they have problems providing special diets when needed), water, space, bedding, toiletries, and washing facilities. Each prison has a medical clinic with a registered or enrolled nurse, and inmates with serious health conditions are referred to state hospitals.

Conditions in detention centers and police holding cells—sometimes located inside prisons—remained poor. The country's prisons were built to hold 4,475 inmates. According to the Ombudsman's Office, there were 4,314 inmates in October. Although total figures indicated balance, overcrowding remained a problem in some of the country's largest prisons, especially since many pretrial detainees were co-located with convicted inmates. For example, Windhoek Central Prison was designed to hold 912 inmates but, according to prison authorities, at year's end held approximately 2,000 inmates and pretrial detainees.

Conditions in police holding cells were poor, and overcrowding was a serious problem in Windhoek, Ondangwa, Swakopmund, Oshakati, and Otjiwarango. After a June 2010 visit to police holding cells in the South, Margaret Mensah-Williams, the vice chairperson of the National Council, characterized conditions as inhumane. Mensah-Williams cited dirty and cold cells, insufficient blankets, poor food, unhygienic kitchen utensils and pots, poor lighting in cells, and improperly functioning toilets. The Ombudsman's Office reported that many inmates were confined to a small space with minimal ventilation and washing facilities. In October there were 3,456 suspects in holding cells designed to hold a maximum of 3,515 persons. The cabinet took action to address the need for additional space by authorizing the Ministry of Safety and Security to include funding for new remand prisons in its budget.

Conditions for women are generally better than for men. Female prisoners in Windhoek were moved to less crowded facilities in outlying areas, although this made family visits more difficult. The space they vacated was used to accommodate the increasing male prisoner population. The Windhoek-based nongovernmental organization (NGO) Legal Assistance Center (LAC) reported female prisoners can keep their babies with them for two years and are provided food and clothing for them.

Under the law, juvenile offenders may not be housed with adults. Prison authorities reported this law was being upheld, but there were reports that juveniles in rural police holding facilities were sometimes held with adults.

Prisoners and detainees had reasonable access to visitors and were permitted to participate in religious observances. Victims of prison abuse were able to pursue legal remedies, although lengthy delays were common.

The Ombudsman's Office investigated credible allegations of inhumane conditions, documented results, and made written recommendations; however, it was not authorized to intervene in individual cases. The government investigated and monitored prison and detention center conditions.

The government required NGOs and the media to apply to the Commissioner General of Prisons for permission to visit prisons. The government continued to grant both local and international NGOs access to prisons and prisoners. The International Committee of the Red Cross (ICRC) and the U.N. High Commissioner for

Refugees (UNHCR) visited prisons and detention centers during the year. The government rarely acceded to such requests from the media.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest or detention. In contrast to previous years, there were no reports that the government did not observe these prohibitions.

Role of the Police and Security Apparatus.—NAMPOL, which has approximately 12,000 employees, is under the Ministry of Safety and Security; the Namibian Defense Force (NDF), which has approximately 15,000 to 20,000 active duty 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. Police corruption and impunity caused some problems (see section 4). NAMPOL lacked the resources, training, and personnel to effectively deter or investigate street crime.

Police continued to receive human rights training designed by LAC. Some officers attended training programs with human rights components, including human trafficking, at the International Law Enforcement Academy in Gaborone, Botswana. NAMPOL invited guest speakers to lecture on human rights at the police college, and more than 20 officers completed a three-month certificate course on human rights at the University of Namibia.

According to various civil society organizations, including at least two committed to the protection of sex workers, police officers continued to threaten prostitutes with arrest, or to abandon them in remote areas, if they did not provide free sex.

Arrest Procedures and Treatment While in Detention.—Arrest warrants are not required in all cases, such as when a suspect is apprehended while committing 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 follow these provisions in practice. Detainees generally were promptly informed of the charges against them. The constitution stipulates that the accused are entitled to defense by legal counsel of their choice. For indigent defendants, the state-funded Legal Aid Directorate provides free legal assistance in criminal cases, and as resources were available in civil matters, particularly divorces. Local human rights NGOs reported the Legal Aid Directorate faces severe resource constraints that hampered its ability to provide effectively services in all cases. 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, 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.

Lengthy pretrial detention remained a significant problem. In 2010 approximately 8 percent of the general prison population was awaiting trial. The lack of qualified magistrates and other court officials, high cost of legal aid, slow or incomplete police investigations, and continued postponement of cases resulted in a serious backlog of criminal cases and delays of years between arrest and trial. During the year the High Court and Prosecutor-General's Office continued searching for and implementing proposals to improve the pace of administering justice, including granting increased case management powers to judges, and considering the introduction of new case management and plea bargaining systems. The lack of a plea bargaining system to expedite case conclusion and poor case management systems generally slowed the pace of trials, which can take years to complete.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and 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.

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.

In some instances, cases which had been resolved in customary courts were tried a second time in government courts. In at least one case negotiated by a customary court, a teacher accused of impregnating his underage student paid a settlement to the victim's family, only to face criminal charges in a government court.

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 law provides for public trials but not the use of juries. Defendants have the right to be present at trial, to consult with an attorney in a timely manner, and, with their attorneys, to have access to government-held evidence. Indigent defendants are entitled to a lawyer provided by the state in criminal and divorce cases; however, this often did not occur due to an insufficient number of public defenders. LAC reported that even though the Supreme Court found that the state must provide legal assistance where gross injustice would occur otherwise, many cases of rape, murder, and other serious crimes continue without the accused having adequate legal representation, since the Legal Aid Directorate could not assist them all. 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.

More than a decade after Caprivi separatists attacked government facilities in the contested region in 1999, 112 surviving Caprivians accused of treason had yet to have their cases resolved. The enormity of the state's case, resource constraints, and legal wrangling continued to delay the Caprivi trial, which consisted of five trials or hearings.

The main trial originally had 131 detainees alleged to have participated in the 1999 attacks charged with a total of 278 counts related to treasonous activities. At least 19 of the accused have died in prison, including one during the year who died from natural causes. The trial of two ethnic Mafwe witnesses resumed in February with no notable developments; the individuals were part of the main Caprivi treason trial and appeared in court in 2006 on charges of perjury and obstruction of justice for denying statements they had made to original investigators in the Caprivi case.

Ten secessionists were convicted of treason in 2007 and sentenced to more than 30 years. However, the judge ruled in 2009 that the 10 could appeal to the Supreme Court against the length of the sentences they received.

The "trial within a trial" is a hearing that began in April 2009 to determine the admissibility of allegedly self-incriminating statements made by 26 of the defendants before various magistrates. In September 2010 the Supreme Court turned down a request by the state to appeal part of a judgment in which presiding High Court Judge Elton Hoff ruled that alleged confessions made by 26 of the men being prosecuted in the treason trial cannot be used as evidence against them. In January Judge Hoff ruled evidence linking four suspects to the 1999 secessionist attempt was inadmissible. Defense attorneys had argued the men were assaulted by police and not informed of their right to legal assistance at the time of their arrests. The Supreme Court justices called for the speedy resolution of the trial, now in its seventh year.

In November the case of Albius Moto Liseli, whose 2009 arrest made him the last man arrested in connection with the Caprivi separatist plot, was postponed to April 2012, when the judge is expected to hear arguments.

Civil suits were brought by defendants who claimed to have been tortured at the time of their arrests. During the year the High Court ruled in favor of the ministers of home affairs and defense in three more civil suits. To date, the High Court has dismissed eight civil claims against the ministers of home affairs and defense, 24 cases have been settled out of court, and 90 cases remained pending. LAC continued to represent detainees.

Political Prisoners and Detainees.—NamRights has categorized the 112 surviving Caprivi high treason detainees as "political prisoners," while Amnesty International categorized 70 percent of them as "prisoners of conscience." There were no other reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies.—There exists in civil matters an independent judiciary, 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. The Communications Act, popularly known as the "Spy Bill," which was passed in November 2009, has not fully been implemented. 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. Opponents of the law considered it an invasion of privacy and a violation of the right to free expression.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the government generally respected this right. Some independent and government journalists practiced self censorship. African Media Barometer reported that the level of free expression also varies among media, with broadcast media feeling more potentially threatened and, particularly in the case of government-owned media, leading to self-censorship.

Freedom of Speech.—Individuals generally could criticize the government publicly or privately without reprisal.

Freedom of Press.—In its annual Press Freedom Index for 2010, Reporters Without Borders noted a significant rise in Namibia's ranking for respect for media freedom. However, NamRights and at least one newspaper editor reported that some journalists allegedly received threats or derogatory text messages for criticizing the government or the ruling SWAPO party. Minister of Youth, National Service, Sport, and Culture Kazenambo's threats in November against a journalist for questioning his travel expenses for an official trip to Germany were widely reported. Public reaction to Kazenambo's outburst was mixed, with many citizens arguing that the minister's conduct was inappropriate, while others dismissed the threat as empty. The Media Institute of Southern Africa issued an alert, condemning the minister's verbal attack on a journalist. The ruling SWAPO Party, however, remained publicly silent.

There were five daily national newspapers, four of which were independent, and six independent weekly newspapers. The government ran one newspaper and an official press agency, whose boards were appointed by the minister of information and communication technology. The government shared equal ownership of a regional weekly newspaper with the Government of Zimbabwe. The ruling SWAPO party owned one publication.

The government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television, which was the most widely broadcast and influential medium in the country. NBC's television and nine radio services broadcast in English and indigenous languages. There were 12 private radio stations and two private television networks, One Africa TV and Trinity Broadcasting Network (TBN). SWAPO owned 51 percent of the country's sole cable and satellite television provider.

In 2009 the Namibian Forum of Editors established—with the government's support—the Office of the Media Ombudsman as an independent investigator and arbiter of complaints against the media. The Media Ombudsman has been appointed since by local newspaper editors and has continued to function free of any government interference. According to the Media Ombudsman, complaints against the press declined between 2010 and 2011.

On August 30, the cabinet lifted a 10-year ban on government departments advertising in, or purchasing from, The Namibian daily newspaper. Former president Sam Nujoma had imposed the ban because of the newspaper's perceived antigovernment bias. NBC also announced it would reintroduce call-in programs that were terminated in 2009 because some callers allegedly were abusing their freedom of speech with derogatory comments directed at the government.

The Media Institute of Southern Africa (MISA) issued four media alerts on Namibia during the year, including the above-mentioned alert regarding the youth minister. The media alerts called attention to threats against the freedom of speech. The other three alerts included:

The Hambukushu Traditional Authority fined NBC's Rundu-based reporter Wilfred Nyambe N\$2,000 (\$247) for allegedly reporting a biased story about the authority.

A soccer official was accused of allegedly punching a journalist, when the journalist pressed for an answer on a player's eviction.

Internet Freedom.—There were no government restrictions on access to the Internet; however, the Communications Act provides that the intelligence services can monitor e-mails and Internet usage with authorization from any magistrate.

Academic Freedom and Cultural Events.—Unlike in the previous year, there were no reports of government restrictions on academic freedom. However, all government-owned institutions of higher learning, including the University of Namibia,

Polytechnic of Namibia, and the Windhoek College of Education, continued to ban the holding of political events on their campuses. In addition, the original draft of the Statistics Bill placed government controls on research, statistics collection, and the dissemination of information. In consultation with civil society, these restrictions were eased in the final iteration of the Statistics Act, as passed.

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.

SWAPO supporters continued to disrupt members of the leading opposition party Rally for Democracy and Progress (RDP) from campaigning in some towns and villages. In one incident, SWAPO supporters staged a series of soccer matches at the site of a planned RDP rally in Omusati Region in November, preventing the RDP from taking the field.

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.—See the Department of State's International Religious Freedom Report at <http://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, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the UNHCR and other humanitarian organizations in protecting and assisting refugees, returning refugees, asylum seekers, and other persons of concern, with one exception during the reporting period. In the final months of the year, UNHCR tried and failed to prevent the government from ordering the deportation of 13 Somali asylum seekers. The government assessed them to be “illegal” migrants, not asylum seekers. The case was ongoing at year's end.

The government continued to limit the freedom of travel of Cuban doctors working in the country under a Cuban bilateral assistance program. These doctors generally were not allowed to travel within or from the country without consent from the Cuban embassy, which held their passports.

Protection of Refugees.—Access to Asylum.—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.

According to the UNHCR, approximately 7,766 refugees and asylum seekers resided in Osire Settlement, formerly called the Osire Refugee Camp, while 1,228 lived outside the settlement. Angolans represented an estimated 66 percent of the refugee/asylum seeker population, with the remaining estimated 34 percent coming from the Democratic Republic of Congo, Burundi, Rwanda, Zimbabwe, Sudan, Cameroon, and other African countries. The government continued to issue identification cards to all refugees to facilitate travel outside the settlement. Nevertheless, some refugees complained they were still prevented from working outside the settlement. Only six Angolans have opted to repatriate, and a UNHCR study concluded that all remaining Angolan refugees wish to integrate locally or be awarded some alternative status.

Refugees enjoy the same protection and benefits of the law as Namibian citizens do. UNHCR stated it was not aware of any incidents of reprisal, arrest, or deportations as a result of refugees wanting to assert their rights or seek recourse under the law. During the summer, 13 Somalis requested asylum in Namibia, but the government issued a notice to deport them after deciding they were instead “illegal migrants.” By year's end, the Somalis remained in two local jails. UNHCR had not provided them refugee status but urged the government not to deport them.

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. International Refugee Day was commemorated at Osire; the prime minister and numerous foreign diplomats attended the ceremony.

Temporary Protection.—The government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 refugee convention or its 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.

Elections and Political Participation.—Recent Elections.—In the 2009 presidential and parliamentary elections, SWAPO candidate Hifikepunye Pohamba was elected to a second term as president with 76 percent of the vote. SWAPO candidates won 54 of 72 elected National Assembly seats (there are also six appointed seats). International observers characterized the election as generally free and fair, despite an inefficient vote tabulation system and unequal access to media coverage and campaign financing. Nine opposition parties, however, claimed the election was marred by irregularities. The Supreme Court finished hearing their arguments in October but had not issued a decision by year's end.

Political Parties.—Individuals and political party nominees could declare their candidacies 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 Ovambo ethnic group dominated the majority SWAPO Party. There continued to be reports that individuals who were not members of SWAPO had difficulty finding civil service employment or winning government tenders.

Participation of Women and Minorities.—Women held 19 seats in the 78-seat National Assembly, which included 72 elected seats and six appointed ones. There were seven women in the 26-seat National Council. There were five female ministers and four female deputy ministers among the 41 ministerial and deputy ministerial incumbents. There were two female judges among the 11 permanent judges on the High Court.

Virtually all of the country's ethnic minorities were represented in parliament and in senior positions in the cabinet, except the San and Ovahimba. Historic economic and educational disadvantages limited the participation of the indigenous San and Ovahimba ethnic groups in politics. Although the ruling SWAPO party was dominated by Ovambos, members of smaller ethnic groups held the offices of deputy prime minister, speaker of the National Assembly, and deputy 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. During the year the Anti-Corruption Commission (ACC) continued with awareness campaigns and held workshops for government officials, politicians, civil society organizations, church leaders, and school children on the dangers of corruption. NAMPOL opened nine cases of corruption or extortion against members of the police, all ongoing at year's end. During the year the ACC conducted several investigations into corruption. Through government institutions like the ACC, Prosecutor-General's Office, Namibian Police, Auditor-General's Office, and Office of the Ombudsman, the government took steps to prosecute or otherwise punish officials who engaged in corruption. Cases of corruption, abuse of authority, and conflict of interest still occurred. However, when these bodies investigated cases, they did so thoroughly.

For example, according to the New Era daily newspaper, on August 16, Melanie Theron, a magistrate in the northern town of Oshakati, appeared in court for allegedly collecting and pocketing money from traffic offenders whose fines were overdue. Offenders are supposed to pay their fines at the cash hall, and not directly to the magistrate. Theron was released on bail, and her case was ongoing at year's end. In July 2010 media sources reported that former State House deputy director Abisai Shaningwa used his new position as Omusati regional council director of planning to funnel for personal use nearly 1.5 million Namibian dollars (\$185,300) to build 27 public toilets in his region. The ACC conducted an investigation into the possible involvement of Omusati public officials in the scam, determined the case to have merit, and forwarded it to the Prosecutor-General's Office to consider for possible action.

In December 2010 Prime Minister Nahas Angula confirmed that five senior managers of the Government Institutions Pension Fund had been asked to take voluntary leave to facilitate a probe into the Development Capital Portfolio (DCP), which had lent more than 661 million Namibian dollars (81.67 million) to 21 Namibian companies through the DCP from the late 1990s until 2002. Many of the loans were never repaid. A 2006 audit revealed that the loans were fraught with irregularities, such as incomplete loan applications from politically connected businessmen, and were awarded shortly before their businesses failed. Namibian Police were investigating the 97 million Namibian dollars (\$11.98 million) in unpaid loans that occurred before the ACC was created.

Security force corruption and impunity were problems in the recent past, but not on a large scale. The ACC reported it had not observed any impunity in the security

forces during the year. Whenever a case of corruption did arise, the Namibian Defense Force and Namibian Police chiefs were cooperative and provided their full support to the investigation.

Members of Parliament were required under their Code of Conduct to declare their assets. However, the assets register has only been published twice since independence, in 2003 and 2009. The law outlaws public officials' conflict of interest and potential abuses of power, but enforcement mechanisms in the act are weak and internal only. Civil society organizations charged that the 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 law provides 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. Although government departments have typically proven hesitant to provide assistance, the Ombudsman's Office, NamRights, and the ACC reported the Namibian Police have been cooperative and helpful in corruption and human rights investigations.

NamRights and LAC, both independent organizations, were the primary human rights NGOs in the country, and the police regularly met with both. LAC often assisted police with human rights training, while NamRights reported allegations of police brutality and abuse of power.

U.N. and Other International Bodies.—The government generally cooperated with international human rights organizations, and the ICRC and other international bodies made visits during the year.

Government Human Rights Bodies.—There was an autonomous ombudsman, with whom the government cooperated; he was considered effective in addressing some corruption and human rights problems. Between January and October, the Ombudsman's Office received 166 human rights-related complaints from the public. These included alleged violations of fair trial rights, illegal detention, delays in finalizing criminal appeals, alleged assaults by prison officials, and land-grabbing by surviving family members following a death.

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 all these prohibitions.

Women.—Rape and Domestic Violence.—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 2010, 11,854 cases of gender-based violence were reported, 3,074 of which involved rape (a 294 percent increase from 2009). The true extent of rape is thought to be higher, and only a minority of cases were prosecuted or resulted in a conviction.

In 2009 LAC reported more than one-third of rape victims withdrew their cases, due to compensation from the accused, family pressure, shame, threats, or the length of time involved in prosecuting a case. 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. LAC argued additional training and raising awareness was required at all levels, and across all involved government ministries to better address child rape cases.

According to a 2008 LAC study, approximately 70 percent of rape suspects are arrested, but only 18 percent ultimately are convicted in a court of law. Most cases are tried by traditional authorities, rather than in government courts. A January article in the Namibian Law Journal complained that judges are applying "inconsistent and problematic" approaches to sentencing rape perpetrators.

The law prohibits domestic violence; however, the problem was widespread. Penalties for domestic violence, which includes physical abuse, sexual abuse, economic abuse, intimidation, harassment, and serious emotional, verbal or psychological

abuse, ranged from a fine of 300 Namibian dollars (\$37) to 10 years' imprisonment and a fine for assault with intent to cause grievous bodily harm. No information was available on enforcement of the law, except as it involved rape. When reported, the woman and child protection unit of the Namibian Police intervened in domestic violence cases.

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. During the year the government completed renovation of five shelters for victims of gender-based violence.

Sexual Harassment.—The labor act explicitly prohibits sexual harassment in the workplace and requires employers to take reasonable steps to protect employees from such harassment. Employees who leave their jobs due to sexual harassment are entitled to reinstatement or compensation. No sexual harassment case has ever been filed.

Sex Tourism.—Neither the government nor civil society keeps statistics on sex tourism, although there is anecdotal evidence that a small amount of it exists. However, sexual exploitation, including the sexual exploitation of children, does exist.

Reproductive Rights.—There were no government restrictions on contraception, but abortion remained illegal. 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. According to statistics released in 2010 by the Ministry of Health and Social Services, the country's maternal mortality ratio in 2006 was 449 per 100,000 live births, a near doubling of the rate in 1992; the high rate was attributed to the general lack of access to effective healthcare. UNICEF reported that unsafe abortions account for nearly 20 percent of maternal deaths. The government and NGOs continued to make a strong effort to educate men and women equally in the diagnosis and treatment of sexually transmitted infections, including HIV.

The government has no policy to forcibly sterilize HIV-positive women. However, a 2008 case against the government, in which doctors at state hospitals allegedly sterilized 16 women following caesarean sections, was still awaiting judgment at year's end. Attorneys for the government claimed the women gave written consent to be sterilized before the procedures were carried out. The plaintiffs, who admit signing consent forms, charged that they were not properly informed of the consequences.

Discrimination.—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 addressing complaints of 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 custom by which a widow or widower was obliged to marry the brother or sister of the deceased to ensure that the surviving spouse and children were cared for was still practiced in some areas of the country. A Namibia Law Journal report from January found that the practice of widow inheritance (levirate) and widower inheritance (sororate) were still common among the Ovambo, Herero, Lozi, and to a lesser extent, the Kavango.

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.—Birth Registration.—The constitution provides for citizenship by birth within the country's territory or from one's parents. According to a 2006-07 survey conducted by the government, approximately 33 percent of children—many of whom were born at home in rural areas—did not possess birth certificates, which are necessary to apply for social grants. Although prohibited by law, anecdotal evidence suggests teachers in regions bordering Angola, Zambia, Zimbabwe, and Botswana sometimes refused to teach children who could not prove their citizenship. Namibian mothers who delayed registration of their children at birth often faced a difficult

process and long delays. If a child's parents died before registering their child with the government, and if the child did not obtain the needed death certificates or other necessary documentation for his or her parents, the child faced still greater challenges in proving his or her citizenship and right to access government services.

The Ministry of Home Affairs and Immigration, in partnership with UNICEF, continued its efforts to provide birth certificates for newborns at clinics and hospitals throughout the country, including through mobile registration vans and establishing birth registration offices at 11 high-volume hospitals.

Education.—Although the constitution provides children under the age of 16 with the right to compulsory, tuition-free, and universal primary and junior secondary education (grades one through 10), the numerous fees—including for uniforms, books, boarding costs, and school improvement—placed a heavy burden on poor families and precluded some children from attending. In general, more girls than boys were enrolled in secondary schools. Many San children and children from destitute families did not attend school, but the government continued to provide mobile schools for children who lived in semi-permanent settlements. In 2010 approximately 1,500 girls dropped out of school due to pregnancy. In June the Ministry of Education hosted a conference to address the education system's deficiencies and the cabinet adopted the conference's recommendations in December.

Child Abuse.—Child abuse was a serious problem, and authorities vigorously prosecuted crimes against children, particularly rape and incest. According to police records and media reports, in 2010 at least 800 children and juveniles were murdered, raped, or assaulted during the year. The true incidence of child abuse was thought to greatly exceed the number of reported cases.

Child Marriage.—The law prohibits marriage before the age of 18; however, child marriage occurred.

Harmful Traditional Practices.—Female genital mutilation rarely was practiced. The women's rights organizations Sister Namibia and the Women's Leadership Center continued to condemn cultural practices of initiation sex for young girls, including dry sex (the practice of applying astringents to the vagina before sexual intercourse to enhance male pleasure) and the stretching of the labia minora.

Sexual Exploitation of Children.—The law criminalizes the actions of both the client and the pimp in cases of sexual exploitation of children under 18 years of age, and also criminalizes 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. Possession of, or international trade in child pornography is also illegal. 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 to reduce the trauma suffered by abused children.

NGOs that work with sex workers reported that most child prostitution occurred without third-party involvement, as a means of survival among HIV/AIDS orphans and other vulnerable children. Often, children sold themselves in this way for food, clothing, or other items or money. The existence of HIV/AIDS orphans—although declining for the first time—increased the vulnerability of children to sexual abuse and exploitation.

Infanticide.—During the year, the media reported numerous cases in which parents, usually young mothers, abandoned and sometimes killed newborns for whom they felt they were not able to care. For example, in December a leading newspaper reported that a young mother first tried to abandon her infant child and then buried it alive. In 2008 staff at a waterworks facility in Windhoek estimated they discovered an average of 13 newborn bodies every month amongst the human waste flushed down toilets. Anecdotal evidence suggests this trend continues. A 2011 public survey conducted by the Government of Namibia, the Legal Assistance Center, and UNICEF indicated that the main reasons mothers abandon their babies was that the father denies paternity, the mother is a student, or the mother does not know about other options, such as adoption.

Displaced Children.—During the year the government continued efforts to provide medical care, school fees, social grants, and other assistance to HIV/AIDS orphans and other vulnerable children.

Anti-Semitism.—There was a very small Jewish community, and no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, health care, education, or the provi-

sion of any state services. 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 overseeing concerns of people with disabilities.

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.

Indigenous People.—Other ethnic groups have historically exploited the San, the country's earliest known inhabitants. 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, such as the Ovaherero, have been unable to exercise these rights fully as a result of minimal access to education, limited economic opportunities, and their relative isolation. Indigenous lands were effectively demarcated, but poorly managed. NGOs such as the Working Group of Indigenous Minorities in Southern Africa, LAC, and NamRights helped San communities assert their basic human rights during the year.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The Sodomy Act prohibits consensual same-sex sexual activity between men; however, all same-sex sexual activity was considered taboo by many citizens.

Politicians publicly stated their opposition to legislation specifically protecting the rights of lesbian, gay, bisexual, and transgender (LGBT) persons, but there were no reports that politicians made derogatory public comments about the LGBT community.

OutRight Namibia, an organization that advocates for LGBT rights, reported that police generally did not take complaints of violence against LGBT persons seriously. OutRight Namibia claimed police often ridiculed LGBT persons when they reported cases of abuse, and this secondary victimization often dissuaded victims from reporting abuses. However, the organization reported the Office of the Ombudsman and the Ministry of Health's Department of Special Programs had strengthened their relations with the LGBT community, which was included as a focus for assistance in the National Strategic Framework.

Societal discrimination against the LGBT community continued. For example, OutRight Namibia reported that in August, a transgender woman was stoned in the southern town of Keetmanshoop while running errands. She declined to report the incident to police, since they failed to act on similar complaints she made in the past.

In another case, in September, a man stabbed a lesbian to death at a speakeasy in Windhoek's poor outskirts because she was having a conversation with another woman. Witnesses reported the man complained that "men cannot get any women because the lesbians are taking them all."

In June the government rejected three U.N. Universal Periodic Review recommendations on LGBT rights. According to OutRight Namibia, the government argued that its religious and moral position would be compromised by discussions of the subject.

Other Societal Violence or Discrimination.—Societal discrimination against and stigmatization of persons living with HIV/AIDS remained a problem. However, there were no reports of employment discrimination based on HIV/AIDS status. The government supported the work of the Namibia Business Coalition against HIV/AIDS to eliminate discrimination in the work place. The trial concerning 16 HIV-positive women who claimed they were sterilized against their will by doctors performing their caesarean sections at state hospitals was ongoing at year's end (see section 6, Women).

In contrast to 2010, there were no reports that persons with albinism were murdered and that their body parts were missing or mutilated, factors consistent with ritual killings.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides for the right to form and join independent unions, conduct legal strikes, and

bargain collectively; however, workers in “essential services” were prohibited from joining unions.

Except for workers in public health, safety, and other essential services, workers have the right to strike once conciliation procedures are exhausted and 48-hours’ 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 provides for arbitration and conciliation to resolve labor disputes more quickly. The law prohibits unfair dismissal of workers engaged in legal strikes. Labor law also specifically prohibits employer retaliation against both union organizers and striking workers and provides for reinstatement for workers dismissed for union activity, as long as the worker’s actions at the time were not in violation of other laws.

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. The labor code provides for the protection of all workers, including migrants, nonessential public sector workers, domestic workers, and those in export processing zones.

The government generally enforced this law, but not always effectively. The Namibian Employers’ Federation reported a shortage of labor inspectors and other resources constrained the government’s ability to be fully effective in enforcing its laws, particularly in the area of minimum wages in the security, construction, and agriculture industries. The Ministry of Labor continued to cite lack of information and basic negotiation skills as factors hampering workers’ ability to bargain with employers successfully. During the year, the government continued efforts to train labor inspectors and educate workers on their rights.

In general, freedom of association and the right to collective bargaining were respected by the government and employers, and workers exercised these rights in practice. The majority of trade unions were officially affiliated with the ruling SWAPO party, which many argued limited their independence in promoting worker rights. In September following the prime minister’s failed attempt at arbitration, President Pohamba intervened to resolve a labor dispute and end a lengthy strike at the country’s leading diamond producer, Namdeb. Aside from mediation efforts, the government was not directly involved in union activities. Employers also did not appear to interfere in union activities.

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, including poor access to health care.

Workers called strikes during the year in mining, tourism, and other sectors.

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. Employers respected the collective bargaining process, although discussions are ongoing around legitimizing “labor hire” (third party temporary contracts), and there were some accusations that some companies resorted to labor hire to avoid fringe benefits. Most labor hire companies provided such benefits anyway. In 2009 the Supreme Court declared unconstitutional a provision in the 2007 Labor Act that prohibited employers from hiring third-party temporary or contract workers. The government continued to make changes to the law to regulate private employment agencies.

There were instances of companies failing to reinstate workers who were fired for legal union activities. In November China Jiangxi International fired workers who coordinated with a union to demand they be paid a minimum wage, as stipulated in the Namibian Labor Act. Ministry of Labor inspectors took part in the inconclusive negotiations on reinstating workers.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, including by children. There were no formal reports of forced or compulsory labor, and child labor was investigated when reported. The Ministry of Labor makes special provisions in its labor inspections to look for underage workers, and it has prioritized such special investigations.

Still, NGOs and the media alleged forced labor occurred. There continued to be media reports that farm workers on communal farms and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers, including physical punishment and prolonged work hours. The alleged victims are usually women and (often migrant) children.

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 and private households, labor inspectors sometimes found it difficult to investigate possible labor code violations. Inspections of family-owned farms continued to be problematic and controversial, since Namibia's constitution enshrines privacy as a fundamental right. The Labor Act, however, makes an exception to the right to privacy in the case of labor inspectors gaining access to family farms. NGOs complained access to private farms was one of the leading challenges in addressing child labor.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>

c. Prohibition of Child Labor and Minimum Age for Employment.—The minimum age for employment is 14, with higher age requirements for night work and in certain sectors, such as mining and construction. With certain exceptions, no employee may work more than 45 hours per week, or more than nine hours per day. Children between the ages of 14 and 16 may not work in hazardous or harmful conditions; between the hours of 8:00 p.m. and 7:00 a.m.; or where the work is underground or in a mine, construction or area where demolition takes place, goods are manufactured, electricity is generated, transformed, or distributed, or machinery is installed or dismantled.

All the same conditions apply to a child between the ages of 16 and 18, except that of working under hazardous or harmful conditions. The minimum age was inconsistent with the age for completing education requirements. The law provides that persons found guilty of employing children can face a maximum fine of 20,000 Namibian dollars (\$2,471) and/or up to four years' imprisonment.

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 institution to implement and enforce child labor laws, but generally used regular labor inspections as well as other monitoring mechanisms for orphans and other vulnerable children. There were approximately 40 labor inspectors in 2011, specially targeting smaller towns and districts. All were trained in identifying the worst forms of child labor. Small-scale labor inspections continued on a regular basis, although—contrary to previous years—the Ministry of Labor was unable to secure the involvement of the ministries of security, home and immigration, and education in its inspections. This reduced the inspection teams' ability to immediately open legal cases against alleged abusers, verify legal immigration status, and secure a seat in school for child labor victims. No inspector focused exclusively on children's services, but the Ministry of Labor created a Child Labor Desk to manage this caseload. There were no prosecutions by year's end.

The government continued several programs designed to help children 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 (ILO), the government also participated in a four-year program to withdraw and prevent children from entering exploitive labor in agriculture and adult-coerced criminal activity. The government continued to distribute a comprehensive guide on the 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. The ILO reported it was helping draft regulations to combat child labor in hazardous sectors, which will be presented to the government in 2012. In 2008 the government developed a national action plan on the elimination of child labor, and five key ministries were developing work plans that incorporated anti-child labor initiatives. The ILO further reported that the cabinet issued a directive for joint interministerial investigations where child labor allegations arise.

However, child labor continued to be a problem. Children worked mostly on private and commercial farms; herded cattle, goats, and sheep; worked as child minders or domestic servants; and worked in family businesses. Some children assisted parents working in the charcoal industry. There continued to be media reports that children on communal farms and domestic workers were subject to strict control by employers, including physical punishment, long work hours, and not being allowed to attend school.

Sectors in which children were involved in the worst forms of child labor included agriculture and livestock, domestic service, and the commercial sex industry.

d. Acceptable Conditions of Work.—There was no statutory minimum wage law, but the mining, construction, security, and agricultural sectors set basic levels of

pay in each of their sectors through collective bargaining. Namibia's National Planning Commission (NPC) reported that in 2009-10, Namibians were considered "poor" if they earned Namibian dollars \$395.89 (\$48.91) per month, and "severely poor" if they earned Namibian dollars \$286.84 (\$35.44) per month. Per the NPC, 30 percent of Namibians were poor, and 16 percent were extremely poor.

The standard legal workweek was 45 hours, with at least one 36-consecutive-hour rest period between workweeks. 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 20 workdays of annual leave per year for those working a five-day workweek, at least 30 workdays of sick leave over a three-year period, and three months of maternity leave paid by the employer and the Social Security Commission.

The Ministry of Labor mandates occupational safety and health standards, and the Labor Act empowers the president to enforce these standards through inspections and criminal penalties. 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.

Although these laws apply to all workers, in practice violations occurred. The Namibian Employers' Federation reported the biggest offender, with regards to employee rights and working conditions, was the informal sector, including the common informal bars known as "shebeens." During the year, the Ministry of Labor carried out a series of inspections in the retail sector of Katima Mulilo, in the Caprivi region. Most offenders were Chinese owners of retail shops, who underpaid and overworked their Namibian employees.

The government did not always enforce labor laws effectively. Inspections occurred proactively, reactively and at random. The Ministry of Labor established a national task force on safety but lacked an adequate number of trained inspectors to monitor adherence, especially in small family-owned operations.

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, failing to respect work-hour regulations for public holidays and Sundays, and requiring construction workers to sleep on site. Investigations into such allegations were ongoing at year's end. Despite the law, some workers could not exercise the right to remove themselves from dangerous work situations. Migrant workers have the same legal rights as citizens, but these may be less vigorously enforced.

NIGER

EXECUTIVE SUMMARY

Niger is a multiparty republic. On March 14, voters elected opposition leader Issoufou Mahamadou president in a poll characterized by international observers as generally free and fair. National Assembly elections held on January 31 were also deemed free and fair. Issoufou replaced former interim president Salou Djibo, who had been appointed by the Supreme Council for the Restoration of Democracy (CSRD) after it overthrew then president Mamadou Tandja in February 2010. On May 10, the Niamey Court of Appeals ordered the release of Tandja, who had been detained since February 2010. Most former government officials also detained with Tandja were released during the year. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently of civilian control. In July members of the military were arrested for an unsuccessful coup attempt, although details remained unclear at year's end.

The most serious human rights problems in the country included harsh and life-threatening prison and detention center conditions, discrimination and violence against women and children, and forced labor and caste-based slavery among some groups.

Other human rights problems included extrajudicial killings and use of excessive force by security forces. Attacks by armed groups also resulted in deaths. Arbitrary arrest and detention, prolonged pretrial detention, and executive interference in the judiciary occurred. The government restricted freedoms of press, association, assembly, and movement, although such incidents dramatically decreased from previous years. Official corruption was pervasive. Female genital mutilation (FGM), trafficking in persons, and child labor occurred.

The government generally took steps to prosecute officials who committed abuses; however, impunity was a problem.

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 killing two demonstrators and for the deaths of two civilians during security patrols in the north.

On January 12, security forces killed a civilian near Taddara Well, in Agadez Region, following a skirmish between government forces and purported drug traffickers or members of al Qaida in the Islamic Maghreb (AQIM) that resulted in the death of a soldier. Civilians in Arlit organized a protest march to condemn the incident, after which local authorities mediated a settlement with the victim's family.

On September 15, in northern Air, a military detachment in pursuit of a truck suspected of carrying recruits for AQIM killed the driver of the truck. Authorities later determined the 59 suspected AQIM recruits were migrants en route to Algeria. On October 1, local officials offered the government's condolences and apology to the victim's family.

On December 6, at the city courthouse in Zinder, police used batons, whips, and tear gas to disperse demonstrators protesting the trial of a political activist. Laminou Mai Kanti, a student demonstrator, was struck in the head with a tear gas canister and died; numerous other demonstrators were injured, including 13 who were hospitalized. The officer suspected of firing the tear gas canister was arrested and placed in custody. On December 7, students and other demonstrators took to the streets to protest the previous day's violence. A female bystander was killed by a stray bullet fired by a police officer. An investigation into both incidents continued at year's end.

Disputes between herders and farmers over land rights and grazing areas continued and resulted in several deaths.

During the year armed bandits—most of whom entered the country from Mali on motorcycles—attacked herder camps in Tillabery Region, resulting in numerous deaths, injuries, and loss of livestock and other property. Two persons were killed in such an attack on January 26, in the village of Kosseye; six herders were killed on April 10, in Igaran; 18 persons were killed on April 21, including women and children, in an attack in Innabaguel and Tingara; four persons, including two young children were killed on May 26 in the village of Sounka; 11 persons were killed on May 28 in northern Tillabery; and 10 herders were killed on June 17, in Hollé Hamani, Tillabery. On June 22, the government announced a Nigerien-Malian joint security operation to eradicate the violence and to bring the perpetrators to justice. Nevertheless, no investigations or prosecutions were conducted during the year into any of the attacks, and several human rights and community groups criticized government inaction.

On July 21, in Banibangou, Tillabery, the prime minister chaired a meeting between Nigerien and Malian officials and community leaders to find a sustainable solution to the problem. As a result, on July 29, the Daoussaq Tuareg community of Menaka and Ansongo, Mali, formally pledged to stop all acts of violence against the Nigerien Fulani community. On August 2, in Menaka, Mali, the Nigerien and Malian parties agreed to the accord, and there were no further attacks by year's end.

On February 8, the Court of Justice of the Economic Community of West African States (ECOWAS) issued its verdict on the government's investigation into the army's 2007 killing of six civilians and an off-duty police officer near Tiguidit. The court ruled that the soldiers accused of the killings had amnesty under Nigerien law, but that the government was responsible for the deaths and had violated the right of victims' families to seek legal recourse. The court set March 10 as the date by which victims' families, who brought the case, were required to file civil suit to seek compensation; however, the families decided against proceeding with such action.

b. Disappearance.—On January 7, in Niamey, French citizens Antoine de Leocour and Vincent Delory were kidnapped and then taken to northern Mali. French and Nigerien troops launched two failed operations to rescue the hostages, who were found dead at the border between Niger and Mali. Four kidnappers and three members of Niger's security forces were killed in the operation. AQIM claimed responsibility for the abductions and for killing Leocour.

On February 25, elements of AQIM believed to be resident in Mali released three hostages abducted in September 2010 in the mining town of Arlit. Four French hostages kidnapped at the same time remained in captivity in Mali; a fifth French hostage was killed in July 2010.

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 beat and abused civilians (see section 2.b.).

According to press reports, on May 31, National Guard members in Aderbissinat, a village south of Agadez, beat and injured several persons during a brawl between young villagers and National Guardsmen over a personal dispute. There was no reported action taken against the Guardsmen.

Prison and Detention Center Conditions.—Conditions in the country's 38 prisons were harsh and life-threatening. Prisons were underfunded, understaffed, and overcrowded. The Niamey Civil Prison, built for 350, held 750 inmates. Nutrition, sanitation, and health conditions were poor, although prisoners had access to potable water and were allowed to receive supplemental food, medicine, and other items from their families. Basic health care was available, and patients with serious illness were referred to public healthcare centers. Ventilation and lighting were inadequate. Plans to improve recordkeeping were not implemented during the year.

The country's prisons held approximately 7,000 inmates, an estimated 3.2 percent of whom were female. Deaths occurred during the year from HIV/AIDS, tuberculosis, and malaria, although no statistics were available. Pretrial detainees were held with convicted prisoners.

There were reports of corruption among prison staff. Prisoners could bribe officials to leave prison to run personal errands, and some prisoners bribed officials to serve their sentences in the national hospital in Niamey.

Prisoners and detainees had reasonable access to visitors. All penitentiaries had places of worship, and prisoners were permitted religious observance. Prisons had no ombudsmen, but authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship.

Judicial authorities and the governmental Monitoring Unit on Human Rights and Fundamental Liberties (ONDHLF) investigated and monitored prison and detention center conditions and credible allegations of inhumane conditions. Public and private media covered ONDHLF visits.

The International Committee of the Red Cross (ICRC), ONDHLF, 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.

The ONDHLF and human rights groups made recommendations to the government throughout the year on alternatives to incarceration for nonviolent offenders. The government established a law on the implementation of "general interest work" programs in juvenile courts.

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.

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 Guard, under the Interior Ministry, is responsible for domestic security and the protection of high-level officials and government buildings. The national police, also under the Interior Ministry, are responsible for urban law enforcement.

The police were ineffective, largely due to a lack of basic supplies such as vehicle fuel, radios, and other investigatory and law enforcement equipment. Patrols were sporadic, and emergency response time in Niamey could be 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 a problem.

The gendarmerie is responsible for investigation of police abuses; however, police impunity was a widespread problem.

Arrest Procedures and Treatment While in Detention.—The constitution and law require arrest warrants, and authorities generally respected this law in practice; however, some persons reportedly were arrested and subsequently charged during detention. The law allows individuals to be detained for an initial period of 48 hours without charge, and an additional 48 hours if police need more time to gather evidence, although detainees involved with sensitive cases were sometimes held longer than legally permitted. Security forces usually informed detainees promptly of the charges against them. There is a functioning bail system for crimes carrying a sentence of less than 10 years. Those arrested must be notified of their right to a lawyer within 24 hours, and law enforcement officials generally observed this provision. Indigents in civil and criminal cases were usually provided a lawyer by the govern-

ment; however, widespread ignorance of the law and lack of funds prevented many from fully exercising their rights to bail and an attorney.

Arbitrary Arrest.—Police arrested a journalist, military leaders, and occasionally conducted warrantless sweeps to detain suspected criminals (see sections 2.a. and 3).

Police arbitrarily detained a journalist during the year (see section 2.a.).

On March 4, the CSRD released former minister of interior Albade Abouba, who was arrested with other key members of Tandja's cabinet in February 2010. All but Abouba were released during the previous year.

On May 10, the Niamey Court of Appeals ordered the release of former president Tandja, who had been detained since February 2010. The court dropped corruption charges against Tandja, although state prosecutors may review the case and initiate new action if they determine there is new evidence.

On May 19, the State Court ordered the release of Colonel Abdoulaye Badie, former CSRD permanent secretary; Colonel Abdou Sidikou Issa, former commander of the National Guard; Colonel Amadou Diallo, former minister of equipment; and Colonel Aboubacar Amadou Sanda. The four had been arrested in October 2010 on charges of planning to overthrow then president Salou Djibo. The court ruled there were no grounds for prosecution. Other alleged plotters already had been released between December 2010 and March. Lengthy pretrial detention was a problem. Although 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), some detainees waited as long as six years to be tried. During the year 60 of the prisoners in Niamey's Civil Prison were awaiting trial. Judicial inefficiency, inadequate resources, staff shortages, and corruption contributed to trial delays.

Amnesty.—On May 18, the National Assembly adopted an amnesty law that includes a provision to cover the "authors, coauthors, and accomplices" of the February 2010 military seizure of power. The new law omits amnesty for persons involved in the 1996 and 1999 coups. No action had been taken on the complaint filed in 2010 by family members of former president Bare, who sought to bring to justice those responsible for his killing in 1999.

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 remained problems. Unlike in previous years, however, no judges were reassigned to lower positions or remote areas because they rendered decisions 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, who were seldom called back for trial, had complete freedom of movement, and could leave the country (see section 4).

Customary courts and traditional mediation do not provide the same legal protections as the formal court system. Traditional chiefs can act as mediators and counselors. They have authority to arbitrate many customary law matters, including marriage, inheritance, land, and community disputes, but not 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 with knowledge of the 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. 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.

Trial Procedures.—The law affirms the presumption of innocence. Trials are public, and juries are used. Defendants have the right to counsel, which is at public expense for minors and indigent defendants charged with crimes carrying a sentence of at least 10 years. 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, confront witnesses, and present witnesses and evidence 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. In April 2010 the government disseminated information brochures throughout the country to advise the public on their legal rights and the court system.

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

On September 4, at the request of the international community, security forces placed 32 Libyans connected to the Qadhafi regime under house arrest in Niamey. One was later released for medical reasons and left the country.

On September 9, the gendarmerie arrested Colonel Abdoulaye Badie, former CSRD permanent secretary, and Colonel Hamadou Djibo, reportedly for authoring and disseminating a tract calling on the military to take up arms against the government. (On May 19, Badie had been released from prison after being detained in connection with the October 2010 coup attempt against then president Djibo.) Some observers questioned any involvement by Badie and Djibo in the tract and suggested the men were more likely arrested for posing a potential threat of a military coup due to their popularity with the military. On November 10, Badie and Djibo were released; Badie subsequently was named to a foreign posting with the government.

Regional Human Rights Court Decisions.—On February 8, the ECOWAS Court of Justice gave its verdict on the government's investigation into the army's 2007 killing of six civilians and an off-duty police officer near Tiguidit (see section 1.a.). The government accepted the decision.

Civil Judicial Procedures and Remedies.—Individuals or organizations may seek civil remedies for human rights violations; they can also appeal decisions to the ECOWAS Court of Justice.

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.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press, and the government generally respected these rights in practice.

In 2010 the government decriminalized press offenses and replaced the repressive High Council on Communication with the National Monitoring Unit for Communication (ONC), which subsequently reopened media outlets and issued new licenses and license extensions for several private television and radio stations. The government also opened a media center to train journalists and created a voluntary media ethics center to allow journalists to self-regulate the industry by monitoring broadcasts and publications.

Despite these improvements, the government's control of media licensing, the requirement that journalists be accredited, and a biased judiciary remained in place and limited media freedom. During the year the government also suspended newspapers and detained a journalist. Journalists continued to practice self-censorship.

Freedom of Speech.—Individuals generally could criticize the government publicly or privately without reprisal.

Freedom of Press.—The government published a daily newspaper, and there were approximately 45 private newspapers, some of which were affiliated loosely with political parties. The private press criticized government actions.

On September 24, the government issued a public statement cautioning the media against "manifest intention to undermine" the state. The government called on media managers to be responsible and patriotic, and to comply with the rules of ethics governing the practice of journalism. The government took no further action.

Violence and Harassment.—On July 8, the ONC temporarily suspended eight newspapers for "unwarranted attacks on citizens by flagrantly violating the provisions of the charter of professional journalists." Most observers agreed that the articles in question contained exaggerations, but did not constitute libel. Complaints against the newspapers and journalists reportedly were lodged by various politicians, businesspersons, a foreign newspaper, and local newspapers *Le Soleil*, *L'Actualite*, *Le Visionnaire*, *Le Courrier*, *L'Expression*, *Le Canard Dechaine*, *l'Evenement*, and *l'Enqueteur*.

Libel Laws/National Security.—On July 21, police detained Aliou Oumarou Modibo, journalist for the weekly *Le Canard Dechaine*, on libel charges for accusing the press attache of former CSRD president Salou Djibo of stealing a camera from the president's office. Several media associations denounced the detention as a violation of the law decriminalizing press offenses. An investigation later concluded that the press attache was guilty of stealing the camera.

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 and they often criticized the government.

Unlike in the previous year, there were no reports that the government prevented international media from operating freely, especially when covering events in the North. BBC World Service was available in Niamey and Zinder. Private radio stations carried Voice of America, Radio France International, and Deutsche Welle.

Two government-owned television stations broadcast in French and the major national languages. Three private television stations broadcast local and foreign programming, including daily newscasts. A fourth private channel broadcast religious programming. International channels were available in Niamey.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Although individuals and groups could engage in the peaceful expression of views via the Internet, few residents had access to it.

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.

For example, on May 19, police beat several students and briefly detained six others during a protest at a mining school in Agadez. No reported action was taken against the police.

Police use of excessive force to disperse demonstrators on December 6 and 7 resulted in deaths and injuries (see section 1.a.).

No action was taken against security force members who forcibly dispersed demonstrators in 2010.

Freedom of Association.—Although the law provides for freedom of association, political parties based on ethnicity, religion, or region are not permitted.

Unlike in the previous year, the government did not close civil society associations; in 2010 three were closed.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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; however, the government restricted freedom of movement for some former government officials and political leaders.

The government cooperated with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, and other persons of concern.

In-country Movement.—Security forces at checkpoints throughout the country monitored the movement of persons and goods, particularly near major population centers, and sometimes demanded bribes. Transportation unions and civil society groups continued to criticize such practices. During the year gunmen robbed and killed travelers.

Foreign Travel.—During the year the government banned 32 former officials, political leaders, and businesspeople suspected of corruption from leaving the country (see section 4). The action was taken following the April 7 transfer of corruption cases from the transition government and pursuant to an audit of corruption in the previous government.

Emigration and Repatriation.—During the year approximately 210,000 persons—most of whom were Nigerien citizens—fled Libya as a result of the conflict there and returned to Niger. The government and humanitarian organizations provided assistance to returnees.

Internally Displaced Persons (IDPs).—Food shortages and floods during the year resulted in the displacement of many persons.

By October, after the rainy season, all persons displaced by floods in August 2010 had returned to their homes. Local authorities, with the help of humanitarian organizations, had resettled approximately 6,000 persons displaced by flooding in Niamey and 11,000 IDPs from Goure, Zinder, during the previous year.

International humanitarian organizations reported that community conflict between farmers and herders, and rural communities and bandits—especially in

northern Tillabery Region—resulted in 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 contributed to conflict. In addition, incursions by members of AQIM in Mali into Nigerien territory and sporadic acts of banditry on main roads contributed to displacement.

Efforts by the government and international organizations to assist IDPs during the year were severely taxed. The government provided 1.25 billion CFA francs (\$2.5 million) to help alleviate food shortages exacerbated by the return of thousands of citizens who fled Libya, and on October 6, parliament appealed to the international community for assistance. Some donors, such as the World Food Program, provided additional food assistance in response to the shortages.

Protection of Refugees.—The government has not established a system for providing protection to refugees, and the government did not routinely grant refugee status or asylum. The government did, however, grant refugee status to approximately 300 people during the year; 147 applications for refugee status were pending.

Temporary Protection.—During the year the government provided temporary protection to individuals who may not qualify as refugees under the 1951 Refugee 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, free, and fair elections based on universal suffrage.

Elections and Political Participation.—Recent Elections.—On March 14, citizens elected Issoufou Mahamadou to a five-year presidential term with 58 percent of the vote in an election that international observers described as generally free and fair. A coalition composed primarily of opposition parties—including Nigerien Party for Democracy and Socialism (PNDS), Movement for Democracy in Niger, Social Democratic Rally, Rally for Democracy and Progress, Nigerien Alliance for Democracy and Progress, and Union for Democracy and the Republic—backed Issoufou and won 83 of 113 National Assembly seats in legislative elections held on January 31. The opposition National Movement for a Development Society won 26 seats, and the Social Democratic Convention and the Union of Independent Nigeriens obtained three seats and one seat, respectively. Issoufou appointed PNDS party member Brigi Rafini as prime minister.

In November 2010 a new constitution was enacted and provides for new and strengthened democratic institutions. The new constitution also provides for the elimination of all forms of discrimination against women and introduces basic standards of respect for economic and social rights, such as the right to safe and adequate food and drinking water.

Political Parties.—Political parties operated without restriction or outside interference. Individuals and political parties could freely declare candidacies and stand for election. A new law on the statute of the opposition confers official status and benefits to the opposition leader equivalent to the rank of state institution leader. The law also mandates that the president meet with the opposition leader every month to discuss matters of national interest.

Participation of Women and Minorities.—The law mandates that women fill at least a quarter of senior government positions and at least a tenth of elected seats. There were six female ministers in the 26-member cabinet and six 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.

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 often demanded bribes to provide public services. A poorly financed and trained law enforcement system and weak administrative controls compounded corruption. Other underlying causes included 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 June the government revealed a case of massive fraud involving 1.8 billion CFA (\$3.6 million) from the National Treasury that resulted in the dismissal of several senior officials of the Ministry of Finance. In connection with this case, on August 9, authorities detained Alhassane Alkali, the former transition president's deputy cabinet director; Ibrahim Garba, former secretary general of the Ministry of Finance; Amadou Ganda Hamidou, budget director; Bassirou Adamou, financial controller; Abdoullahi Beidou, director general of the Treasury; Mahamane Lawan Sabo Mazadou, treasury accounting agent; Sidi Aissa Diallo, head of the Heavily Indebted Poor Countries fund at the Ministry of Finance; and Abdou Mounkaila and Oumarou Akibi, employees of Zakou Djibo, a businessman and member of parliament who received payment the above amount. All but Djibo were transferred to prison to await trial. Djibo was charged with several fraud and corruption counts, but has immunity from prosecution while he is a member of the National Assembly. On December 23, the government requested the lifting of his immunity, along with seven other members of parliament suspected of involvement in separate corruption cases.

In April the Court of Appeals granted provisional release to Amadou Dioffo, director general of Sonidep (fuel importation and distribution company), who was detained in November 2010 for the mismanagement of a government special account with a balance of 3.6 billion CFA (\$7.2 million). No date had been determined for his trial.

No trial dates were set for the following individuals, all of whom were detained for corruption in 2010 and granted provisional release during the year: Hadia Toulaye Tandja, the son of former president Tandja; manager of Multimedia Communications Ibrahim Hamidou; former minister of mines Mohamed Abdoullahi; and former secretary general of the Ministry of Mines Massalabi Oumarou.

There also were no developments in the 2010 embezzlement case of Seini Oumarou, party leader of the National Movement for a Development Society; Sala Habi, former minister of commerce; and two other officials of the Ministry of Commerce.

During the year the government took steps to curb corruption.

For example, on July 26, the government created the High Authority to Combat Corruption and Associated Crimes, under the oversight of the President's Office. Members of the High Authority, which is charged with monitoring the government's anticorruption programs, included government, private sector, and civil society representatives.

On August 2, the National Assembly passed a bill amending the constitution to require transparency, equal access and treatment, and public-private partnership mechanisms in bidding for and implementing government contracts, in compliance with West African Economic and Monetary Union guidelines.

On August 13, the government launched an anticorruption hotline as part of the Ministry of Justice's plan for the fight against corruption and influence peddling.

The State Inspectorate and the courts are responsible for combating government corruption. In April 2010 the government created the State Audit Court to regulate public finances and provide for transparency in the management of public funds. The court oversees the management of all government agencies and development projects funded by external resources, as well as the implementation of the budget. It also oversees the accounts of political parties and government officials' statements of personal assets submitted to the Constitutional Court. If requested by the National Assembly, the State Audit Court may conduct investigations regarding the implementation of public revenues and expenses. The court also has authority to sanction any fraud in the management of public resources.

The constitution requires 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, and this occurred in practice. These statements are to be updated annually and at the end of an individual's tenure. Initial statements and updates are published in the National Register and the press. Copies of the statements are forwarded to the government's fiscal services. Any discrepancies between the initial and the updated statements must be explained. The Constitutional Court has authority to assess discrepancies. The designated officials are not allowed to purchase or rent, by themselves or through other parties, any government-owned property, or to bid for public or private government contracts.

The law provides for access to public information and administrative documents, and this occurred in practice; many documents could also be obtained from individual ministries and the National Archives.

ection 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 in the north limited the ability of human rights groups to investigate human rights violations there.

The ONDHLF, established in May 2010, investigated and monitored prison and detention center conditions; however, it lacked resources to implement an action plan.

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 generally enforce these provisions, in large part because victims did not report discrimination or were pressured into handling it with traditional dispute mechanisms.

Women.—Rape and Domestic Violence.—Rape was a widespread problem. It is punishable by 10 to 30 years in prison, depending on the circumstances and age of the victim. The Court of Appeals tried several criminal rape cases during the year, but most cases went unreported due to the victims' fear or shame. The law does not explicitly recognize spousal rape, which was not frequently prosecuted. Survivors often sought to resolve the issue within the family or were pressured to do so, and many victims did not report spousal rape due to fear of retribution or loss of economic support.

Domestic violence against women was widespread, although reliable statistics were not available regarding numbers of 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 (\$20) 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 redress offered by the legal system and fear of repudiation, further violence, or stigmatization. The Ministry of Population, Women's Promotion, and Children's Protection, international organizations, nongovernmental organizations (NGOs), and women's organizations conducted public awareness campaigns on violence against women through several events that received wide media coverage.

Female Genital Mutilation (FGM).—(see section 6, Children—Harmful Traditional Practices.)

Sexual Harassment.—Sexual harassment is a crime punishable by prison sentences from three to six months and fines of 10,000 to 100,000 CFA (\$20 to \$200). 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 (\$40 to \$400). Sexual harassment was common. Courts enforced applicable laws in the small percentage of cases reported.

Reproductive Rights.—The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children; however, information regarding reproductive rights was not readily available. There were no restrictions on the right of access to contraceptives. Health clinics and local health NGOs were permitted to disseminate information on family planning freely under the guidance of the Ministry of Public Health. According to the Ministry of Public Health, use of contraceptives in the female population of childbirth age increased from 8.5 percent in 2006 to 16.5 percent in 2010.

Men and women received equal access to diagnosis and treatment for sexually transmitted diseases. Since 2007 the government has provided free health care for children up to five years of age, which contributed to increased access to health centers for women's general and essential obstetric and postpartum care, including prevention of mother-to-child transmission of HIV. Due to a shortage of skilled health professionals and limited resources, many women used traditional midwives (matrones) during childbirth and were referred to hospitals only when the mother or child suffered more serious health complications. According to the Ministry of Public Health, in 2009 skilled personnel attended 34.8 percent of births, and the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) dropped from 648 in 2006 to 554 in 2010. In 2008 a woman's lifetime risk of maternal death was one in 16. Major factors influencing maternal mortality

included lack of prenatal care, diseases during pregnancy, infections after birth, malnutrition, and accidents during childbirth.

Discrimination.—Although the constitution provides for equal rights regardless of gender, women do not have the same rights as men under family law, which is usually adjudicated 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, cooking, water- and wood-gathering, and other work. 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 their wives and prevented them from leaving their homes unless escorted by a male relative and, even with an escort, they were usually permitted to leave the house only after dark.

The government had programs to provide microcredit, access to clean water, and access to health services for women.

Children.—Birth Registration.—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 parental poverty, lack of awareness, and distance from government services. With the support of UNICEF, the government worked to address this problem, and several NGOs encouraged birth registration. The government's failure to register births did not result in denial of public services, although it complicated the process of qualifying as a candidate for public office.

Education.—In principle, the six years of elementary education were compulsory, tuition-free, and universal from the age of six; in practice, not all (63 percent in 2007-08) children attended school. Students were often required to buy their own books and supplies. According to the 2012 World Development Report, the primary school completion rate for girls was 75 percent lower than that for boys in 2008. Most parents kept young girls at home to work, and girls rarely attended school for more than a few years. During his inauguration ceremony on April 7, the president announced that the government would provide free education to children until the age of 16, and that education through age 16 would be mandatory; however, no laws were promulgated during the year to enforce the president's pledges.

Child Abuse.—Violence against and abuse of children was common.

Each of the 10 district courts and 36 magistrate courts had at least one 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 judges. 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.

Child Marriage.—Child marriage was a problem, especially in rural areas. The law allows a girl deemed to be "sufficiently mature" to marry at 15. Some families entered into marriage agreements under which rural girls as young as 12 or even younger were sent to their husband's families under the "supervision" of their mothers-in-law. The Ministry of Population, Women's Promotion, and Children's Protection cooperated with women's associations to sensitize traditional chiefs and religious leaders of rural communities to the problem of underage marriage.

Harmful Traditional Practices.—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 to 20 years' imprisonment. Certain ethnic groups practiced FGM, predominantly the Fulani and Djerma in western Niger. According to UNICEF, the FGM rate decreased from 5 percent in 1998 to 2.2 percent in 2006. A 2008 U.N. Office for the Coordination of Humanitarian Affairs report stated that circumcisers traveled from Burkina Faso to Niger to carry out FGM on nomadic Gourmantche girls as part of a rising trend of cross-border FGM. FGM was practiced on young girls, with clitoridectomy the most common form.

The government continued its collaboration with local NGOs, community leaders, UNICEF, and other donors to distributed educational materials at health centers and to participate in educational events. On February 5, in Niamey, the minister of population, women's promotion, and child protection chaired the celebration of the International Day of "Zero Tolerance" of FGM, during which the minister handed over to the National Museum a set of tools used by women who in previous years had publicly pledged to abandon the practice of FGM. The tools were presented as evidence that FGM continued and to spur future generations to carry on the fight

against the practice. The minister announced the establishment of 256 FGM vigilance groups and the production of information, education and communication aids on FGM. On July 1, as a result of the education campaign led by ministry and the NGO Committee for the Fight against Harmful Traditional Practices, several FGM practitioners pledged to abandon their activities.

Sexual Exploitation of Children.—Although the law criminalizes the procurement of a minor for the purpose of prostitution, child prostitution was a problem. The law does not provide a minimum age of consensual sex, although it prohibits “indecent” acts toward minors. It was left to judges 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 girls in particular were trafficked for forced prostitution along the main East-West highway, particularly between the cities of Birni n’Konni and Zinder along the Niger-Nigeria border. Families of victims were often complicit in child prostitution.

Infanticide.—Infanticide occurred, and at least half of the female prison population was charged with this crime.

Displaced Children.—Many displaced boys from rural areas were indentured to Islamic schools and begged on the streets of larger cities. For example, in June about 350 boys left their homes in Tahoua Region to accompany an Islamic teacher to the city of Agadez, where they were forced to beg. About half of them were later returned to their homes through the help of NGOs. Hundreds of children were displaced by floods in the Maradi and Tillaberi regions that destroyed homes and schools. Displaced children had access to government services (see section 2.d.).

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no significant Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State’s Trafficking in Persons Report at <http://state.gov/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 government services, and the government generally enforced these provisions. The law mandates that the state provide for such individuals, but there were no specific regulations mandating accessibility to buildings, transportation, and education for persons with disabilities. The government provided limited health care to persons with disabilities. Societal discrimination existed against persons with disabilities, particularly mental disabilities and leprosy. The Ministry of Population, Women’s Promotion, and Children’s Protection is responsible for protecting the rights of persons with disabilities, including those with sensory or intellectual disabilities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws criminalizing consensual same-sex sexual activity in general. However, the law states that an “unnatural act” with a person of the same sex who is under 21 is punishable by six months to three years in prison and a fine of between 10,000 and 100,000 CFA (\$20-\$200). Although there was no record of this law being applied, gay men and lesbians experienced societal discrimination. There were no known organizations of lesbian, gay, bisexual, or transgender persons and no reports of violence against individuals based on their sexual orientation or gender identity.

Other Societal Violence or Discrimination.—Persons with HIV/AIDS experienced societal discrimination, although 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.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The constitution and law provide for the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively. The constitution and law provide for the right to strike, except for police and other security forces. The law restricts the right to strike by public servants, and workers in certain “essential services,” the scope of which term was broader than that originally envisioned by the ILO convention. Workers need to give employers at least three days’ advance notice. The law allows unions to conduct their activities without interference. The law prohibits antiunion discrimination and provides for damages (instead of reinstatement) for workers dismissed for union activity.

These rights were respected and workers exercised them in practice. Worker organizations were generally independent of the government and political parties. However, approximately 80 percent of the workforce was employed in the nonunionized subsistence agricultural and small trading sectors. During the year unions exercised the right to bargain collectively for wages above the legal minimum and for more favorable working conditions. There were no reports of antiunion activities or employer interference and no reports of violations related to collective bargaining during the year.

b. Prohibition of Forced or Compulsory Labor.—Article 4 of the Labor Code prohibits most forms of forced or compulsory labor. The term “forced or compulsory labor” means “any labor or service required of a person under the threat of punishment and for which the individual has not given full consent.” The law does not specifically prohibit forced or compulsory labor by children. Per Article 333 of the Labor Code, violations of Article 4 are subject to fines from CFA 20,000 (\$40) to 200,000 (\$400) and six days’ to one month’s imprisonment. The government did not effectively enforce these laws.

Forced labor remained a problem. On September 21, the Ministry of Labor and Civil Service chaired a ceremony to validate the results of a study conducted by the government and the ILO that concluded, based on the 2009 population, that the prevalence of adult forced labor was 1.1 percent of the adult population nationwide (an estimated 60,000 persons) and 2.8 percent of working children nationwide (an estimated 55,000). This percentage was higher in the regions of Tillabery, Tahoua, and Maradi. A traditional form of caste-based servitude or bonded labor was still practiced by the Tuareg, Djerma, and Arab ethnic minorities throughout the country, 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 social order. Estimates of numbers varied widely, from a 2004 estimate of 8,800 persons to a 2003 estimate of 43,000. Such persons were forced to work without pay for their masters throughout their lives, primarily herding cattle, working on farmland, or working as domestic servants. Children became the property of their masters and could be passed from one owner to another as gifts or part of a dowry. Girls were forced to start work as domestic servants at a very young age. Girls could be sexually abused by men in the household or forced to marry at a young age.

There were reports that some local religious teachers and loosely organized clan-desline networks forced young boys to work as beggars and manual laborers and young girls to work as involuntary domestic servants, sometimes with the complicity of their families. Children were also forced to work in mines.

The government, particularly the Ministry of Interior and the Ministry of Labor and Civil Service, made efforts to reach out to administrative heads and religious and traditional chiefs to discourage forced labor, especially traditional slavery. However, enforcement of the laws was sporadic. The National Committee to Combat Forced Labor and Discrimination did not develop an action plan.

Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Code prohibits the use of child labor; however, the law was rarely applied to work performed by children in the nonindustrial/informal sector. The law prohibits the employment of children under the age of 14, except as authorized by decree. 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. Children 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 provide minimum sanitary working conditions for children.

The government did not effectively enforce child labor laws, in part due to resource constraints that limited inspectors of the Ministry of Labor and Civil Service. The Ministry of Mining reportedly sought to make artisanal mining licenses contingent upon agreements not to use child labor, but this proposal was not 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 Education conducted training sessions to help educators meet the special needs of child

laborers. Despite the president's announcement that he would make schooling compulsory through age 16, the government did not create legislation to this effect. The government, however, continued its cooperation with ILO to eliminate child labor in the mining sector.

The use of child labor was rampant. A study published during the year by the government and ILO indicated that in 2009, 50.6 percent of children between the ages of five and 17 years old were engaged in labor, and 42.1 percent of children in this age group were engaged in the worst forms of child labor.

Children worked in the agricultural, commercial, handicraft, mining, 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 made them beg and do manual labor. Child labor also occurred in largely unregulated artisanal gold mining operations, as well as in trona (a source of sodium carbonate compounds), salt, and gypsum mines. The artisanal gold mines at Komabangou, Tillabery Region, continued to operate using child labor, and artisanal gold mining at nearby M'Banga expanded. Young boys from neighboring countries were trafficked into the country to work in mines, in quarries, on farms, as mechanics, or as welders. Children were also procured for prostitution.

Also see the Department of Labor's Findings on the Worst forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. 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. The lowest minimum wage was 28,347 CFA (\$57) per month, with an additional 1,000 CFA (\$2) added per child per month. The government used 1,000 CFA (\$2) per day as the poverty income level, and in 2010 the government reported that 59.5 percent of citizens lived below that level.

The formal sector legal workweek was 40 hours with a minimum of one 24-hour rest period; however, the Ministry of Labor and Civil Service 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. The Labor Code establishes occupational safety and health standards. 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.

The Ministry of Labor and Civil Service effectively enforced minimum wages and workweek laws only in the regulated formal sector. The ministry is responsible for enforcing these standards, although staff shortages caused inspectors to focus on safety violations only in the most dangerous industries: mining, building, and manufacturing. The government effectively enforced standards within these three industries, except that gold mining was largely unregulated.

Violations of wage, overtime, and work conditions were reported in the petroleum and mining sectors, including gold mines, oil wells, and oil refining. 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. In the nonunionized, informal sector, despite the law, it was unlikely that they could exercise this right without jeopardizing their employment.

NIGERIA

EXECUTIVE SUMMARY

Nigeria is a federal republic of 36 states and the Federal Capital Territory (FCT). On April 16, President Goodluck Jonathan of the ruling People's Democratic Party (PDP), who had assumed the presidency in May 2010 following his predecessor's death, won election to a four-year term, along with Vice President Mohammed Namadi Sambo, also of the PDP. International and domestic election observers considered the April presidential, gubernatorial, and legislative elections to be generally credible, orderly, and a substantial improvement over the flawed 2007 elections. However, there were reports of fraud and irregularities, including vote rigging and buying, under-age voting, ballot stuffing, and political violence. Immediately following the presidential election, supporters of the opposition Congress for Progress-

sive Change (CPC) candidate, Muhammadu Buhari, a northern Muslim, challenged the outcome of the election. Postelection violence in protest of Jonathan's victory erupted in the north and in the Middle Belt States, directed towards local grievances and political targets, resulting in loss of lives, property damage, and restrictions of movement. The April 9 legislative elections produced major changes in the National Assembly, as only about one-third of the incumbents in both houses were reelected, and opposition parties gained many seats. While security forces generally reported to civilian authorities, elements of the security forces periodically acted independently of civilian control.

The most serious human rights problems during the year were the abuses committed by the militant sect known as Boko Haram, which was responsible for killings, bombings, and other attacks throughout the country, resulting in numerous deaths, injuries, and the widespread destruction of property; abuses committed by the security services with impunity, including killings, beatings, arbitrary detention, and destruction of property; and societal violence, including ethnic, regional, and religious violence.

Other serious human rights problems included sporadic abridgement of citizens' right to change their government, due to some election fraud and other irregularities; politically motivated and extrajudicial killings by security forces, including summary executions; security force 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 detention; prolonged pretrial detention; denial of fair public trial; executive influence on the judiciary and judicial corruption; infringements on citizens' privacy rights; restrictions on freedom of speech, press, assembly, religion, and movement; official corruption; violence and discrimination against women; child abuse; female genital mutilation (FGM); the killing of children suspected of witchcraft; child sexual exploitation; 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; vigilante killings; forced and bonded labor; and child labor.

Impunity was widespread at all levels of government. The government brought few persons to justice for abuses and corruption. Police generally operated with impunity. Authorities did not investigate the majority of cases of police abuse or punish perpetrators. Authorities generally did not hold police accountable for the use of excessive or deadly force or for the deaths of persons in custody.

The militant sect known as Boko Haram perpetrated killings and bomb attacks throughout the country. The sect continued to mount regular assaults and bombings in Borno and Bauchi states. The sect claimed responsibility for the January 1 bombing of the Mogadishu Barracks in Abuja, the July 16 suicide bombing of the police headquarters in Abuja, and the August 26 suicide bombing of the U.N. headquarters in Abuja. By the end of the year, the government and Boko Haram had not engaged in dialogue.

Killings and kidnappings by militant groups in the Niger Delta continued, despite then president Yar'Adua's offer of amnesty in October 2009. However, most militant groups in the Niger Delta accepted the amnesty, and the level of violence there was lower.

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 numerous arbitrary or unlawful killings.

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 and Borno State, resulting in numerous deaths and injuries to both alleged criminals and civilians. According to credible eyewitness accounts, the JTF committed illegal killings during attempts to apprehend members of the extremist group Boko Haram ("Western education is anathema," in Hausa) in Borno State and surrounding areas. For example, on July 9 the JTF reportedly committed illegal killings in response to a Boko Haram bombing in Maiduguri, Borno State. Local residents, media, and the international nongovernmental organization (NGO) Amnesty International (AI) reported that the JTF killed at least 23 and up to 40 persons, destroyed property, illegally detained residents, and raped women in the vicinity of the bomb blast.

Credible reports also indicated that other uniformed military personnel and paramilitary mobile police carried out summary executions, assaults, and other abuses across the Niger Delta and Borno State (see section 1.g.). The national police, the army, and other security forces committed extrajudicial killings and used lethal and

excessive force to apprehend criminals and suspects, as well as to disperse protesters. Authorities generally 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 illegal apprehension, detention, and sometimes execution of criminal suspects. The reports of state or federal panels of inquiry investigating suspicious deaths remained unpublished.

For example, on September 12, members of the police unit Operation Famou Tangbei (OFT) raided the home of Freddie Philip Ockiya in Yenagoa, Bayelsa State. Members of the OFT arrested Ockiya and took him to the local police station. His family searched for him until September 21, when his body was discovered at the morgue. The family filed a suit against members of the police and government in a federal high court. The inspector general of police disbanded the OFT in late September, but authorities did not arrest any members of the OFT in connection with Ockiya's death by year's end.

On October 15, the Special Task Force (STF) allegedly killed Ward Head Alhaji Ahmadu Ali Kazaure in Jos. The STF attacked the area after unknown assailants killed one soldier.

The 2010 annual report of the Police Service Commission identified 253 pending disciplinary cases for misconduct by police officers. The report also said that the commission had received 91 appeals and petitions during the year.

In April 2010 the Maiduguri High Court found that in 2009 police detained and subsequently killed Baba Fagu, the father-in-law of then Boko Haram leader Muhammad Yusuf, following violent clashes between police and militant members of Boko Haram in four northern states in 2009. The court ordered the federal and state governments to pay 100 million naira (\$617,000) as compensation to Fagu's family. The Borno State government challenged the Maiduguri High Court's decision and appealed the judgment. At year's end the case remained in the Court of Appeals in Jos, Plateau State.

In 2009 soldiers arrested Muhammad Yusuf. Credible media reports claimed that police executed Yusuf, whose bruised body subsequently was seen at state police headquarters with multiple bullet wounds. While police initially admitted killing Yusuf in custody, they subsequently claimed he died while trying to escape. Buji Fai, a former state government official suspected of funding Boko Haram, also reportedly died in custody along with Fagu. Later that year, then president Yar'Adua pledged to conduct a full investigation of the Boko Haram uprising, including the circumstances surrounding Yusuf's death, but authorities had not publicly released the results of the investigation by year's end. On July 19, five police officers were arraigned in the federal high court in Abuja for the murder of Yusuf. The court granted bail to four of the officers, while one remained in custody. The case continued at year's end.

In 2009 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 based on interviews and research conducted between July 2007 and July 2009. According to the report, national police were responsible for hundreds of extrajudicial executions, other unlawful killings, and enforced disappearances each year. In a country where "bribes guarantee safety," those who could not afford to pay risked being shot or tortured to death. Authorities did not investigate the majority of cases or punish perpetrators. When investigations occurred, they did not comply with international standards, and officers suspected of extrajudicial executions generally were sent away 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 a suspect killed 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."

A panel established by Plateau State to investigate the killings of approximately 700 civilians by security forces in the Jos North local government area in 2008 attributed the violence to provocation by religious leaders as well as violence by political parties and local government officials. The panel's full report, released in April 2010, linked persons wearing uniforms to impersonate police with many of the killings; the report did not find definitive evidence of police or military involvement in extrajudicial killings. By year's end authorities had neither charged nor punished anyone for the killings. In February 2010 President Jonathan called for a second investigative committee following an outbreak of violence earlier in the year. In September 2010 this body, known as the "Lar Committee," submitted its recommendations, which included establishment of a truth and reconciliation committee, ending the indigene-settler dichotomy, and redesigning the Plateau State capital. Following further violence in August, President Jonathan announced that the government

would work to harmonize all previous reports on the Jos crisis with the intention of publishing a white paper on the crisis. In addition the Plateau State Assembly called for the establishment of a truth and reconciliation committee, as recommended in the Lar Committee report. However, the committee's recommendations had yet to be implemented, and neither the federal nor the Plateau State government set up truth and reconciliation committees by year's end.

Police use of excessive force, including live ammunition, to disperse demonstrators resulted in numerous killings during the year. For example, on February 11, Ekiti police reportedly shot and killed five persons protesting the announcement of the relocation of a federal university to Oye-Ekiti that the state governor previously had promised would be located in the Ado-Ekiti community. Authorities had neither charged nor punished anyone for the killings by year's end.

Police used gunfire to control or disperse political rallies, resulting in numerous deaths and injuries. For example, on February 12, police attempting to control the flow of participants at a PDP rally in a Port Harcourt stadium fired into the air. The gunfire prompted a stampede resulting in the death of 20 persons. Authorities had neither charged nor punished anyone for the incident by year's end.

In 2010 AI released the report *Port Harcourt Demolitions: Excessive Use of Force Against Demonstrators*, which documented an attack in 2009 in which police and the JTF fired into a crowd of citizens peacefully protesting the proposed demolition of their homes. The report stated that the JTF shot and seriously injured at least 12 persons, and witnesses claimed that they saw six bodies in a police vehicle. Authorities had neither charged nor punished anyone for the killings by year's end.

Violence and lethal force at unauthorized police and military roadblocks and checkpoints continued, despite numerous announcements by the police inspector general that independent police roadblocks would be eliminated and offenders punished. According to AI's 2009 report, police often stopped commercial drivers and asked them to pay bribes, the amount of which depended on the weight of the vehicle. Police shot drivers when they refused to pay, when a disagreement occurred over the price, or when it remained unclear whether they had paid. These police practices continued during the year.

On August 14, police in Anambra State reportedly shot five persons at a roadblock after they would not pay a bribe of 20 naira (\$0.13). One of the passengers reportedly died at the scene, while the other four were rushed to a hospital, where they were pronounced dead. Eyewitnesses stated that the driver claimed to already have paid 20 naira but could not produce a receipt that the policeman demanded. When the driver attempted to leave, the police opened fire. A police representative confirmed that one person was killed and three were rushed to the hospital. There were no developments in the case by year's end.

For example, on October 16, police reportedly shot and killed Victor Emmanuel in Bayelsa State after he criticized the police for extorting money from passing motorists on the road from his church. On October 28, police officials announced that the accused officers received an "orderly room trial" that could lead to dismissal or prosecution; however, the case remained pending at year's end.

Police sometimes shot bystanders by mistake. For example, on September 10, four federal police officers guarding a funeral procession in Akoko, Delta State, opened fire on mourners after drinking heavily, killing at least three persons. A police spokesman confirmed the incident but offered no explanation for the actions of the officers. The police force dismissed the four officers, and at year's end the four officers remained in custody awaiting the filing of criminal charges.

Police and military personnel used excessive and sometimes deadly force to quell civil unrest and interethnic violence, and to deal with property vandalism. For example, on June 12, antiriot police reportedly shot protesters in Ogoni, Rivers State. After villagers gathered to protest excessive use of force by police during an earlier protest over the construction of a military base in a nearby village, police attempted to arrest the protesters. Police reportedly opened fire, killing three persons. The Rivers State government reportedly investigated, but there were no developments in the case by year's end.

On October 20, police shot and killed a girl and injured her two sisters while they were working in the fields of their family's farm in Ekiti State. Local residents angered by the shooting protested outside the police station. When they would not disperse, police opened fire, injuring at least six individuals. On October 24, Ekiti State Governor Kayode Fayemi criticized the killing and called for an immediate investigation. An investigation remained pending at year's end.

Boko Haram increased its attacks on police and security forces, banks, bars and restaurants, religious sites, and government buildings in the north and the FCT. Shootings and bombings in Maiduguri, Borno State, occurred on a weekly—and sometimes daily—basis throughout the year, and violence spread to neighboring

Yobe, Bauchi, and Adamawa states by year's end. Targeted attacks on key institutions and buildings in the capital of Abuja contributed to an increase in the overall level of violence (see section 1.g.).

b. Disappearance.—Continuing abductions of civilians by militant and criminal groups occurred in the Niger Delta, particularly in Port Harcourt (see section 1.g.).

Other parts of the country also experienced a significant increase in abductions, some of which may have been politically motivated.

On March 17, kidnappers abducted the 97-year-old mother of the PDP candidate for Delta Central senatorial district, Chief Ighoyota Amori. The kidnappers demanded that Amori either drop his bid for senate or pay 100 million naira (\$617,000). On March 22, the Anti-Kidnapping Task Force of the Delta Waterways Security Committee freed Amori's mother. Whether Chief Amori paid the ransom was not known.

On October 11-13, approximately 2,000 members of the country's two main national oil unions conducted a strike due to their concern about increased kidnappings in the oil-producing south.

Earlier kidnappings involved international oil workers and perceived high-value targets; however, in recent years kidnappings evolved to include members of the middle class and family members of celebrities and politicians. The primary motivation for these kidnappings was economic (see section 6, Other Societal Violence or Discrimination).

In recent years Akwa Ibom, Abia, Anambra, Imo, and Rivers states passed strict antikidnapping laws that prescribed long prison sentences, and sometimes the death penalty, for those found guilty of kidnapping. However, these laws resulted in few convictions. On March 16, Minister of Police Affairs Humphrey Abah announced new measures to address the increasing number of abductions, including community policing, increased training of officers in handling kidnappings, provision of equipment to police, and deployment of specially trained officers to areas prone to kidnappings. However, the police had operated no known antikidnapping or abduction programs by year's end.

Some kidnappings had links with terrorism. In May gunmen abducted a British and an Italian citizen working with an Italian construction company in Birnin Kebbi, Kebbi State. On August 4, a video appeared online in which the two engineers appeared bound and blindfolded with armed men who claimed to be affiliated with al-Qaida. The two men remained missing at year's end.

On August 12, kidnappers abducted the father of Nigerian international soccer player John Mikel Obi's in Jos. On August 23, police in Kano rescued him and arrested seven kidnappers, including two soldiers. Authorities charged the seven kidnappers with kidnapping, conspiracy, and terrorism.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution and law prohibit such practices and provide for punishment of such abuses, torture is not criminalized, and security service 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.

JTF's use of excessive force during raids on militant groups and criminal suspects in the Niger Delta and Borno State resulted in deaths, injuries, mass rape, displacement of civilians, and other abuses (see section 1.g.).

During the year the Network on Police Reform in Nigeria (NOPRIN) released a 486-page report, *Through the Lens of the Media: A Report on Public Perception of the Nigeria Police 2010/2011*. The report provided details on police extrajudicial killings, police brutality and torture, excessive use of force, rape, sexual violence, corruption, extortion and bribe taking, collusion with criminals, and other acts of misconduct during the period of January 2010 to September 2011. The report also detailed the funding of the police force and their unacceptably high casualty rate during the period.

In May 2010 the Open Society Justice Initiative, together with the NOPRIN, released a 138-page report, *Criminal Force: Torture, Abuse, and Extrajudicial Killings* by the Nigeria Police Force, with first-hand reports from investigations at over 400 police stations. Describing summary executions of suspects, torture as a means of investigation, rape, and extortion, the report claimed that the government had acknowledged these problems but had actually allowed the abuse to continue with "a stunning degree of impunity."

Police commonly used a technique called "parading" of arrestees. Parading involved literally walking the persons through public spaces, subjecting them to public

ridicule and abuse. Bystanders often hurled taunts, food, and objects. Police defended this practice with the argument that public humiliation helped deter crime. For example, on September 23, the Plateau State government paraded 21 robbery suspects in various locations throughout the state.

On August 1, the federal high court in Calabar ordered the police to pay 20 million naira (\$123,000) in damages to Ottoh Obono, whom police had paraded in front of journalists in 2009 before arraigning him for alleged involvement in armed robbery. The court determined that such a form of punishment violated Obono's constitutional rights. Citing the NGO Social Justice and Advocacy Initiative, a 2009 AI report noted that "intimidation, torture, and extortion of detainees" remained "entrenched practices" in the criminal justice system. The National Human Rights Commission (NHRC) claimed that most cases in court were prosecuted by the police "based on confessions obtained under circumstances of torture."

Police and military use of excessive force in response to violent attacks by Boko Haram resulted in numerous deaths and injuries (see sections 1.a. and 1.g.).

Security forces beat journalists during the year (see section 2.a.).

According to credible reports, during the year security forces committed rape and other forms of sexual violence against women and girls with impunity. In May 2010 the Open Society Justice Initiative reported that rape was "a routine but unspoken aspect of policing" and was "one of the fringe benefits attached to night patrol." This report on corruption within the country's police force highlighted the problem of rape of arrested prostitutes by police. The report described police officers raping women who could not pay as little as 1,000 naira (\$6) for their release. Police allegedly raped women who came to report crimes at police stations. The report also claimed that officers, both male and female, sodomized women with bottles and metal pipes. In August 2010 Human Rights Watch (HRW) released a report detailing widespread police abuse of power, including acts, or threats, of rape or sexual assault, as a means to extort bribes from female detainees or women traveling between road checkpoints.

In early October a police officer raped homicide suspect Hafsat Manye while in detention in Ganjuwa, Borno State. The police command informed the Legal Aid Council that after conducting an investigation, authorities dismissed the officer, who was expected to face charges in court.

AI reported in 2009 that police frequently raped women in detention but that victims did not report the abuse because of the social stigma attached to rape and the fact that police officers had committed these crimes.

Varying sharia penal codes existed in 12 northern states, and sharia courts delivered "hadd" sentences. For example, such sentences included 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 during the year. Numerous sharia cases from previous years awaited appeal or implementation of sentence, including pending amputation 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 1999 conviction.

Statutory law mandates that state governors either impose a stay or implement amputation or death sentences. Authorities often did not carry out sentences under sharia due to 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 violated 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 was not challenged in the courts as a violation of statutory law. In some cases convicted persons paid fines or went to jail instead of being caned. Sharia courts usually carried out caning immediately, while the sharia criminal procedure code allows defendants 30 days to appeal sentences involving mutilation or death. For example, on September 8, an Islamic court in Zamfara ordered the amputation of the right hands of two suspects found guilty of stealing a bull worth 130,000 naira (\$800). The suspects appealed the case. Appeals often took months or years to decide.

Ethnic or communal clashes resulted in deaths and injuries during the year (see section 6).

Prison and Detention Center Conditions.—Prison and detention center conditions remained harsh and life threatening. Most of the country's 234 prisons, built 70 to 80 years earlier, lacked basic facilities. The system included 11 maximum security prisons, 80 satellite prisons, 10 farm centers, eight zonal offices, and six directorates, all of which held prisoners and detainees.

The Nigerian Prison Service released statistics at the end of May showing that the country's prisons held 48,124 inmates. In May Comptroller General of Prisons

Olusola Ogundipe announced that the prisons held an additional 1,000 persons for alleged involvement in April postelection violence, most of whom subsequently gained their release. Individual prisons held as much as 500 percent of their designed capacity. For example, the Owerri Federal Prison had a capacity of 548 prisoners but held more than 1,635. Ogwuashi-Uku prison in Delta State, with a capacity of 64 prisoners, housed 358, while Port Harcourt prison, with a capacity of 804 prisoners, held 2,594. Of the inmate population, approximately 2 percent were female and 1 percent juveniles.

Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in dangerous and unsanitary conditions. Disease remained pervasive in cramped, poorly ventilated prison facilities, which had chronic shortages of medical supplies. Inadequate medical treatment caused many prisoners to die from treatable illnesses. Prison illnesses included HIV/AIDS, malaria, and tuberculosis. Inmates with these illnesses lived with the regular population. Although authorities attempted to isolate persons with communicable diseases, the facilities often lacked the space to do so. Prison authorities claimed that the death rate in prisons was 89 out of 1,500 prisoners per year; however, no reliable independent statistics existed on the number of prison deaths.

Only those prisoners 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. Prison officials, police, and other security forces often denied inmates food and medical treatment as punishment or to extort money.

Prisoners with mental disabilities remained incarcerated with the general prison population. Individual prisons made efforts to provide mental health facilities, but most prisons did not provide mental health care.

The federal government operated all the country's prisons but maintained few pretrial jail facilities. Of the total prison population, 70 percent were pretrial detainees.

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. Infants born to inmate mothers usually remained with the mother until weaned.

Although the law precludes the imprisonment of children, minors lived in the country's prisons, many of whom were born there. A report by the African Union on the rights and welfare of the Nigerian child found that an estimated 6,000 children lived in prison and detention centers. Despite a government order to identify and release such children and their mothers, authorities had not solved the problem by year's end.

Authorities held political prisoners with the general prison population, not separately.

Prison authorities allowed visitors within a scheduled timeframe. Few visitors came due to lack of family resources and travel distance. Prisoners could attend religious observances, although prisons often did not have equal facilities for both Muslim and Christian worship. In some prisons outside clergy constructed chapels or mosques.

Prisoner complaints centered on access to court proceedings, as in many cases inmates lacked transportation to attend a court hearing. No effective system existed for monitoring prisons for inhumane conditions. All prisons suffered from poor facilities, overcrowding, and lack of resources.

There were no regular outside monitors of the prisons, and no statistics on the mistreatment of prisoners or availability of food or medical care.

The government provided access to prisons for monitoring conditions, although few outside visits occurred. The local Red Cross made attempts to visit prisons but could not maintain a regular visit schedule. Authorities inconsistently maintained records for individual prisoners in paper form but without making them widely accessible.

The country does not provide services of an ombudsman who can serve on behalf of prisoners and detainees to consider such matters as creating alternatives to incarceration for nonviolent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; or improving pretrial detention, bail, or recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense.

The government did not make widespread improvements to prisons during the year, but individual prison administrations attempted to collect donations to benefit the inmates. For example, benefactors contributed facilities to help alleviate overpopulated prisons. In October the Amazing Grace Pentecostal Church donated a multipurpose hall to the Kirikiri Female Prison in Apapa, Lagos.

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 sweeps for militants, and security forces made arbitrary arrests during the national elections.

Role of the Police and Security Apparatus.—The National Police Force (NPF) reports to 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 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 the police's inability to control societal violence, the government continued to rely on the army in some cases. For example, in September President Jonathan ordered the deployment of 1,300 soldiers to Plateau State after local police could not contain an outbreak of ethnoreligious violence in Jos.

The NPF, SSS, and military reported to civilian authorities; however, these security services periodically acted outside of civilian control. The government lacked effective mechanisms to investigate and punish abuse and corruption. The NPF remained susceptible to corruption, 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. In some cases private citizens or the government brought charges against perpetrators of human rights abuses in these units. However, most cases lingered in court and went unresolved after the initial investigation.

According to AI's 2009 report, only a fraction 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 the gasoline and stationery necessary to conduct an investigation. Such lack of resources contributed to corruption (see section 4).

Arrest Procedures and Treatment While in Detention.—Police and security forces have authority to arrest individuals without first obtaining warrants, if they have a reasonable suspicion that a person 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, transport the accused to a police station for processing within a reasonable time, and allow suspects to engage counsel and post bail.

Arbitrary Arrest.—Police routinely detained suspects without informing them of the charges or allowing access to counsel and family members. Provision of bail often remained arbitrary or subject to extrajudicial influence. Judges often set conditions of bail too stringent to be met. In many areas with no functioning bail system, suspects remained incarcerated indefinitely in investigative detention within the prison system. Authorities kept detainees incommunicado for long periods. Numerous detainees alleged that police demanded bribes to take them to court to have their cases heard. If family members wanted to attend a trial, police often demanded additional payment.

Police held persons who happened to be in the vicinity of a crime for interrogation for periods ranging from a few hours to several months. After their release authorities frequently asked them to return for further questioning.

Security forces arbitrarily arrested numerous persons during the year. During postelection violence in April and May, authorities arrested hundreds of persons across the country, many of them based on little or no evidence of involvement in violence (see section 1.a.). Most individuals gained their release within a few weeks; however, an unknown number of persons remained incarcerated without bail or charges at year's end.

On October 19, the federal high court in Jos, Plateau State, discharged six suspects arrested on conspiracy and terrorism charges during the January 2010 violence in Jos. Security forces detained journalists and demonstrators during the year (see sections 2.a. and 2.b.).

Economic and Financial Crimes Commission (EFCC) officials reportedly singled out political opponents of the governing party in their arrest and detention of state, local, and federal government officials on corruption charges during the year (see section 4).

The rape of women in detention by police remained a problem (see section 1.c.).

On September 29, police in Ebonyi arrested 100 members of the Movement for the Actualization of the Sovereign State of Biafra for holding a peaceful meeting and wearing clothing and pins with a Biafran insignia. Police announced that they de-

tained the group out of fear of a breach of the peace. Police released the members soon thereafter.

Pretrial Detention.—Lengthy pretrial detention remained a serious problem, and human rights groups reported that detainees awaiting trial constituted 70 percent of the prison population, with some awaiting trial more than 10 years. At year's end 33,692 pretrial detainees resided in the country's prisons, in a total of 48,124 prisoners. 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 lacked access to trials because police had insufficient vehicles to transport them to court on their trial dates.

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 sentences they would have received if found guilty. Although detainees had the right to submit complaints to the NHRC, the commission had yet to act on a complaint (see section 5). 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.

On September 22, the press reported that Attorney General and Minister of Justice Mohammed Adoke gave the Prison Decongestion Committee, established in July, 90 days to free inmates who should not have been incarcerated. The nine-member committee headed by the permanent secretary in the ministry, Alhaji Abdullahi Yola, toured prisons in all 36 states as part of the process. By year's end there was no word of the release of any inmates.

Amnesty.—In October the governors of Borno and Anambra states freed 42 and nine prisoners, respectively, in celebration of Independence Day. The governor of Borno State said that he granted amnesty to those who suffered from acute illness or old age.

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, the judicial branch remained susceptible to pressure from the executive and legislative branches and the business sector. 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.

On August 18, the National Judicial Council (NJC) suspended the president of the Court of Appeal, Justice Ayo Isa Salami, after he refused the NJC's directive to apologize to the NJC and the chief justice of Nigeria, Justice Aloysius Katsina-Alu. Salami had accused Katsina-Alu of interfering in the proceedings of the 2007 Sokoto State gubernatorial court case. In an attempt to settle the dispute, the NJC set up three panels to investigate the disagreement. The panels declared neither justice was at fault, declared the issue resolved, and requested that Salami apologize to the NJC and Katsina-Alu. The Nigerian Bar Association reached contrary findings, and Salami refused to apologize. After the NJC suspended Salami, President Jonathan used his constitutional authority to recommend the compulsory retirement of Salami and appointed Justice Dalhatu Adamu as acting president of the Court of Appeals. The case raised questions regarding the partisan nature and level of independence within the judiciary. Salami appealed the ruling, and the court case continued at year's end.

The Ministry of Justice implemented strict requirements for the education and the length of service for judges at the federal and state level; however, no requirements or monitoring bodies existed for judges at the local level, which resulted in corruption and miscarriages of justice in those courts.

Military courts tried only military personnel.

Sharia and customary (traditional) courts of appeal function in 12 northern states and the FCT. The constitution also provides that the government establish a federal sharia court of appeal and a final court of appeal, but authorities had not done so 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 sharia penal code in the courts. While sharia courts have operated throughout the north for centuries, in 2000 sharia courts received authority to also hear criminal cases and pass sentences based on the sharia penal code, which outlines hadd offenses and punishments, including caning, amputation, and death by stoning. For

example, on October 10, an Abuja magistrate court ordered a punishment of 12 strokes of a cane to a man found guilty of stealing a cow.

The nature of a case usually determined which court had jurisdiction. The return to the sharia courts stemmed at least in part from inefficiency, expense, and corruption in the regular court system.

Defendants have the right to challenge the constitutionality of sharia 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 sharia remained the Supreme Court, staffed by common-law judges not required to have any formal training in the sharia 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, authorities did not always respect these rights. Although an accused person is entitled to counsel of his choice, no law prevents 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 customary courts (including sharia), indigent persons without representation were more likely to have their sentences carried out immediately, although all convicted persons have the right to appeal. The federal government instituted a panel of legal scholars in 2003 to draft a uniform sharia penal code to replace divergent sharia codes adopted by various northern states; however, the panel did not produce a report, and states continued to apply their individual codes.

No legal provisions in common law barred women or other groups from testifying in civil or criminal proceedings or gave their testimony less weight, but the testimony of women and non-Muslims usually was accorded less weight in sharia courts. Some “qadis” (sharia court judges) allowed separate evidentiary requirements to prove adultery or fornication for male and female defendants. For women, pregnancy represented permissible evidence in some sharia courts. By contrast men could be convicted only by confessing to the crime or by eyewitness testimony. Sharia courts provided women with certain benefits, including increased access to divorce, child custody, and alimony, because it remained significantly easier, faster, and cheaper to get an audience in a sharia court than in a common-law court.

There was a lack of due process in numerous trials. For example, in 2009, the army convicted 27 enlisted soldiers who had served as U.N. peacekeepers of mutiny and sentenced them to life in prison; the soldiers had protested after officers had stolen their stipends during deployment. After the case garnered international media attention, prison guards took reprisals against the jailed soldiers. The army reduced the sentences of the 27 to seven years. Meanwhile, the army found the officers guilty of theft and reassigned them or forced them to retire; however, none received a prison sentence. In September 2010 the defense attorney appealed to the new army chief of staff to review these sentences. There were no developments in the case by year’s end.

A Lagos court continued aspects of the case of Major Hamza Al-Mustapha, who had been held since 1998. Authorities arrested him on treason charges for, among other allegations, the assassination attempts on former president Olusegun Obasanjo and other prominent prodemocracy activists. In December 2010 the judge discharged Al-Mustapha and acquitted him of these charges, stating that the prosecution had not made its case. However, the court continued to pursue charges against him for his alleged role in the killing of Alhaja Kudirat Abiola, wife of former president-elect Chief Moshood Kashimawo Olawale Abiola. During the examination by the prosecution, Al-Mustapha claimed his confession of involvement in the death of Kudirat Abiola occurred under duress and therefore remained inadmissible as evidence. The judge rejected the motion of the defense, and the court case continued at year’s end.

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. The executive, the legislature, and business interests, however, 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 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.

Between January and June, activities leading to evictions and displacements of persons across the country were less frequent due to the April general elections. Politicians in states such as Lagos and Rivers avoided development projects that required demolition of homes due to fear of becoming unpopular with the electorate.

In Abuja the Federal Capital Development Authority continued to threaten eviction of residents in communities not deemed in compliance with the Abuja city plan. The FCT government typically claimed that demolished homes, businesses, or churches lacked proper permits, even if owners were able to produce paperwork indicating that the structures were built legally. No transparent legal process existed for deciding which homes would be demolished, and persons who lost homes lacked recourse to appeal and received no compensation. Many observers viewed the demolitions as motivated primarily by corruption and discrimination based on socio-economic class, since mostly lower- and middle-class persons lost their homes and property. Once vacated, authorities sold these properties to wealthy persons with connections to government officials.

The government threatened to evict residents of 23 communities in the Ketti and Kabusa districts of Abuja, which housed almost 50,000 persons. AI reported that on June 25 and 27, the Task Force on Environmental Sanitation, accompanied by soldiers and police, set fire to buildings in the Apo district of Abuja. Police reportedly shot in the air and arrested persons trying to flee the area, resulting in the reported death of three persons and the forced eviction of an estimated 100 others.

In 2010 authorities in Port Harcourt forcibly displaced residents on the waterfront in an area slated for redevelopment, an action that left thousands of residents homeless. Demolitions in Port Harcourt lessened during the year due to sustained civil society intervention and public debate. However, the government often paid compensation only to landlords, who did not reside in these communities, leaving the tenants homeless and without compensation. The effort by the Rivers State governor to demolish slums on 21 Port Harcourt waterfront sites, which would displace 200,000 residents, came to the courts in July 2010, when members of the Ijaw ethnic group filed a suit to stop the demolition and resettlement. The government sought to clear out “poorly built structures” and to replace them with schools and commercial and residential buildings in an urban renewal program paid for by investors. Residents protested evictions without adequate planning for replacement housing for the poor.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—*Niger Delta.*—The Niger Delta region is home to a large oil industry that produced approximately 2.6 million barrels of crude oil per day at year’s end. Particularly since 2006, militant groups have used violence, including kidnapping oil company workers, to demand greater control of the region’s resources. Kidnapping 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. In June 2009 the government announced a general and unconditional amnesty for militants in the Niger Delta, and almost all major militant leaders accepted the offer by the October 2009 deadline.

Authorities established a training camp for former militants in Obubra, Cross River State, and by September 24, 20,192 former militants had completed training in nonviolence. Many militants expressed interest in vocational training and received stipends during rehabilitation. By year’s end 5,280 former militants were undergoing vocational training, with 1,538 attending courses abroad. The amnesty program resulted in a decline in militant violence in the region. Some observers expressed concern, however, that the militants used amnesty payments to purchase more arms.

The government’s amnesty program reduced the level of conflict for much of the year. Disagreements arose between former militants and the government concerning who qualified for the amnesty program, the amount of cash payments, the availability of vocational training, and continued possession of arms by former militants.

Criminal gangs, called “cults” in some parts of the region, have copied the methods of more sophisticated militants to amass wealth and power. In a recent trend, kidnappings targeted businessmen, doctors, teachers, religious leaders, foreign residents, and others. 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 committed primarily for ransom increased throughout

the country, including in the north (see section 6, Other Societal Violence or Discrimination). In recent years power struggles between gangs resulted in extensive property damage and hundreds of deaths, including of civilian bystanders.

Killings.—Niger Delta.—From May 11-18, members of the JTF and Niger Delta militants led by John Ipoko (aka John Togo) waged a series of battles at Obubu creek, in Delta State. Media reported that the JTF sustained numerous casualties, and Togo may have died of a fatal gunshot wound after the battle. On May 18, the JTF shot and killed one of two militants thought to be accomplices of Togo during a pursuit.

Boko Haram.—The JTF and STF committed numerous killings during the year but conducted no investigations.

The JTF was linked to numerous killings in Maiduguri Borno State after attacks by Boko Haram. On July 14, in one of the largest such incidents, the JTF allegedly killed 20 to 40 persons following a Boko Haram bombing.

Boko Haram committed drive-by shootings and bombings; targeted killings of security personnel, religious leaders, and political figures; coordinated attacks on police stations and banks; and conducted suicide bombings during the year, which resulted in the death of hundreds of persons.

For example, on June 16, a car bomb that detonated in the parking lot of the National Police Force Headquarters killed at least three persons and destroyed or damaged at least 50 vehicles. Boko Haram claimed responsibility.

On August 26, a suicide bomber attacked the U.N. House compound in Abuja, killing 24 persons and injuring more than 120 others, primarily Nigerian citizens. Boko Haram claimed responsibility.

On November 4, Boko Haram launched a series of bomb attacks and coordinated assaults in Damaturu and Potiskum, Yobe State, and Maiduguri, Borno State. The bombs and subsequent gun battles with security forces resulted in the death of 100 to 200 police officers, Boko Haram fighters, and bystanders, as well as the destruction of the Yobe police headquarters and six churches.

On December 25, a car bomb that detonated at the St. Theresa Catholic Church in Madella, outside of Abuja, killed at least 37 persons and wounded another 50 to 60. Boko Haram claimed responsibility.

Abductions.—Niger Delta.—Government authorities responded to kidnappings in the Niger Delta by deploying the JTF, which reportedly used excessive force and engaged militants and criminals in gun battles.

In some areas tensions remained high between oil-producing communities and oil company employees and contractors. Criminals abducted foreign oil company contractors for ransom, including the capture of five foreign workers from an offshore oil rig on October 24.

While militant groups used kidnappings generally for ransom, they sometimes publicized the acts as an expression of grievances about lack of economic development, local control of oil revenues, or prisoner releases. During the year criminals continued to kidnap the relatives (usually children or parents) of prominent state politicians for ransom or to force payment for services such as protection details and voter intimidation during elections.

Other Conflict-related Abuses.—Niger Delta.—In August the U.N. Environmental Program released a report that found that damage from oil industries in Ogoniland amounted to \$1 billion and would take 25 to 30 years to clean up.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—Although the constitution and law provide for freedom of speech, including for members of the press, the government sometimes restricted these rights in practice. Security forces beat, detained, and harassed journalists, sometimes for reporting on sensitive issues such as elections and political corruption. 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 intimidation by security forces.

Freedom of Speech.—The constitution entitles every individual to “freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.” Federal and state governments generally respected this right; however, there were reported cases in which the government abridged the right to speech and expression.

For example, on November 22, a Bauchi State chief magistrate court sentenced Mukhtar Abdu and Quwalu Mohammed to three years in prison or payment of a 10,000 naira fine (\$62) for the composition of an abusive song about the secretary

to the Bauchi State government. The two men had 30 days to appeal the case. The case continued at year's end.

Freedom of Press.—On May 2, Freedom House released its annual survey of media independence, Freedom of the Press 2011, which described the press in Nigeria as “partly free.” Nonetheless, a large and vibrant private domestic press frequently criticized the government. There were more than 100 national and local publications, including 15 privately owned major daily newspapers; one national, government-owned daily newspaper; six weekly newsmagazines; and several sensationalist evening newspapers and tabloid publications. State and local governments also owned daily or weekly newspapers, which tended to be poorly produced, had limited circulation, and required large state subsidies. There were 25 independently owned, private radio stations. The government owned one radio network with 43 stations. There were 15 independently owned private television stations and four privately owned direct-to-home satellite network stations. The government owned one television network, the Nigerian Television Authority, with 48 affiliate stations. Because newspapers and television were relatively expensive and literacy levels low, radio remained the most important medium of mass communication and information.

Violence and Harassment.—Security forces beat, detained, and harassed journalists. On numerous occasions security forces and police arrested and detained journalists who criticized the government. At times reporting on issues such as elections and political corruption proved to be particularly sensitive.

For example, on March 10, the SSS arrested and detained for three days three journalists in Plateau State. The SSS accused the journalists of distributing leaflets criticizing Plateau State Governor Jang.

On July 2, the SSS detained former FCT minister Nasir El-Rufai at the Abuja airport. El-Rufai had published an opinion article that cited and criticized budget figures for the government's spending on security services.

On October 11, police arrested four senior editors of The Nation newspaper on charges of forgery. The editors of the The Nation had included in an October 4 cover story a copy of a letter purportedly from former president Obasanjo to President Jonathan recommending the firing of certain officials. When police did not locate the editors they sought to arrest, they arrested four other editors “by proxy.” Police released the editors during the following two days after pressure from the media, politicians, and civil society groups. The House of Representatives Committee on Justice filed a report demanding that the police and the Jonathan administration explain the reason behind the arrest of the journalists and issue apologies to the employees of The Nation. The federal government and former inspector general of police Ringim did not provide an apology by year's end.

Politicians and political parties harassed and attacked journalists perceived as reporting in a negative manner. During local and national elections, journalists were intimidated or attacked for covering election events.

For example, on April 5, prior to national assembly elections, unknown assailants attacked Daily Trust correspondent Joseph Hir outside his home in Lafia, Nasarawa State. Hir previously had written an article criticizing politicians.

On April 9, during national assembly elections, PDP officials beat African Independent Television cameraman Tamunoemi Kingdom and another crew member in Ozo, Delta State. The officials had attempted to stop the crew from filming the harassment of a man entering a polling station.

Election officials also participated in attacks on journalists. For example, on March 22, state electoral commissioner Rufus Akeju allegedly attacked Leadership correspondent Sefiu Ayanbimpe in Oshogbo, Osun State. Ayanbimpe had investigated charges by the opposition Conference of Nigerian Political Parties that Akeju received payments from the state government. Akeju invited Ayanbimpe to his office in Oshogbo to discuss the allegations. When Ayanbimpe arrived, Akeju beat him before handing him over to the SSS, which briefly detained him.

Journalists received death threats during the year. For example, in July University of Uyo professor Des Wilson went into hiding after persons connected to Akwa Ibom State Governor Godswill Akpabio threatened his life. Wilson served as an officer of the Independent National Electoral Commission (INEC) for Ikot-Ekpene Federal Constituency during the presidential election and submitted a report detailing massive irregularity and fraud connected to Governor Akpabio's administration.

Journalists also were at risk of abduction. There were no developments in the January 2010 case in which armed police abducted Internet journalist Ikenna Samuelson Iwuoha from his home, on the orders of Governor Ikedi Ohakim of Imo State. Iwuoha filed a lawsuit against Ohakim for his beating and mistreatment while in custody.

Censorship or Content Restrictions.—Journalists practiced self-censorship. Local NGOs claimed that security forces intimidated newspaper editors and owners, which led them to censor some reports of killings and other human rights abuses.

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 National Broadcasting Commission (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's prohibition of live broadcasts of foreign news and programs remained in force but did not apply to international cable or satellite services.

The government controlled much of the electronic media through the NBC, which was responsible for monitoring and deregulating broadcast media.

Radio stations remained susceptible to political censorship and attacks by political groups. For example, on January 19, Oyo State Governor Alao Akala (PDP) banned the state-owned Broadcasting Corporation of Oyo State from giving broadcast time to opposition parties.

On January 20, the Nigerian Union of Journalists claimed that the opposition CPC paid persons to attack the offices of two progovernment radio stations, Bauchi Radio Corporation and FRCN Globe FM.

Libel Laws/National Security.—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 and possible fines.

Nongovernmental Impact.—Boko Haram threatened media outlets and killed members of the press. During the year the group threatened to kill journalists who failed to report what Boko Haram believed to be authentic stories about the group. On October 23, suspected Boko Haram gunmen shot and killed Zakariya Isa, a cameraman for the Nigerian Television Authority, at his residence in Maiduguri, Borno State. Boko Haram took credit for the killing, stating that it was retribution for Isa spying for the secret police and JTF; Boko Haram did not say he was killed for being a journalist.

Mob violence occasionally inhibited freedom of expression. For example, in January a crowd of armed persons arrived in Makurdi, Benue State, and attacked newspaper vendors to retrieve copies of a national newspaper that had published a negative story about a local politician.

Internet Freedom.—There were few government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups generally engaged in expression of views via the Internet, including by e-mail, with few exceptions.

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.

In January Jigawa police arrested and detained Moukhtari Ibrahim Aminu after he insulted Jigawa Governor Sule Lamido on his Facebook page. Police detained Aminu for 10 days, after which he was arraigned and remanded in prison until February 7. There were no new developments in the case by year's end.

In March 2010 a Kaduna sharia court ordered the immediate suspension of all debates on blogs and the online social networking sites Facebook and Twitter regarding the 1999 amputation of Bello Buba Jangebe's right hand as punishment for stealing a cow. The court issued a restraining order to prevent an NGO, the Civil Rights Congress, from discussing the decade-old case in its online forums. The presiding judge stated that the defendants, as Muslims, had no right to question any judgment given by a sharia court. The judge's order represented the first of its kind restricting Internet freedom. There were no reports of government attempts to collect or disclose personally identifiable information in connection with a person's peaceful expression of political, religious, or ideological opinion or belief.

Academic Freedom and Cultural Events.—The federal government continued to restrict academic freedom by controlling elementary and secondary curriculums, including mandating religious instruction.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly; however, the government occasionally banned gatherings when it concluded that their political, ethnic, or religious nature might lead to unrest. In areas that experienced societal violence, police and security forces permitted public meetings and demonstrations on a case-by-case basis. Security forces used excessive force to disperse demonstrators during the

year, resulting in numerous deaths and injuries (also see section 1.a.). Open-air religious services held away from places of worship remained prohibited in many states, due to fear that they might heighten interreligious tensions. During national elections numerous states banned or cancelled political rallies, citing fears that the organizers planned to incite violence.

For example, on March 21, the state government and police in Jos, Plateau State, attempted to block the formation of a political rally for presidential candidate Muhammadu Buhari. The state government and police argued that the city remained too volatile for a political rally. When the rally still attempted to form, police fired into the crowd, killing six persons.

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 56 parties registered with the INEC by year's end. On August 18, the INEC deregistered seven political parties that did not meet the requirements for the establishment of a political party.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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; however, security officials restricted freedom of movement at times by enforcing curfews in areas experiencing ethnoreligious violence. They also routinely set up roadblocks and checkpoints, sometimes every few miles, to extort money from travelers. Security officials continued to use excessive force at checkpoints and roadblocks.

The government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers through the National Commission for Refugees (NCFR), its federal commissioner, and the National Emergency Management Agency (NEMA). The Eligibility Committee, on which the UNHCR had observer status, governed the granting of refugee status, asylum, and resettlement, and it also reviewed refugee resettlement.

In-country Movement.—During the year state officials imposed dusk-to-dawn curfews in response to sectarian conflicts. For example, authorities imposed curfews in August and September in areas of Kaduna State and Plateau State, following ethnoreligious violence. In some cases state and local governments, such as Yobe State and Maidugiri, Borno State, imposed curfews or otherwise restricted movement in the aftermath of Boko Haram attacks.

Exile.—There are no legal grounds for forced exile, and there were no examples of formal legal proceedings to exile a citizen. However, some citizens chose self-exile for political reasons. For example, Nuhu Ribadu, former chairman of the EFCC, left the country in 2009 after threats on his life. Ribadu voluntarily returned to the country in June 2010 and ran as an opposition candidate for the presidency in the April election.

Internally Displaced Persons (IDPs).—There was no national registration of internally displaced citizens and no accurate count, although the NCFR estimated the number to be approximately one million. The NCFR estimated that Edo, Akwa-Ibom, Jigawa, and Plateau states each contained at least 200,000 IDPs. There were many causes of displacement, including boundary and border disputes, sectarian and communal violence, localized political violence, postelection violence, forced evictions, conflict in the Niger Delta and Plateau State, the government's use of force in its efforts to eliminate extremist sects, altered cattle grazing patterns due to climate change, and major flooding in the northwest. The government's response to IDPs remained uneven, depending on the state affected. Federal NCFR budgets did not cover the need, and state and federal emergency management resources were inadequate. The NCFR estimated that postelection violence resulted in the displacement of more than 33,000 persons. For example, clashes in Kafanchan in southern Kaduna State caused up to 14,000 persons to flee their homes for relative sanctuary in other villages in Kaduna State.

The NEMA worked with civil society and religious groups to provide food and shelter to IDPs. The Kaduna State government, charitable organizations, and religious institutions offered homes to families fleeing the violence and assisted with integrating them into small communities throughout the state. Most of these IDPs either moved back to their villages or took up residence with family members in

nearby villages, and the Kaduna State government continued to work on developing housing options for those still displaced at year's end.

Ethnic disputes over land and political power along the borders of Benue, Taraba, and Nassarawa states resulted in violence, destruction of property, and the displacement of hundreds of persons. The federal government deployed mobile police units to affected areas to prevent further violence. For example, in November and December the government deployed security forces after an eruption of violence between Fulani and Tiv ethnic groups in Benue State near the Nasarawa border. Press reports estimated at least 50 people killed and 5,000 people displaced as a result of the violence.

Beginning in early 2009, 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 formed part of the lands that the International Court of Justice awarded to Cameroon pursuant to the 2007 Greentree agreement to settle the disputed land border between the two nations. Rivers State emergency services tried to provide permanent housing and services for displaced citizens at year's end.

Protection of Refugees.—Access to Asylum.—The law provides for the granting of asylum or refugee status, and the government 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, the country had 8,806 refugees, with another 1,529 refugee applications pending at year's end. Most of these refugees came from Liberia, Cameroon, and the Democratic Republic of the Congo.

An office operated by the NCFR in Maiduguri, Borno State, assisted refugees from Chad.

Access to Basic Services.—The UNHCR provided food, education, and job skills training, and refugees could move and work freely in the country. However, refugees, like citizens, had poor access to the police and courts and few opportunities for employment.

Durable Solutions.—As a result of repatriation and local integration, overcrowding in refugee camps decreased during the year. Authorities decommissioned the camp at Oru, near Lagos, although refugees continued to occupy buildings without permission. Some of the 2,500 refugees in the camp received 75,000 naira (\$463) to integrate into the local community. At year's end others still sought to repatriate or resettle in third countries.

Temporary Protection.—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. Overall, authorities conducted credible general elections in April. Some candidates alleged fraud and filed petitions before election tribunals, which upheld some results while overturning others. Such fraud and continued election irregularities abridged citizens' right to change their government to a limited extent.

Elections and Political Participation.—Recent Elections.—The government held presidential, gubernatorial, and legislative elections in April. The elections were scheduled to begin on April 2, but logistical challenges caused the INEC to delay them until April 9. Thirty-seven parties participated in the legislative elections. The INEC initially estimated a voter turnout as high as 75 percent, although this number varied from 20 to 60 percent in different regions. The legislative elections produced major changes in the National Assembly, with only about one-third of the incumbents in the Senate and the House of Representatives returning and the opposition parties gaining many seats. International observers witnessed generally calm and orderly voting at many polling stations.

The presidential election was held on April 16. President Goodluck Jonathan, who had assumed the presidency in May 2010 following his predecessor's death, and Vice President Mohammed Namadi Sambo were elected to a new four-year term. Twenty parties were listed on the ballot in the presidential election. The INEC estimated a voter turnout of 35 percent of the country's 70 million registered voters. According to the INEC, President Jonathan, the PDP candidate, tallied 58.9 percent of the vote, while CPC candidate Muhammadu Buhari won 32 percent. Project Swift Count (PSC) 2011, a group of four Nigerian civil society organizations, conducted parallel

vote tabulations and reported that President Jonathan received 58.7 percent of the vote and Muhammadu Buhari received 30.8 percent. The PSC deployed field observers to 1,497 polling units in all 774 local government areas in 36 states and the FTC. Election observers judged the presidential election to be more organized than the legislative elections and largely free, fair, and transparent. However, observers reported that some election precincts experienced fraud and electoral irregularities including vote rigging and buying; under-age voting; ballot stuffing; late openings and overcrowding of polls; insufficient voting materials; and intimidation and political violence.

Some violence occurred during the campaigns and on election day. On April 6, a bomb killed a PDP official preparing to distribute election materials in Kaduna. On April 8, outside the INEC office in Suleja, Niger State, a bomb blast killed as many as 13 persons. In September six suspected members of Boko Haram were arraigned at a federal high court in Abuja for allegedly bombing the election office in Suleja, as well as for the bombing of a PDP political rally, a church, and detonation of a bomb that killed security agents. On October 20, the hearing commenced and continued at year's end.

On election day a bomb explosion at a polling station in Maiduguri, Borno State, killed two persons, and in Delta State police shot and killed two individuals during an interparty dispute at a polling station.

Political violence occurred at federal, state, and local levels, as well as within political parties. In some cases before and after the election period, violence stemmed from rivalries and competition between political candidates. However, immediately following the April 16 presidential election, supporters of opposition CPC candidate Buhari began protests of President Jonathan's victory that led to an outbreak of violence in the north and in the Middle Belt states. The northern states of Adamawa, Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Niger, Sokoto, Yobe, and Zamfara experienced violent riots. Incidents ranged in severity and included mass protests, machete attacks, prison breaks, and the burning of businesses, places of worship, houses, and government offices. Rioters targeted local opponents, political rivals, and innocent bystanders. The violence claimed lives, damaged property, and led to restrictions of movement. HRW stated that election-related violence resulted in more than 800 deaths and displaced 65,000 persons in the 12 northern states. The police put the total at 520 deaths.

Gubernatorial elections for 26 states occurred on April 26 amid postpresidential election violence. Ten states did not hold gubernatorial elections due to a series of court decisions that extended the tenure of the incumbent governors. Kogi State held gubernatorial elections on December 4. The remaining nine states planned to hold gubernatorial elections off cycle in the coming years.

On October 10, the government released the report on postelection violence of the Presidential Committee on the 2011 Election Violence and Civil Disturbances. Retired grand qadi Sheikh Ahmed Lemu led a panel in the investigation of the causes of postelection violence and developed recommendations to prevent such occurrences in the future. The panel found that the root causes of the violence included widespread desire for change following failed promises to fix infrastructure; corruption; zoning policies that turned the election into an ethnoreligious contest; rumor mongering and negative campaigning; the failure of the government to enact previous panel recommendations; and the individual actions of some candidates. The report specifically identified CPC candidate Buhari as contributing to the violence. The panel found that his comment to supporters to "guard their vote" was "misconstrued by many voters to include recourse to violence which they did."

During the year the courts continued to hear and adjudicate cases related to the April elections. Following the elections the CPC filed a petition challenging President Jonathan's victory in court. The CPC petitioned to have election results overturned in 20 states. On November 1, the Presidential Election Tribunal upheld the presidential election results.

In April election rioters in Giade, Bauchi State, killed seven National Youth Service Corps members who manned polls on election duty, a policewoman, and two businessmen. A Bauchi magistrate court presided over the case, which included 20 suspects connected with the killings, as well as 21 others suspected of other postelection murders. The case remained in court at year's end.

In October violence between PDP and Action Congress of Nigeria (ACN) supporters erupted in Ugha, Benue State. Although accounts varied, the violence appeared to start after assailants attacked the home of a traditional leader in the town, killing four members of his family. The ensuing clash between supporters of the two parties resulted in as many as 30 deaths, and 60 houses also were destroyed.

On March 4, 10 people died and others suffered injuries when a bomb exploded at a political rally for Niger State governor Mu'azu Babangida Aliyu (PDP) in Suleja, Niger State.

Extremists also contributed to the political violence. For example, on January 29, Boko Haram gunmen killed the Borno State All Nigeria People's Party gubernatorial candidate, Alhaji Modu Fanmani Gubo, and six others in Maiduguri, Borno State.

Political Parties.—Establishing a political party remained relatively easy if supporters paid the required fees. Parties generally formed around individuals rather than on ideological grounds. Allegations continued that the PDP established new parties to confuse voters with large numbers of candidates.

Membership in the majority party, PDP, conferred advantages, primarily in employment. Police arbitrarily arrested opposition leaders.

On October 25, police in Kogi State arrested 28 members of the opposition ACN party while they traveled to Abuja on an Osun State government bus. The police commissioner in Osun stated that police arrested the ACN members because they could not explain their "mission" to Abuja.

Participation of Women and Minorities.—Men continued to account for more than 90 percent of the country's appointed and elected officials in more than 500 ministerial and national assembly positions.

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 Jonathan administration demonstrated this diversity. President Jonathan is an Ijaw from the southern state of Bayelsa, the vice president is a Hausa Fulani from the northern state of Kaduna, the senate president is an Idoma from the central state of Benue, and the speaker of the house is from the northwest state of Kebbi. The government attempted to balance other key positions among the different regions and ethnic groups; however, with more than 250 ethnic groups, ensuring representation of every group in the government was difficult.

The majority PDP also engaged in "zoning" for many key positions, a practice of rotating positions within the party among the different regions and ethnic groups to ensure that each region was given adequate representation. The practice of zoning became an issue because Jonathan's transition from vice president to president after the death of former president Yar'Adua, a northerner, upset the prior rotational scheme.

On June 6, the National Assembly elected Aminu Waziri Tambawal as speaker of the house, disrupting the practice of zoning and countering the wishes of the majority PDP party, which hoped to retain a member from the southwest in the position of speaker. The PDP attempted to thwart Tambawal's election as speaker both before and on the day of the election of principal officers of the House of Representatives. Security agents laid in wait to arrest Tambawal on arrival at the National Assembly on the day of the election; however, he was able to evade arrest and enter the National Assembly, where he was elected speaker.

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. Massive, widespread, and pervasive corruption affected all levels of government and 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 alleged requests from judicial officials for bribes to expedite cases or obtain favorable rulings.

Police corruption remained rampant, particularly at highway checkpoints. Police routinely stopped drivers who did not commit traffic infractions, refusing to allow them to continue until they paid bribes. The Office of the Inspector General of Police 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 remained ineffective and made no arrests by year's end. Citizens could report incidents of police corruption to the NHRC; however, the NHRC did not act on such complaints during the year, and no other mechanism existed to investigate security force abuse (see section 5).

In August 2010 HRW released *Everyone's in on the Game*, a report on corruption and human rights abuses by the police. HRW compiled information from 145 interviews and documented pervasive police extortion with impunity committed by police

officers throughout the country. Police demanded bribes, threatened arrest and physical harm, and enforced a system of “returns” in which officers must pay up the chain of command a share of the money they extorted from the public. This system undermined the rule of law and created a large disincentive for superior officers to hold their subordinates accountable for extortion and other abuses.

Public officials, including the president, vice president, governors, deputy governors, cabinet ministers, and legislators (at both federal and state levels), must comply with financial disclosure laws, including the requirement to declare their assets before assuming and after leaving office. Violators risked prosecution, but cases rarely came to conclusion. On October 26, the Code of Conduct Tribunal commenced the trial of former governor of Lagos State Asiwaju Bola Ahmed Tinubu, who allegedly failed to disclose multiple foreign bank accounts he operated while serving as governor. There was no decision in the case by year’s end.

The EFCC’s anticorruption efforts were largely ineffectual. The 2008 replacement of its internationally respected chairman, Nuhu Ribadu, and transfer of many of its senior personnel raised questions about the government’s commitment to fighting corruption. On November 23, President Jonathan removed EFCC Chair Farida Waziri after credible allegations appeared that she was engaged in corrupt practices.

On August 25, HRW released *Corruption on Trial*, a report on the record of the EFCC. The report examined the EFCC’s record of conviction and prosecution of members of the political elite implicated in corruption under Ribadu and his replacement Waziri. The report found that, although the EFCC had done a competent job of prosecuting apolitical financial crimes, it had less success in high-profile political corruption cases.

Despite the arrest of several high-ranking officials by the EFCC, allegations continued that agency investigations targeted individuals who had fallen out of favor with the government, while those who were in favor continued their activities with impunity. Since 2005 the EFCC prosecuted 26 nationally prominent public officials and recovered 1.7 trillion naira (\$10.5 billion). However, only four of these officials—former inspector general of police Tafa Balogun, former Bayelsa State governor Diepreye Alamieyeseigha, former Edo State governor Lucky Igbinedion, and PDP chieftain and former Nigerian ports authority chairman Olabode George—were convicted. The courts granted bail to all the others.

In May the EFCC arrested former minister of works and housing Hassan Lawal for the mismanagement of 50 billion naira (\$308 million). Their trials continued at year’s end. In June the EFCC arrested Dimeji Bankole, former speaker of the House of Representatives, and Deputy Speaker Usman Nafada for the alleged misappropriation of one billion naira (\$6.2 million) and 40 billion naira (\$247 million), respectively.

In October the EFCC arrested four former governors who vacated office earlier in the year, including former Ogun governor Otunba Gbenga Daniel, former Oyo governor Chief Adebayo Alao-Akala, former Nasarawa governor Alhaji Aliyu Akwe Doma, and former Gombe governor Muhammed Danjuma Goje. The four allegedly misappropriated or stole 58 billion naira (\$358 million), 25 billion naira (\$154 million), 18 billion naira (\$111 million), and 12.8 billion naira (\$79 million), respectively. Their trials began in December and continued at year’s end.

Former Delta State governor James Ibori was acquitted on 170 counts of corruption charges. He continued to face court charges in the United Kingdom for money laundering and other financial crimes stemming from embezzlement during his government tenure. The United Arab Emirates extradited Ibori to the United Kingdom, where he was scheduled to stand trial in February 2012.

In May 2010 authorities arraigned former PDP national chairman Vincent Ogbulafor on 17 criminal counts of corruption and money laundering in the amount of 2.3 billion naira (\$14 million). Ogbulafor filed a petition to dismiss the charges. There were no new developments in the case by year’s end.

In August 2010 Attorney General Mohammed Adoke announced that the government could not authenticate the Pius Okigbo Panel report on former military president and general Ibrahim Babangida, which charged that Babangida mismanaged 12.4 billion naira (\$76 million) during his administration. The civil society group Socio-Economic Rights and Accountability Project (SERAP) accused the attorney general of a cover-up. A federal high court was scheduled to announce a ruling on July 28, but did not do so by year’s end.

On October 20, the federal high court in Ado-Ekiti, rearraigned former Ekiti State governor Ayodele Fayos. In 2006 he was accused of laundering 1.4 billion naira (\$8.6 million) while in office. The case continued at year’s end.

On May 28, President Jonathan signed into law the Nigerian Freedom of Information Act (FOIA). The law allows any person to request information from a govern-

ment office. The office must grant access to the information or explain why access is denied within seven days of receiving the request, or transfer the request to the appropriate office within three days. The FOIA makes it the responsibility of all public offices to keep records and provides immunity for public officers against any form of civil or criminal proceeding for “disclosure in good faith of any information” pursuant to the FOIA. The act provides a 30-day window within which anyone denied access by any public institution can bring the matter to court for a judicial review. The act includes a fine of 500,000 naira (\$3,083) for any institution or public officer who wrongfully denies access to information or records. Destruction of records is a felony punishable with a minimum penalty of one year’s imprisonment under the act.

Civil society groups introduced a number of cases at the national and state level to test the FOIA during the year. For example, in September the SERAP brought a case against the Oyo State government after being denied access to information on state funding for primary education. The case continued at year’s end.

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 sometimes cooperated and responded to their views. The government did not interfere with international human rights organizations that visited the country to research human rights violations, police abuses, and ethnic conflicts.

Government Human Rights Bodies.—The NHRC, which the government tasked with monitoring and protecting human rights, maintained zonal affiliates in the country’s six political regions. The commission published periodic reports detailing specific human rights abuses, including torture and poor prison conditions. The NHRC’s operations were limited by insufficient funding. The commission also lacked an independent budget and judicial authority and could only make nonbinding recommendations to the government. However, in March the president signed the National Human Rights Commission Amendment Act. The law, which had remained in the National Assembly for six years awaiting presidential signature, secures the independence and funding of the NHRC through the Human Rights Fund. The law also provides greater recognition and enforcement of NHRC decisions. In September the NGO Human Rights Agenda Nigeria criticized the government for delayed implementation of the act, specifically for the failure to establish the Human Rights Fund or provide the NHRC and Legal Aid Council with sufficient funding for the promotion and protection of human rights.

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. The constitution prohibits discrimination based on the circumstances of a person’s birth. However, the constitution does not explicitly prohibit discrimination based on disability.

Women.—Rape and Domestic Violence.—The law criminalizes rape and provides penalties of 10 years’ to life imprisonment, as well as fines of 200,000 naira (\$1,233) for those convicted of rape, but societal pressure and the stigma associated with rape reduced both the percentage of rapes reported and the penalties imposed for conviction. 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.

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. According to the 2008 Nigeria Demographic and Health Survey (NDHS), 3 percent of married women between the ages of 15 and 49 experienced spousal rape.

Rape remained rampant in universities. For example, in September a video allegedly showing five men gang-raping a female Abia State University student began circulating on the Internet. The video, which garnered extensive media coverage, led to criticism across the country. University and Abia State government officials initially denied the authenticity of the video. Police officials in Abia made initial arrests but eventually released the suspects without charge. Police stated that they could not prosecute the case unless the victim came forward. The House of Representatives Justice Committee and the NHRC both called for an investigation of the case, but there was no additional progress by year’s end.

No laws criminalize gender-based violence, and some federal laws allow 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 remained widespread and often was considered socially acceptable. In a survey released in 2009, 28 percent of women reported experiencing violence after age 15, the majority of which a husband or partner had inflicted. The Legislative Advocacy Coalition on Violence Against Women conducted a survey of gender-based violence in 18 states from January through June of 2010. Of the 479 cases surveyed, 44 percent involved cases of physical violations, 21 percent sexual violations, 18 percent domestic violence, 12 percent harmful traditional practices, and 3 percent economic violations.

Police did not intervene in domestic disputes. In rural areas courts and police remained 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 2008 NDHS, 43 percent of women and 30 percent of men between the ages of 15 and 49 agreed that a husband may justifiably hit or beat his wife for at least one of five specified reasons, including burning food and arguing.

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 acquisition of skills. The Women's Rights Advancement and Protection Alternative also served as a leading voice in the campaign against violence against women and advocated passage of legislation to protect women's rights.

In June 2010 the government deposed the traditional ruler of Akure Kingdom in Ondo State after he attacked one of his wives in the street in full view of witnesses. Police stated that they would press assault charges against the perpetrator, and many in Ondo State and Abuja criticized the actions of the traditional ruler. In a countermeasure the accused filed an injunction naming police and the courts and asking the court to drop the case. There were no developments in the case by year's end.

Harmful Traditional Practices.—Purdah, the cultural practice of secluding women and pubescent girls from unrelated men, continued in various parts of the north. In some parts of the country, widows experienced unfavorable conditions as a result of discriminatory traditional customs. "Confinement," which occurred predominantly in the northeast, remained the most common rite of deprivation for widows. Confined widows stayed under social restrictions for as long as one year and usually shaved their heads and dressed in black as part of a culturally mandated mourning period. In other areas communities viewed a widow as a part of her husband's property to be "inherited" by his family.

Polygyny remained legal and widely practiced among many ethnic and religious groups.

Sexual Harassment.—Sexual harassment remained a common problem. No statutes prohibit sexual harassment, but authorities may prosecute violent forms of it under assault statutes. The practice of demanding sexual favors in exchange for employment or university grades remained common. Women suffered harassment for social and religious reasons in some regions.

Reproductive Rights.—Couples and individuals generally had the right to decide freely and responsibly the number, spacing, and timing of children; however, effective information and counseling on reproductive health was not widely available to women and couples. According to the 2008 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 used modern methods. Approximately 50 percent of the population consisted of adolescents; many of them were sexually active, but few had access to contraceptives. The U.N. Population Fund reported the maternal mortality rate at 840 deaths for every 100,000 live births in 2008, a high rate partially due to births to adolescents and women at high risk of complications from pregnancy. Approximately 54,000 women and 250,000 newborns died annually from complications of childbirth. A trained health professional assisted an estimated 39 percent of live births. Women married young and averaged a fertility rate of 5.7 children; 36 percent of mothers did not receive any prenatal care, and only 38 percent of new mothers received postnatal examinations within two days of delivery. Women and men received equal access to diagnostic services and treatment for sexually transmitted infections.

Discrimination.—The constitution provides for equality and freedom from discrimination; however, women experienced considerable economic discrimination. No laws barred 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 and often encountered difficulty in acquiring commercial credit or obtaining 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.

Women in the 12 northern states were affected to varying degrees by sharia law. In Zamfara State local governments enforced laws requiring the separation of Muslim men and women in transportation and health care. The Kano State prohibition on commercial motorcycle taxis taking women as passengers remained in place; however, authorities did not strictly enforce the prohibition.

The testimony of women received less weight than that of men in many criminal courts. No law barred women from arranging surety bonds for bail for persons detained by the police, but in practice women could not provide such bail arrangements at most police detention facilities across the country.

Children.—Birth registration.—Citizenship of a child is derived from the parents. The government did not require birth registration, and the majority of births remained unregistered; however, lack of documents did not result in denial of education, health care, or other public services.

Education.—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, authorities rarely provided compulsory primary education, and often charged numerous mandatory school fees. Most educational funding came from the federal government, with state governments required to pay a share; however, some states did not disclose their funding share. Of the country's estimated 30 million primary school-age children, seven million did not enroll in the conventional school system. As a result of the government's failure to pay them for months at a time, primary, secondary, and university teachers frequently went 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 became involved in 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.

In May the government released the findings of the 2010 Nigeria Education Data Survey, a follow-up report to the 2008 NDHS. According to the survey, attendance rates in primary school ranged from 35 to 80 percent. The lowest attendance rates occurred in the northeast and northwest, where rates for boys and girls hovered around 43-47 and 35-38 percent, respectively. Overall, 63 and 58 percent of boys and girls, respectively, attended school. According to UNICEF, for every 10 girls in school, more than 22 boys attended. For young persons between the ages of 17 and 25 years, 25 percent had fewer than two years of education.

Child Abuse.—Child abuse remained common throughout the country. The government criticized child abuse and neglect but did not undertake significant measures to combat it. Human rights groups reported sexual assaults and rapes of young girls, especially in the north.

Children accused of witchcraft were abused in some states. Children accused of witchcraft suffered kidnapping, torture, and death. According to two local NGOs that operated shelters, Stepping Stones Nigeria (SSN) and the Child 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. The state governor, reacting to international press stories of persecution of children accused of witchcraft in Akwa Ibom, issued arrest warrants for the leaders of the SSN and the

CRARN for alleged misappropriation of funds and personal gain. The cases remained pending at year's end, with outstanding warrants for the shelter's directors.

In June police raided a hospital in Aba, Abia State, and rescued girls being held to produce babies for sale in witchcraft rituals. The police rescued 32 of the girls, ages 15 to 17. Male babies reportedly sold for up to one million naira (\$6,167) for use in trafficking rings or witchcraft rituals. The owner of the hospital claimed that the hospital served as a shelter for pregnant teenagers. Authorities held him for trial at year's end.

On February 11, the NGO International Humanist and Ethical Union claimed that it rescued two children accused of witchcraft in Uyo, Akwa Ibom State. The NGO found the children living with a single man and working in the market as child laborers after their parents had abandoned them.

In September 2010 media reported that public criticism and efforts by the government, particularly in Akwa Ibom State, had caused a drop in new cases of children abused for alleged witchcraft. In November 2010 the government of Akwa Ibom State set up the Commission of Inquiry into Witchcraft Accusations and Child Rights Abuses. On May 10, the commission adjourned, but its findings were not available by year's end.

Self-proclaimed "bishop" Sunday Williams publicly claimed to have killed 110 child witches and asserted that Akwa Ibom State had as many as 2.3 million witches and wizards among its population of 3.9 million. In 2008 authorities arrested Williams and charged him with torture and murder; authorities arraigned him in 2009, and the case continued at year's end.

Harmful Traditional Practices.—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 woman who offers herself for FGM; any person who coerces, entices, or induces any woman to undergo FGM; or any person who, for other than for medical reasons, performs an operation removing part of a woman's or a girl's sexual organs. The law provides for a fine of 50,000 naira (\$308), 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. 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 applied 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.

The 2008 NDHS reported that 30 percent of women in the country suffered FGM. While practiced in all parts of the country, FGM remained most prevalent in the southern region among the Yoruba and Igbo. Infibulation, the most severe form of FGM, infrequently occurred in northern states but was 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 female victims suffered FGM before their first birthday.

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 affected women had to rely on charity.

Child Marriage.—The Child Rights Act, as passed by the National Assembly, stipulates a minimum age of 18 years for marriage. Most states, especially northern states, did not adopt the act, and those states did not uphold the federal official minimum age for marriage. The government did not take significant steps to stop traditional practices harmful to children, such as sales of young girls into marriage. According to credible reports, there were incidents of poor families selling 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.

In March 2010 Zamfara Senator Sani Ahmed Yerima married a 14-year-old Egyptian girl at the central mosque in Abuja, in violation of the 2003 Child Rights Act adopted by the FCT. He maintained that he was not subject to civil laws, only sharia laws. The National Agency for the Prohibition of Trafficking in Persons (NAPTIP) investigated the case, but authorities did not prosecute Yerima.

Sexual Exploitation of Children.—There is no statutory rape law. 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.

Displaced Children.—In June 2010 then acting president Jonathan stated that the country had 17.5 million vulnerable children, including 7.3 million orphans. According to 2009 U.N. statistics, 1.2 million children became orphans due to HIV/AIDS. UNICEF noted that 25 percent of children in the country, including orphans, suffered from inadequate nutrition, poor access to health care, and infrequent school attendance.

Many children remained homeless and lived on the streets. The government did not have any statistics on their numbers. Major factors causing 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 December 2010 the Ministerial Committee on Madrasah Education reported that 9.5 million children worked as "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 and 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 effectively became homeless.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were no reports of anti-Semitic acts during the year. An estimated 700 to 900 members of the Jewish community, all foreign employees of international firms, resided in Abuja and worshipped together in one synagogue.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The constitution does not prohibit explicitly discrimination based on disability; however, it prohibits discrimination based on the circumstances of one's birth. No laws prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, access to health care, or the provision of other state services. At year's end the president had not yet signed into law a disabilities bill passed in 2007 that sought to ensure education and accessibility for persons with disabilities. Government responsibility for persons with disabilities falls under the supervision of the Ministry of Women's Affairs and Social Development.

Mental health facilities remained almost nonexistent, although officials at individual prisons attempted to include specialized mental health facilities for prisoners with mental conditions. All disabled prisoners stayed with the general inmate population without regard to disability, and no additional services were available.

Persons with disabilities faced social stigma, exploitation, and discrimination, and relatives often regarded them 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 those who were 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, Kano Polio Victims Trust Association, Joint National Association of Persons with Disabilities, Albino Foundation, and Comprehensive Empowerment of Nigerians with Disabilities. In 2008 the federal Ministry of Education estimated that there were 3.25 million school-age children with disabilities. Of these, only 90,000 (2.76 percent) enrolled in primary school and 65,000 (1.85 percent) in secondary school.

National/Racial/Ethnic Minorities.—The country's ethnically diverse population consisted of more than 250 groups. Many were concentrated geographically and spoke distinct primary languages. Three major groups—Hausa, Igbo, and Yoruba—jointly constituted approximately half the population. Members of all ethnic groups practiced ethnic discrimination, particularly in private-sector hiring patterns and the 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, or each of the six geopolitical regions. 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 areas, occasionally compelling individuals to return to a region where their ethnic group originated but to which they no longer had personal ties. The government sometimes compelled nonindigenous persons to move by threats, discrimination in hiring and employment, or destruction of 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 military.

For example, in Plateau State, the predominantly Muslim and nonindigenous Hausa and Fulani faced significant discrimination from the local government in land ownership, jobs, access to education, scholarships, and government representation.

Religious differences often mirrored regional, 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.

Incidents of communal violence between ethnic groups in the Middle Belt, also divided along Christian-Muslim lines, resulted in numerous deaths and injuries, the displacement of thousands of persons, and widespread property destruction.

Ethnoreligious violence, often triggered by disputes between farmers and herders, resulted in numerous deaths and significant displacement during the year. The most deadly examples of such conflict occurred in Jos and the farmland surrounding the city. In January as many as 100 persons were killed in violence that followed the 2010 Christmas bombings in Jos that killed and injured Christians, and in clashes between Christian and Hausa Fulani youths and the STF around the University of Jos. HRW estimated that more than 200 persons, both Muslim and Christian, died in reprisals and counterreprisals, which continued throughout the year.

Land disputes, ethnic differences, settler-indigene tensions, and religious affiliation all contributed to these attacks. Determining motives behind any single attack remained difficult. “Silent killings” occurred throughout the year, in which individuals disappeared and later were found dead. Reprisal attacks at night in which assailants targeted and attacked individual homes or communities occurred frequently. For example, on September 4, unknown assailants killed a family of eight, including a four-month-old baby, during the night in a village outside of Jos. In late August at the end of Ramadan, a dispute between Muslim and Christian youths over the location to hold Eid prayers led to violence in and around Jos that resulted in the death of up to 100 Muslims and Christians. Authorities did not convict any perpetrators of such violence during the year or those involved in attacks by Muslim Fulani herders in March 2010 that left 700 persons dead.

The Presidential Advisory Committee on Jos Crisis delivered its report in August 2010. The report contained recommendations regarding land ownership, indigeneship, the creation of new local government areas, the establishment of a culture of nonviolence, the problem of youth unemployment, and community sensitization. Authorities had not implemented these recommendations by year’s end. Ethnic groups cited economic exploitation, environmental destruction, and government indifference as their major problems in the oil-producing Niger Delta region. Incidents of ethnic conflict and confrontation with government officials and forces continued in the Niger Delta area (see section 1.g.).

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.—Consensual same-sex sexual activity is illegal under federal law and punishable by prison sentences of up to 14 years. In the 12 northern states that have adopted sharia, adults convicted of engaging in same-sex sexual activity may be subject to execution by stoning, although no such sentences have been imposed.

Because of widespread societal taboos against homosexuality, very few persons openly revealed their orientation. 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. Organizations such as the Youths 2gether Network also provided access to information and services on sexual health and rights for LGBT persons, sponsored programs to help build skills useful in social outreach, and provided safe havens for LGBT individuals.

The government and its agents did not impede the work of these groups during the year.

However, on November 29, the Senate passed the Same Sex Marriage (Prohibition) Bill, 2011, that would prohibit participating in or witnessing same-sex marriage ceremonies, criminalize public displays of affection between same-sex couples, and criminalize LGBT organizations. The bill includes penalties, including a 14-year prison sentence for individuals entering into a same-sex marriage, a 10-year sentence for public displays of same-sex affection, and a 10-year sentence for any individual who registers, operates, or participates in LGBT clubs, societies, organizations, processions, or meetings. The bill also calls for a 10-year sentence for any individual aiding, abetting, or witnessing the solemnization of a same-sex marriage. The House of Representatives conducted a first reading of the bill on December 7 but adjourned for the year before conducting a second and third reading and bringing the bill to a final vote.

In March a gang of 10 boys beat and raped three girls they suspected were lesbians in Benin, Edo State. The boys videotaped the attack, and the footage circulated throughout the state. The girls went into hiding due to fear of further attacks and of harassment by the general public. There were no charges filed and no further developments in the case by year's end.

Authorities took no action against persons who stoned and beat members of the House of Rainbow Metropolitan Community Church, an LGBT-friendly church in Lagos, in 2008. The attacks occurred after four newspapers published photographs, names, and addresses of church members. During the year church members and the clergy continued to receive threatening e-mail messages, telephone calls, and letters from unknown persons. The church and partner groups cancelled conferences on sexual rights and health scheduled for Lagos and Abuja in December due to concerns about the safety of conference attendees after the proposed Same-Sex Marriage (Prohibition) bill refocused negative attention on the Church. The trial of 18 men, originally charged in 2008 with sodomy and subsequently charged with vagrancy, had been adjourned multiple times. All defendants had posted bail, set at 20,000 naira (\$123), and gained their release. No resolution of the case had been announced by year's end.

Other Societal Violence or Discrimination.—There was widespread societal discrimination against persons with HIV/AIDS. The public considered the disease a result of immoral behavior and a punishment for homosexual activity. Persons with HIV/AIDS often lost their jobs or were denied health care services. Authorities and NGOs sought to reduce the stigma and change perceptions through public education campaigns.

Various reports indicated that street mobs killed suspected criminals during the year. There were no arrests reported from these mob actions and no developments in cases from previous years.

Killings carried out by organized gangs of armed robbers remained common during the year. For example, on August 3, a gang stopped a bus travelling overnight from Lagos to Abuja and forced the passengers to lie down in the road while they robbed them of possessions. During the robbery a second bus travelling on the road ran over and killed 14 of the passengers. Between 10 and 30 of the other passengers remained missing. There were no arrests in the case by year's end.

Kidnappings and related violence were a serious problem. For example, on August 28, kidnappers abducted Elder Tes Sorae, a businessman and chieftain of the PDP in Edo State. During the kidnapping the abductors shot and killed two police officers and Sorae's driver. The abductors also wounded his daughter and mortally wounded his wife, who died five days later. The captors released Sorae on September 5 after his family paid an undisclosed ransom.

On September 7, kidnappers abducted and killed popular musician Bayo Ade in Benin City, Edo State. The abductors asked for 500,000 naira (\$3,083). Police reported that two suspected kidnappers remained in custody, but by year's end, there were no new developments in the case.

In many regions groups of street youths, known as "area boys," operated illegal highway checkpoints at which they demanded money from motorists.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—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; however, some statutory limitations on the right of association and on trade unions restricted this right. Under the Trade Unions Act, labor unions must be registered with the government and must have a minimum of 50 members. It also provides that other trade unions may not be registered in the event that a trade union already exists. Workers, except members of the armed forces and employees designated under the Trade Unions Act as essential public sector workers, may join trade unions. Essential workers included government employees in the police, prison service, immigration and customs departments, mint, and Central Bank. Trade union federations, called in the Trade Unions Act “central labor organizations,” must register with the government. Each federation must consist of 12 or more affiliated trade unions, and trade union membership in a federation must be exclusive.

The law generally does not ensure a union’s ability to conduct its activities without interference by the public authority. The law narrowly defines what union activity is legal. The minister of labor has broad authority to cancel the registration of workers’ and employers’ organizations. In addition the registrar of Trade Unions has broad powers to supervise union accounts at any time.

The law provides workers, except those in certain categories, with the rights to organize and bargain collectively. Certain categories of workers are denied these rights, including employees of the Customs and Excise Department, Immigration Department, Nigerian Security Printing and Minting Company Limited, prison service, and Central Bank of Nigeria. Workers and employers in export processing zones (EPZs) are subject to the provisions of the labor laws and the 1992 Nigeria Export Processing Zones Decree. Under this decree workers in the EPZs are allowed to organize and engage in collective bargaining, but there are no explicit provisions to ensure that workers in EPZs have the right to organize freely their administration and activities without interference by the public authorities. The law does not allow worker representatives to have free access to the EPZs to organize workers, nor does it allow workers to strike for 10 years following the commencement of operations within a zone. In addition the Nigerian Export Processing Zones Authority, which the federal government created to manage the EPZ program, has the exclusive authority to handle the resolution of disputes between employers and employees, thereby limiting the autonomy of the bargaining partners.

The Ministry of Labor is responsible for monitoring and addressing reported cases of antiunion discrimination. There were two central labor organizations, the Nigeria Labor Congress and the Trade Union Congress of Nigeria.

The law limits the right to strike to disputes of rights, including those arising from the negotiation, application, interpretation, or implementation of an employment contract or collective agreement, or those arising from a collective and fundamental breach of an employment contract or collective agreement, such as one related to wages and conditions of work. Strikers are prohibited from blocking airports or obstructing public highways, institutions, or premises of any kind. Strikes in “essential services” are prohibited. Under the Trade Disputes Act, essential services include, among others, services for, or in connection with, the Central Bank of Nigeria; Nigerian Security Printing and Minting Company Limited; any corporate body licensed to carry out banking business under the Banking Act; postal service; sound broadcasting; maintenance of ports, harbors, docks, or aerodromes; transportation of persons, goods, or livestock by road, rail, sea, or river; road cleaning; and refuse collection. Strike actions, including many in nonessential services, may be subject to a compulsory arbitration procedure leading to a final award, which is binding on the parties concerned. By granting dispute resolution authority to the authorities managing the EPZs, the 1992 EPZ decree removes the autonomy of the bargaining partners, since the zone authorities have the power to impose compulsory arbitration.

Strikes are prohibited over national economic policy. Penalties for participating in an illegal strike include both fines and imprisonment for up to six months. The International Labor Organization (ILO) ruled that the law’s restrictions on the right to strike contravened ILO conventions. The ILO recommended that the relevant laws be amended to ensure that workers enjoy the full right to strike, including recourse to protest strikes aimed at criticizing the government’s economic and social policies, without sanction, particularly penal sanction, for participating in a peaceful strike. Instead of imposing an outright ban on strikes in such categories of services, the ILO recommended that the government establish a system of minimum service. Workers not defined as essential have the right to strike, although they have to provide advance notice. Workers under collective bargaining agreements cannot partici-

pate 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. 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.

The law does not prohibit antiunion discrimination and does not provide for reinstatement for workers fired for union activity. No laws prohibit retribution against strikers and strike leaders, but strikers who believe they are victims of unfair retribution can submit their cases to the Industrial Arbitration Panel with the approval of the Ministry of Labor. The panel's decisions are binding on the parties but may be appealed to the National Industrial Court. The arbitration process was cumbersome, time consuming, and ineffective in deterring retribution against strikers.

Officials reported that union membership had declined in recent years. Many workers in the informal sector, where most workers find employment, belonged to thrift and cooperative societies, which helped with daily savings and with loans to meet business needs.

While workers exercised some of these rights in practice, the government generally did not enforce the applicable laws effectively.

According to labor representatives, in many cases workers' fears of negative repercussions inhibited their reporting of antiunion activities. On September 8, presidents of Nigeria Labor Congress and Trade Union Congress (NLC/TUC) along with other union officials were harassed and held hostage by security agents while preparing to lead a protest against nonimplementation of the minimum wage by the Enugu State government. They were later released due to public outcry.

There were no reports of prosecution of the arrested members of the Petroleum and Natural Gas Senior Staff Association of Nigeria; their arrests were tied to the investigation of the alleged Halliburton bribery scandal involving top government officials.

Courts did not ensure due process in protecting workers' rights to bring their grievances to the judicial system for review.

Collective bargaining occurred throughout the public sector and the organized private sector but remained restricted in the private sector, particularly in the banking and telecommunications sectors. According to labor representatives, in many cases workers' fears of negative repercussions inhibited their reporting of antiunion activities. In August and September, officials of the NLC/TUC were detained in a hotel in Enugu State by a large crowd, believed to have been sent by the state governor to prevent the officials from addressing a labor rally regarding the new Minimum Wage Act. The officials eventually attended the rally.

A local NGO reported that workers were required to sign, as a condition of employment, contracts that explicitly prohibited employees from attempting to join a union. Some employers dismissed workers involved in organizing unions. In September 2010 the management of an Abuja hotel dismissed workers involved in organization efforts. The fired workers initiated a complaint. The government had not taken action on the complaint by year's end.

In December 2010 a bank withdrew recognition of an employees' union without following the legal process to determine whether the new union was a legal entity. The case continued in court between the parent union and the break-away union. The bank and employees entered into a reconciliation process.

Chinese employers reportedly continued to fail to comply with labor laws pertaining to the protection of union organizing, especially in the construction and textile sectors.

In December 2010 police broke up groups of unionized electrical workers protesting government efforts to privatize the Power Holding Company of Nigeria. These protests occurred in Lagos, Ondo, and Delta states. According to media reports, police arrested up to 20 members of the National Union of Electricity Workers in Ondo State. The workers were eventually released.

There were no known arrests during the year.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, including by children; however, some laws, including the Labor Decree of 1974, Merchant Shipping Act, the Trade Disputes Act of 1990, and Nigerian Press Council Act of 2002 (as amended), contain provisions for sanctions that include imprisonment with compulsory prison labor. The law provides for fines and imprisonment for individuals convicted of engaging in the practice of forced or compulsory labor. Enforcement of the law remained ineffective in many parts of the country. The government took steps to identify or eliminate forced labor, but its efforts were hampered by insufficient resources and complicated by jurisdictional issues between state and federal governments. Forced labor remained widespread, particularly bonded labor and domestic servitude. Children worked in agriculture,

artisanal building stone and gravel mining, artisanal gold mining, petty trading, fishing, and domestic labor.

UNICEF reported that children were sometimes encouraged to participate in ethnic conflicts, but forced involvement was difficult to prove. Children were forced into criminal activity, and poverty induced children to engage in crime and violent activities.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law sets a general minimum age for employment of 14 years. Young persons under age 15 may be employed only on a daily basis, must receive the day's wages at the end of each workday, and must be able to return each night to their parents' or guardian's residence; however, under the Labor Act 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. No young person under the age of 16 may work underground, in machine work, or on a public holiday. No young person may be employed in any job that is injurious to health, dangerous, or immoral. 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. The law states that children may not be employed in agricultural or domestic work for more than eight hours per day. Apprenticeship of youths above the age of 12 is allowed under specific conditions.

Despite the law, children were not adequately protected due to weak or non-existent enforcement. During the year the Ministry of Labor and Productivity issued no citations nor collected any fines against employers of child labor. Child labor was widespread, and the Ministry of Labor and the NAPTIP estimated that more than 15 million children participated in child labor.

The worst forms of child labor identified in the country included commercial agriculture and hazardous farm work; street hawking; exploitive cottage industries; hazardous mechanical workshops; exploitive and hazardous domestic work; commercial fishing; exploitive and hazardous pastoral and herding activities; construction; transportation; mining and quarrying; prostitution and pornography; forced and compulsory labor and debt bondage; forced participation in violence, criminal activity, and ethnic, religious, and political conflicts; and involvement in drug peddling.

Many children worked as beggars, street peddlers, bus conductors, and domestic servants in urban areas. The government estimated that as many as 9.5 million children were engaged in street begging in the northern part of the country. Children also worked in the agricultural sector and in mines. Boys worked as bondage laborers on farms, in restaurants, for small businesses, in granite mines, and as street peddlers and beggars. Girls worked involuntarily as domestic servants, street peddlers, and commercial sex workers.

In addition to children who were citizens, there were reports of thousands of trafficked Beninese children forced to work in granite mines in Abeokuta, Ogun State. An international NGO worked with state government officials to eliminate the number of child workers under age 14 and acted as an ombudsman to advocate for 14- to 16-year-old workers. In Abakaliki, Ebonyi State, and near Lafia, in Nassawara State, children could be seen hammering down large pieces of rocks, stacking them into piles, and carrying them on their heads, but there were no official statistics on their state or country of origin. In Zamfara State children were employed in industrial facilities used to process gold ore, exposing them to hazardous conditions. International observers reported improvement in conditions later in the year.

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. New centers in Calabar, Bauchi, and Warri were completed. NGO-run or state-run vocational training centers were also 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 to November the ministry reported 12,040 labor inspections by 441 officers. Although the inspectorate employed nearly 500 inspectors for all business sectors, there were fewer than 50 factory inspectors for the entire country. Victims or their guardians rarely made complaints due to intimidation and fear of losing their jobs. Labor inspections mostly occurred randomly 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. A visit to the Nassawara State labor officer found staffing and resources well below the level needed for the task, and little capacity to address labor law issues in the

large informal sector. The NAPTIP has 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 no training programs were held in 2010 due to budget constraints. The federal government passed the Child Rights Act in 2003, but it required state-level ratification for full implementation. Twenty-four states, plus the FCT, have passed the act. The remaining states are in the north, where sharia is in effect. UNICEF continued to advocate passage and enforcement in all other states.

Private and government initiatives to eliminate child labor continued but remained mostly ineffective. The government gradually implemented the ILO/International Program for the Elimination of Child Labor (ILO/IPEC) Sustainable Tree Crop Program in the cocoa and other agricultural subsectors. A component of the ILO/IPEC project sensitized farmers to issues relating to hazardous child labor and child trafficking for labor exploitation. Akwa Ibom, Ondo, Cross River, and Abia states participated in the program during the year. In October the government launched an ILO/IPEC project to reduce child labor and trafficking in stone quarries in Ogun State.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—A new national monthly minimum wage of 18,000 naira (\$111) was established by an amendment to the law in March. However, implementation of the act was slow, particularly by state governments, despite worker protests and warning strikes. Employers with fewer than 50 employees are exempt from provisions of the law, and the large majority of workers are not covered by the law.

The Labor Act mandates a 40-hour workweek, two to four weeks of annual leave, and overtime and holiday pay, except for agricultural and domestic workers. The Labor Act does not define premium pay or overtime. The law prohibits excessive compulsory overtime for civilian government employees.

The law establishes general health and safety provisions, some of which are aimed specifically at young or female workers. The 2010 Employees Compensation Act raised the amounts paid to workers who suffered job-related injuries. The act also extended coverage to women involved in work not previously covered. The law requires employers to compensate injured workers and dependent survivors of those killed in industrial accidents. The Factories Act provides for the protection of factory employees in hazardous situations, including the right of employees to remove themselves from such situations. The law did not provide other, nonfactory workers with similar protections. The labor laws apply to legal foreign workers, but not all companies respected these laws in practice. The Ministry of Labor is responsible for enforcing these standards.

Enforcement did not occur in the informal sector. No citations or fines were issued for child labor during the year.

The Ministry of Labor did not properly monitor and enforce health and safety conditions due to insufficient inspectors. The inspectorate division of the Ministry of Labor inspects factories for compliance with health and safety standards. However, this division was underfunded, lacked basic resources and training, and consequently did not sufficiently enforce safety regulations at most enterprises, particularly construction sites and other nonfactory work locations. In addition the compensation law was not enforced strictly.

RWANDA

EXECUTIVE SUMMARY

Rwanda is a constitutional republic dominated by a strong presidency. The ruling Rwandan Patriotic Front (RPF) leads a coalition that includes six smaller parties. Three other registered political parties participate in elections. In August 2010 voters elected President Paul Kagame to a second seven-year term. Senate elections took place in September, with RPF candidates winning the majority of seats by wide margins. International observers reported the senate elections met generally recognized standards of free and fair elections in most respects but noted concerns regarding the independence of voters' decisions. State security forces (SSF) generally

reported to civilian authorities, although there were instances in which elements of the security forces acted independently of civilian control.

The most important human rights problems were lack of respect for the integrity of the person, particularly illegal detention, torture, and disappearance of persons detained by SSF; unwarranted restrictions on the freedoms of speech and press, particularly harassment, violence, and arrest of journalists, political dissidents, and human rights advocates; and societal violence and discrimination against women and children.

Other major human rights problems included allegations of attempted assassinations of government opponents, both within the country and abroad; conditions within prisons and detention centers that sometimes failed to comply with international standards; prolonged pretrial detention; irregularities in the judicial process; unwarranted restrictions on freedoms of assembly, association, and, to a lesser extent, religion; inadequate security for refugees; official corruption; trafficking in persons; discrimination and occasional societal violence against the Twa minority and lesbian, gay, bisexual, and transgender (LGBT) persons; restrictions on labor rights; and child labor.

The government generally took steps to prosecute or punish officials who committed abuses, whether in the security services or elsewhere, but impunity involving civilian officials and SSF was a problem.

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 attempted to commit arbitrary or unlawful killings within the country and abroad. The government typically investigated security force killings and prosecuted perpetrators. The government investigated sporadic grenade attacks across the country and continued to prosecute individuals who threatened or harmed genocide survivors and witnesses.

For example, United Kingdom police in May warned specific Rwandan exiles in London that they were the targets of an assassination plot by the Rwandan government. In June 2010 in Johannesburg, South Africa, an unknown assailant shot and seriously wounded former army chief of staff Faustin Kayumba Nyamwasa, who in January would be convicted in absentia by a Rwandan court of various security-related charges. According to a report by the Commonwealth Observer Group, the South African Foreign Ministry stated that foreign “security operatives” were involved and arrested several suspects. At year’s end the South African trial against six Rwandan and Tanzanian defendants continued. On September 22, the media reported that South African authorities had foiled another assassination attempt against Kayumba Nyamwasa. The Rwandan government repeatedly denied any involvement in the London and Johannesburg assassination plots and asserted that it does not condone violence.

On September 15, security personnel shot Eric Nshimyumuremyi, a member of the opposition party PS-Imberakuri, in the chest, allegedly because he was armed and wanted to fight. A PS-Imberakuri spokesperson claimed that Nshimyumuremyi was not armed and was shot because he was a party member.

On December 1, an unidentified gunman killed Charles Ingabire, a Rwandan journalist and government critic, in Kampala, Uganda. Both the press and human rights organizations reported that Ingabire had survived an earlier attack in September. Rwandan authorities alleged that he had embezzled from a microfinance company, orphans, and a genocide survivors’ organization and was probably killed for that reason. On December 26, an unknown assailant killed FDU-Inkingi member Jerome Ndagijimana in Kampala. At year’s end the Ugandan investigations were ongoing.

Grenade attacks in January, March, and July in Kigali and along the border with the Democratic Republic of the Congo (DRC) killed three and injured dozens. Shortly after the July 13 attack, the prosecution brought charges against more than 100 defendants grouped into three “grenade cases.” Prosecutors charged the defendants, grouped loosely by date of arrest, with a range of security-related offenses.

The government investigated and prosecuted individuals accused of threatening or harming genocide survivors and witnesses or of espousing genocide ideology. The law defines this 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. As of June a special protection bureau in the Office of the National Public Prosecution Authority (NPPA) registered 103 cases of genocide ideology, 56 of which ended in conviction (see section 1.e.). According to genocide survivors’ association Ibuka, there were only two cases of violence against genocide survivors or witnesses during the year, and police arrested one assailant.

b. Disappearance.—There were numerous reports of disappearances and politically motivated abductions or kidnappings in 2011, as well as cases from 2010 that came to light during the year. Amnesty International, the Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR), and other observers alleged that SSF, including the Rwanda Defense Forces (RDF) J-2 Military Intelligence Directorate, the National Intelligence and Security Services (NISS), and to a lesser extent the Rwanda National Police (RNP) Criminal Investigations Division, orchestrated the disappearances. The government occasionally made efforts to investigate occurrences but did not punish any perpetrators.

For example, in June 2010 two Rwandan members of a local nongovernmental organization (NGO) disappeared along with approximately 80 other people in Rusizi, according to several NGOs and media reports. Some of those who disappeared resurfaced in 2011 as defendants in the grenade attack cases (see section 1.a.), but according to local and international human rights organizations, many of the 80 abducted remained missing.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices, but there were numerous reports of abuse of detainees and prisoners by military and intelligence officials and some reports of abuse by police or prison guards. Authorities dismissed or disciplined some police officers for use of excessive force and other abuses during the year. Police investigations led to formal criminal charges filed in court in more serious cases.

In a May 10 press release, LIPRODHOR described the arraignment of John Bosco Ngarama on security-related charges, in which the defendant alleged he had undergone severe physical and psychological torture during 10 months of military custody. A number of defendants in the “grenade cases” voiced similar allegations of torture in open court during their arraignments. Former detainees reported systematic torture and other cruel, inhuman, or degrading treatment or punishment of civilians held at military detention facilities.

Prison and Detention Center Conditions.—Prison and detention center conditions were harsh, but prisons generally complied with international standards. The government permitted visits by independent human rights observers. There were continued improvements in treatment of the general prison population, and new or upgraded facilities increased capacity by more than 30 percent. According to the Rwanda Correctional Services (RCS), each prison had dormitories, toilets, sports facilities, a health center, a guest hall, a kitchen, water, and electricity, as required by a 2006 presidential order governing conditions in prisons. In previous years prisoner deaths resulted from anemia, HIV/AIDS, respiratory disease, malaria, and other diseases. The rates of such deaths were similar to those found in the general population.

Provision of food in prisons and detention centers was inadequate, and prisoners and detainees relied on family members to supplement their diets. On October 3, the Ministry of Internal Security took full responsibility to provide food for prisoners and detainees through canteens and prison gardens after it issued a directive banning members of the public from taking food to inmates. Ventilation and temperature conditions improved as overcrowding continued to decline. Medical care in prisons was commensurate with care for the public at large. The government enrolled all prisoners in the national health insurance plan.

Conditions in police and military detention centers varied. Overcrowding was common in police detention centers, and poor ventilation often led to high temperatures. Provision of food and medical care was inconsistent, and some detainees claimed to have gone for several days without food. There were complaints regarding inadequate sanitation in some detention centers. There were numerous reports of substandard conditions for civilians held in military detention centers.

There were unconfirmed reports that police sometimes beat newly arrested suspects to obtain confessions. There were numerous reports that J-2 Military Intelligence personnel employed torture and other cruel, inhuman, or degrading treatment or punishment to obtain confessions in military detention centers (see section 1.c).

One prison riot reportedly occurred during the year. Prisoner family members claimed that on July 8, a fight broke out at Huye Prison between newly transferred prisoners from Rusizi and longstanding Huye inmates. Prison guards killed five of the inmates, according to one inmate witness, and transferred all witnesses to other prisons across the country. Prisoners alleged that this was to suppress knowledge of the incident. Prison officials denied knowledge of the incident.

At year’s end the prison population was 58,461, consisting of 49,995 men and 8,466 women, of which 224 were juveniles. The system was designed for 56,900. Men and women were housed in separate but approximately equal conditions. Fewer than 100 children under the age of three lived with their parents in prison. The

RCS provided nursery schools and fresh milk for such children. All juveniles were held at Nyagatare Rehabilitation Center. There were no reports of abuse of juveniles, and the RCS continued to improve access to lawyers, education, and job training for juveniles. Individuals convicted of genocide-related offenses comprised a majority of the adult prison population. Authorities generally separated pretrial detainees from convicted prisoners and prisoners convicted of serious crimes from those convicted of lesser ones. However, there were numerous exceptions due to the large number of genocide-related detainees awaiting trial. The government continued to hold eight prisoners of the Special Court for Sierra Leone in a purpose-built detention center, which the U.N. deemed met international standards for incarceration of prisoners convicted by international criminal tribunals.

Prisoners and detainees had weekly access to visitors and were permitted religious observance.

Prison staff held regular meetings with prisoners and detainees to listen to inmates' complaints and take action to resolve them when possible.

Kigali's Gikondo Transit Center, where authorities held street children, vagrants, suspected prostitutes, and street sellers, continued to operate despite a Senate committee's 2008 call for its closure due to substandard conditions (see section 1.d.). Two other transit centers, where conditions met basic international standards, operated as well. Many transit center detainees and at-risk youth were transferred to the Iwawa Rehabilitation and Vocational Development Center, which observers reported generally met international standards and provided job training.

The law provides for an ombudsman who has the power to carry out investigations of prisons. The ombudsman also receives and examines complaints from individuals and independent associations relating to civil servants, state organs, and private institutions. Domestic and international human rights organizations reported numerous instances of long delays and failures to locate prisoners and detainees. There were reports of forgotten detainees and of prisoners who remained incarcerated beyond their release date due to misplaced records.

The National Prisons Service merged with the Works for General Interest (TIG) community service program in July to form the RCS and began to shift its focus from penal to rehabilitative detention. The Nyagatare Rehabilitation Center for juveniles undertook renovations with the assistance of UNICEF to align with rehabilitative priorities. The Ministry of Justice (MINIJUST) instructed judges to utilize alternative sentencing to incarceration for nonviolent offenders. The RCS also commuted the sentences of more than 1,000 prisoners, expanding the use of community service as an alternative to time in prison.

The government permitted independent monitoring of prison conditions by diplomats, as well as the International Committee of the Red Cross, which reported unimpeded access on an unannounced basis to all the prisons, police stations, and military facilities that it visited during the year. The government stated no local human rights NGOs applied for permits to visit prisons in 2011. LIPRODHOR claimed it had followed up on a 2009 application for access and was awaiting approval. Human Rights Watch (HRW) similarly claimed it was unable to obtain access to prisons during the year. Journalists may access prisons with a valid press card but must request permission to interview or take photos from the RCS commissioner.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention. However, SSF regularly arrested and detained people arbitrarily and without due process.

Role of the Police and Security Apparatus.—The RNP, under the Ministry of Internal Security, is responsible for internal security. The RDF, under the Ministry of Defense, is charged with providing external security. Authorities generally maintained control over the RNP and RDF, and the government had mechanisms to investigate and punish abuse and corruption. However, there were reports that elements of the SSF may have acted independently of civilian control. There were several reports of impunity involving the military and intelligence forces involving disappearances, illegal detention, and torture in military detention centers.

There were reports of abuse of suspects by SSF and local defense members. The Inspectorate General of the RNP generally disciplined police for excessive use of force and prosecuted acts of corruption, and the RDF normally displayed a high level of military professionalism. However, there were numerous reports that the J-2 Military Intelligence Directorate tortured and abused detainees with impunity.

The police lacked sufficient basic resources such as handcuffs, radios, and patrol cars, but observers credited the RNP with generally strong discipline and effectiveness. There were reports of police arbitrarily arresting and beating individuals, engaging in corrupt activities, and demonstrating a lack of discipline. During the year

the RNP took steps to institutionalize training in community relations, which included appropriate use of force and human rights. In December the National Police Academy graduated its first undergraduate class in professional police studies.

Communities chose volunteers to serve in the local defense forces (LDF), a statutorily established law enforcement organization of approximately 20,000 members under the Ministry of Local Government (MINALOC) that assisted the police. The RNP exercised tactical control of LDF, while local officials had responsibility for operational oversight. LDF performed basic security guard duties throughout the country including at gacaca court (a village-level justice system) proceedings and chased illegal street vendors, petty criminals, and prostitutes from public areas. LDF were ordinarily unpaid and received less training than RNP officers. They did not have power of arrest but made arrests on orders from local officials and on their own authority.

During the year the government repeatedly warned LDF against involvement in criminal activity and prosecuted members who committed crimes. However, some human rights groups accused the government of not taking sufficiently strong action against some members and considered LDF abusive.

Arrest Procedures and Treatment While in Detention.—The law requires authorities to investigate and obtain a warrant before arresting a suspect. Before arrest, police may detain suspects for up to 72 hours without a warrant, and prosecutors must bring formal charges within seven days of arrest. Authorities sometimes disregarded these provisions, particularly in security-related cases. SSF held some suspects incommunicado or under house arrest. At times police employed 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 public safety is threatened or the accused might flee. Such detention must be reviewed by a judge every 30 days, but in practice SSF held numerous suspects indefinitely after the first authorization of investigative detention. The government attributed such continued detention to judicial backlog and delays in obtaining a court date, and said investigations generally were completed within 30 days. After the formal filing of the prosecution's case, detention is indefinite unless bail is granted. Bail exists only for crimes with a maximum sentence of five years or less, but authorities may release a suspect pending trial if satisfied 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. However, defendants are not allowed formal representation in the gacaca court process. In practice the scarcity of lawyers (there were 784 attorneys in the country, of which 175 were trainees, mostly located in Kigali) limited access to legal representation. The government did not provide indigent people with legal representation. A Legal Aid Forum composed of 31 organizations, including domestic and international NGOs, the Rwandan Bar Association, the Corps of Judicial Defenders, and university legal aid clinics, provided legal aid services to indigents and vulnerable groups, although such resources were insufficient to provide lawyers for all those in need. The law requires the government to provide minors with legal representation, which judicial observers cited as a factor in juvenile trial delays. The government continued to hold an annual Legal Aid Week, in which it processed as many juvenile cases as possible to reduce backlog.

Arbitrary Arrest.—Police arbitrarily arrested members of opposition parties, journalists, and members of Jehovah's Witnesses (see sections 2.a., 2.c., and 3).

In 2009 government authorities arrested Laurent Nkunda, leader of a Congolese armed entity, while he was in the country. At year's end Nkunda remained under house arrest without charge.

In August 2010 SSF arrested Lt. Col. Rugigana Ngabo, brother of Kayumba Nyamwasa, and held him for more than a year without charge. Ngabo's trial before a military tribunal finally began on November 28, just before the East African Court of Justice (EACJ) ruled that his detention was illegal.

On numerous occasions police and LDF detained street children, vendors, beggars, and undocumented people in Kigali and other 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 they held people for no

more than three weeks. However, some detainees reported waiting several months before release. Relatives often reported that authorities denied them access to detainees.

The government continued to operate Iwawa Rehabilitation and Vocational Development Center on Iwawa Island in Lake Kivu to provide vocational and technical training to approximately 1,500 men between the ages of 18 to 35, some of whom were homeless or petty criminals. In May the first group of 752 young men graduated from year-long courses.

Pretrial Detention.—There were serious problems of lengthy pretrial detentions, including the detention of people whose unresolved cases dated from 1994, a consequence of the large number of people suspected of committing genocide who continued to be held in prisons and detention centers. The law permits the detention of genocide suspects until they face trial either in an ordinary court or in the gacaca court system. Authorities permitted the majority of convicted prisoners (those who had confessed their genocide crimes) to return to their families, with prison time to be served after the suspended and community service portions of their sentences. The law did not provide for compensation for those acquitted or require credit for time served prior to conviction. Defendants sometimes remained in prison after serving their sentences while waiting for an appeal date or due to problems with prison records.

Except for genocide suspects, the government made strides toward eliminating the case backlog and reducing the average length of pretrial detention. During the year the Inspector General of the NPPA began sanctioning government officials who abused regulations on pretrial detention with penalties such as fines and suspensions.

Despite progress in shortening pretrial detention in the majority of cases, there were numerous reports of lengthy pretrial detention and illegal detention of defendants facing charges of threatening state security, terrorism, genocide ideology, divisionism, defamation, contempt for the head of state, and other security-related sensitive crimes. Such cases were also more likely to experience repeated delays after trials began.

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 and government officials sometimes attempted to influence individual cases. Authorities generally respected court orders.

In June there were 8,119 criminal and 11,264 civil cases pending in the regular courts, compared with 38,676 cases in October 2010.

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. Judges, rather than juries, try all cases. Defendants have the right to be present, question witnesses against them, and present witnesses and evidence on their own behalf. Defendants also have the right to consult with an attorney, although few could afford private counsel. Minors are guaranteed legal representation by law. The law provides for the right to appeal, and this provision was generally respected. Lawyers without Borders, the Rwandan Bar Association, and the Legal Aid Forum provided legal assistance to some indigent defendants but lacked the resources to provide defense counsel to all in need. The law does not provide for an attorney at state expense for indigent defendants. Defendants and their attorneys have the right to access government-held evidence relevant to their cases, but courts did not always respect this right. The numbers of prosecutors, judges, and courtrooms were inadequate to hold trials within a reasonable period of time.

The RDF routinely tried military offenders in military courts, which rendered sentences of fines, imprisonment, or both. Military courts provided defendants with the same rights as civilian courts, including the right of appeal and access to government-held evidence relevant to their cases. The law stipulates military courts can try civilian accomplices of soldiers accused of crimes. Through October 2010 military courts had tried 62 civilians as coperpetrators or accomplices of military personnel during the year. The government did not release figures for 2011.

Gacaca courts served as the government's primary mechanism for adjudicating genocide cases. Gacaca defendants are presumed innocent until proven guilty, and gacaca courts normally decide a case on the same day a trial begins. There is no bail in the gacaca system. Defendants are informed of the charges against them at trial, not before. Defendants can present witnesses and evidence on their own behalf, although witnesses were sometimes reluctant to testify for fear of reprisals,

particularly accusations of complicity in the crimes alleged. Defendants can appeal gacaca proceedings to sector-level courts. Defendants are not entitled to legal representation.

Genocide law is designed to encourage confessions in exchange for reduced sentences, except for Category I crimes (the most severe crimes, including rape, “infamous murder,” genocide instigation, or playing a leadership role in the planning or commission of genocide). The majority of individuals are charged with Category II crimes (such as murder or assault with intent to murder) or Category III crimes (property crimes). Category II cases are tried in gacaca courts and Category III cases resolved through gacaca mediation. Since 2007 all persons convicted by gacaca courts were permitted to serve the community service and suspended portions of their sentences first, in order to alleviate prison overcrowding. Category II defendants who confessed usually served 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 2008 the law was further amended to move approximately 6,900 Category I cases, most involving rape, from ordinary courts to the gacaca system. According to an HRW report released in May, the lack of confidentiality in the gacaca system negatively impacted rape victims, who had stronger privacy protection in the ordinary courts. The 2008 law also provides for the transfer of approximately 1,200 Category I genocide cases, already begun in the ordinary courts, to the gacaca courts. The 2008 law builds on the 2007 law by replacing remaining prison terms with additional community service once the original community service portion of a sentence is completed.

By year’s end gacaca officials reported having concluded nearly all gacaca cases, which numbered more than 1.2 million. Fewer than 50 appeals remained pending at year’s end.

Poorly qualified judges and ill-defined rules on evidence and hearsay presented problems. There were reports that local gacaca officials and citizens abused the process to pursue personal matters, including making false accusations to acquire land.

According to the May HRW report, which provided a compilation of the NGO’s findings on gacaca courts after observing more than 350 cases from 2001 through May 2011, fair trial violations also included instances of trumped-up charges, judges’ and officials’ intimidation of defense witnesses, and corruption by judges and parties. Other human rights observers also voiced concern that witnesses might have given false testimony and that some suspects falsely confessed to avoid lengthy prison terms.

Because the government has not authorized gacaca courts to consider allegations of human rights abuses committed by the RPF during the 1994 genocide, some human rights groups criticized the gacaca courts for rendering incomplete or one-sided justice and for being biased against those who acted on behalf of the former government. In response the government reported that it had prosecuted 46 RPF soldiers, that civil and military authorities also addressed RPF abuses, and that such abuses could not be equated with the genocide. HRW claimed that only 36 RPF soldiers had faced trial for crimes committed against civilians during the genocide and attributed the low number to government reluctance to try RPF soldiers for such crimes. No charges related to the genocide were brought against RPF soldiers during the year.

The government held local communities responsible for protecting gacaca court witnesses and relied on LDF, 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. According to the genocide survivors’ organization Ibuka, threats and violence against survivors continued to decrease. During the year the task force supervised joint patrols in rural areas by survivors and security personnel, employed preventive detention of genocide suspects to prevent attacks deemed imminent by security officials, utilized 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 police, ordinary courts, and mediators and for the creation of a survivors’ compensation fund.

The International Criminal Tribunal for Rwanda (ICTR), based in Tanzania, continued to prosecute genocide suspects during the year (see section 5).

Political Prisoners and Detainees.—There were reports that local officials briefly detained some individuals who disagreed publicly with government decisions or policies.

The remaining political prisoner, former minister of transportation Charles Ntakirutika, was confined to a special section of Kigali’s “1930” prison.

Regional Human Rights Court Decisions.—Rwanda has acceded to the jurisdiction of the African Commission on Human and Peoples' Rights (ACHPR) and the EACJ and has three judges serving on the courts. On December 1, the EACJ found Rwanda in breach of the East African Community Treaty with regards to the illegal detention of Rugigana Ngabo, brother of Kayumba Nyamwasa, and ordered the government to begin the trial immediately and pay costs. Rwanda began Ngabo's trial before a military tribunal on November 28, in advance of the ruling. Rwanda had no other pending cases before the ACHPR or EACJ.

Civil Judicial Procedures and Remedies.—The judiciary was generally independent and impartial in civil matters. Mechanisms exist for citizens to file lawsuits in civil matters, including violations of their constitutional rights. They can appeal to the ACHPR and the EACJ, but none did so. The Office of the Ombudsman processes claims of judicial wrongdoing on an administrative basis.

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, telephone calls, and e-mail. Media and NGOs reported the government violated due process requirements in evicting some residents under the "Guca Nyakatsi" or "Goodbye Thatched Roofs" program to phase out grass-thatched houses, and under city development projects in Kigali and Bugesera (see section 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech and press "in conditions prescribed by the law." The government at times restricted these rights. The government intimidated and arrested journalists who expressed views that were deemed critical on sensitive topics or who were believed to have violated the law or journalistic standards. Numerous journalists practiced self-censorship.

Freedom of Speech.—The law prohibits the propagation of ideas based on "ethnic, regional, racial, religious, language, or other divisive characteristics." Public incitement to "divisionism," which includes discrimination and sectarianism, is punishable by up to five years in prison and fines of up to five million Rwandan francs (\$8,300). Other statutes forbid displaying contempt for the head of state or other public officials and carry sentences of up to five years in prison and fines of up to 10,000 Rwandan francs (\$17). 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.

In December 2010 authorities arrested and charged Roman Catholic priest Emile Nsengiyumva with threatening state security after he gave a sermon criticizing government family planning programs and the "Guca Nyakatsi" housing program. On July 29, the court convicted Nsengiyumva and sentenced him to a year and a half in prison.

Unlike in the previous year, there were no reports that organized groups targeted and killed genocide survivors or witnesses. However, police investigated at least two cases of violence against genocide survivors and witnesses. The government asserted the genocide ideology law was necessary to prevent incitement to violence, but NGOs and human rights organizations criticized the law as overly broad and recommended its repeal or reform.

Freedom of Press.—Vendors sold both private and government-owned newspapers, published in English, French, and Kinyarwanda. There were 31 newspapers, journals, and other publications registered with the government, although fewer than 10 published regularly. Sporadically published independent newspapers maintained positions contrary to and critical of the government. There were 23 radio stations (six government-owned and 17 independent) and one government-run television station.

Under the current Media Law, the Media High Council (MHC) has the power to suspend newspapers. The law also provides that the following crimes committed by the media are punishable with penalties provided for by the penal code: being an apologist for the genocide and genocide ideology, incitement to discrimination of any form, contempt of the head of state, and inciting the army or national police to insubordination. A court may order journalists to reveal their sources when deemed 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 univer-

sity degree with training in journalism. Previously practicing journalists without one of these qualifications must obtain them by 2015 to continue in their positions.

On February 4, the government sentenced Umurabyo newspaper journalist Saidati Mukakibibi to seven years' imprisonment for defamation, inciting public disorder, and divisionism, and Umurabyo editor Agnes Uwimana to 17 years for incitement to civil disobedience, contempt for the head of state, spreading rumors to cause public disorder, denying the genocide, and likening President Kagame to Adolf Hitler.

Violence and Harassment.—Journalists continued to be subject to arrest and imprisonment, and some journalists reported government and nongovernment agents harassed and intimidated them due to their reporting.

For instance, police arrested Joseph Bideri, managing director of the progovernment English-language daily *The New Times*, on November 14. Bideri claimed his arrest resulted from articles published that exposed corruption in government tenders surrounding a hydropower plant. The police chief alleged Bideri was called in for questioning because the news reports were interfering with police and parliamentary investigations, but that during questioning he was arrested for "disrespecting and abusing" the police. Bideri was released the next day and either resigned or was fired from *The New Times* in December.

The government did not expel members of the press from the country. However, several journalists fled the country. For instance, Nelson Gatsimbazi, Umusingi newspaper general director, left in June after the state prosecutor filed charges against him for using divisionist language in a personal altercation with the editor of another newspaper.

On September 15, a court convicted Didace Nduguyangu of the June 2010 murder of Umuvugizi journalist Jean Leonard Rugambage and sentenced him to 10 years in prison. The court acquitted a second defendant, police officer Antoine Karemera. Authorities reported that Nduguyangu confessed that he killed Rugambage to avenge Rugambage's alleged murder of his brother during the 1994 genocide. Some observers asserted the killing was politically motivated, as it occurred the same day Rugambage's article alleged Rwandan government involvement in the assassination attempt against Kayumba Nyamwasa (see section 1.a.).

Censorship or Content Restrictions.—The law provides for censorship and content restrictions relating to some government documents, individual privacy, slander, and defamation.

On January 18, the government printing house ORINFOR refused to print an edition of Umusingi that included an interview with former chief of external security services Patrick Karegeya, whom a Rwandan military court convicted in absentia on January 14 of divisionism, threatening state security, forming a terrorist group, undermining public order, and contempt for the head of state, along with Kayumba Nyamwasa and two other former government officials.

There were several reports that private printing houses declined to print newspapers or charged more for sensitive issues. For example, on August 18, a private printing house, NICA, told Umusingi chief editor Stanley Gatera that it would not print the paper without payment of an additional 200,000 Rwandan francs (\$333) because of two sensitive articles. In one article exiled Umusingi owner Nelson Gatsimbazi reported on diaspora opposition claims that only Tutsi children went to universities and got scholarships to study abroad, and he countered that inequality in Rwanda was a problem between rich and poor, not between Tutsi and Hutu. He agreed with opposition claims that people disappeared mysteriously or were killed extrajudicially. A second article by another writer claimed that the government did not protect worker rights and warned that youth unemployment could lead to protests.

Government officials did not pressure government institutions and local businesses to withhold advertising from newspapers critical of the government.

The law authorizes private radio and television broadcasting, subject to the approval of the government, although some media practitioners complained that the licensing fees were prohibitively high. The government owned and operated the country's only television station.

Radio stations broadcast criticism of government policies, including through the use of popular citizen call-in shows.

Libel Laws/National Security.—Defamation (libel and slander) is a criminal offense punishable by fines and imprisonment. Courts convicted journalists and others on the charge of threatening state security and related crimes.

Actions to Expand Press Freedom.—On March 30, the cabinet adopted a media policy document outlining major reforms to the sector, including the following: the semiautonomous MHC will no longer be responsible for media regulation, but rather

media development and the promotion of media freedom; print journalists will self-regulate under a mechanism to be determined; the government-run broadcasting agency ORINFOR will transform into the Rwanda Broadcasting Agency (RBA), which will be regulated by its own board made up of civil society and private sector individuals; and the Rwanda Utility Regulatory Authority (RURA) will have such regulatory authority over electronic media (under the supervision of the RBA's board of directors) as is necessary for the allocation and use of the electromagnetic spectrum but will devolve content regulation to the yet-to-be determined self-regulatory mechanism. The cabinet ordered these reforms to be enacted through new legislation and changes to existing media legislation. The Office of the Government Spokesperson replaced the Ministry of Information on June 30, and on July 1, the cabinet approved new draft legislation on Access to Information and on the RBA, as well as amendments to the Media Law, Media High Council Law, and the law governing RURA. These were introduced before Parliament on August 2. At year's end, all draft legislation remained under debate in Parliament. The ad hoc committee finalized amendments to the journalists' code of ethics in September and took steps to develop a self-regulatory mechanism.

Internet Freedom.—The law does not provide for government restrictions on access to the Internet, but restrictions such as website blocking are in place nonetheless. There were reports that the government monitored e-mail and Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail, but were subject to monitoring. There were a few reports that monitoring led to detention and interrogation by SSF.

The government blocked access to at least three Web sites within the country, including <http://umuvugizi.com>, <http://leprophete.fr>, and <http://africandictator.org>. All three sites were critical of the government. The MHC first ordered Umuvugizi blocked in April 2010 prior to seeking a court order. It used communication companies to block the sites.

In June a court convicted journalist Jean Bosco Gasasira of displaying contempt of the head of state and incitement to civil disobedience and sentenced him in absentia to two and a half years in prison for his writings in the online publication Umuvugizi.

Academic Freedom and Cultural Events.—The government generally did not restrict academic freedom or cultural events. However, on February 9, police arrested university lecturer Lambert Havugintwari on charges of threatening state security and smuggling grenades into the country after he gave a controversial lecture. At year's end he remained in jail and his case was pending. Authorities frequently 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 exceptions. Authorities legally may require advance notice for outdoor rallies, demonstrations, and meetings. The government limited the types of locations where religious groups could assemble, at times citing municipal zoning regulations as the reason.

Freedom of Association.—While the constitution provides for freedom of association, the government limited this right in practice. The law requires private organizations to register, and the government generally granted licenses without undue delay. However, the government impeded the formation of new political parties and restricted political party activities (see section 3). Also the government 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.—See the Department of State's International Religious Freedom Report at <http://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 in practice.

The government generally cooperated with the Office of the U.N. 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 people of concern.

Exile.—The law prohibits forced exile, and the government did not use it. Some political dissidents, journalists, and social activists who claimed harassment and intimidation by the government departed the country during the year in self-imposed exile.

Emigration and Repatriation.—Through mid-December Rwanda accepted 7,045 nationals returning from other countries, according to the UNHCR, most of whom settled in their districts of origin. From 2009 until the end of 2011 almost 4,000 civilian noncombatants who had been living in areas of the DRC controlled by the rebel militia group Democratic Forces for the Liberation of Rwanda (FDLR) returned, according to the Rwanda Demobilization and Reintegration Commission (RDRC). The government worked with the UNHCR and other aid organizations to assist the resettled returnees.

The government continued to accept former combatants who returned from the DRC as part of the ongoing rapprochement between the two countries. During the year the government demobilized 766 adult former combatants from armed groups and rehabilitated 52 children, reuniting 21 with their families. The RDRC, with international support, placed adult former combatants in a three-month reeducation program at Mutobo Demobilization Center in Northern Province. The Muhazi Child Rehabilitation Center treated former child combatants in Eastern Province. After the three-month reeducation period, each adult former combatant received approximately 60,000 Rwandan francs (\$100) and permission to return home. Two months later each received an additional 120,000 Rwandan francs (\$200).

Internally Displaced Persons (IDPs).—As part of the “Guca Nyakatsi” housing program, the government demolished approximately 47,000 rudimentary grass-thatched huts deemed unsuitable for habitation and replaced them with mud brick housing with corrugated metal roofs. Local government officials reportedly demolished a large number of huts before constructing replacement houses, leaving hundreds homeless for several months or forcing them to move. According to the Community of Rwandan Potters (COPORWA), an organization that focused primarily on Twa community needs, the program disproportionately affected the Twa minority.

Protection of Refugees.—Access to Asylum.—The country’s constitution and laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

The UNHCR, with government support, continued to assist refugees and asylum seekers. At year’s end it had provided temporary protection to approximately 55,530 refugees, 99 percent of whom were from the DRC. Other refugees were from Angola, Burundi, Chad, Somalia, and Uganda.

In a joint effort by the UNHCR, Directorate General of Immigration and Emigration, and Ministry of Disaster Management and Refugee Affairs, all refugees underwent reregistration to verify the size of the refugee population and expel Rwandans and other illegitimate claimants to refugee status. As a result of this effort, the refugee population was expected to decrease significantly. However, statistics from the reregistration process were not available at year’s end.

Refugee Abuse.—Authorities failed to provide adequate security or physical protection within refugee camps. The RNP stationed one police officer part-time at each camp. Camp and RNP officials acknowledged the camps faced higher crime rates than the rest of the country. Refugees were free to file complaints with area police stations. While police issued arrest warrants against some perpetrators, they refused to enter the camps to execute warrants. When police in Gicumbi arrested a male refugee from the Gihembe camp on charges of domestic violence, camp leaders mobbed the police station and successfully demanded the suspect’s release. This incident contributed to a general sense of impunity within the refugee community, especially in relation to gender-based violence (GBV).

Employment.—There were no laws restricting refugee employment, but few were able to find jobs on the local economy. Refugee camps offered periodic job training programs to assist refugees in finding or creating income-generating opportunities.

Access to Basic Services.—The government noted it had difficulty controlling camps that had no fences and populations that regularly crossed borders. Refugees had access to public education, public health care, public housing within the refugee camps, law enforcement, courts and judicial procedures, and legal assistance. The government funded primary education but did not provide tuition at the secondary and university levels. Access to law enforcement was limited by the lack of police presence in the refugee camps.

Durable Solutions.—Rwanda is not a resettlement country for refugees from third countries. The government assisted the safe, voluntary return of refugees to their homes but did not facilitate local integration or naturalization of refugees in protracted situations.

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, the ruling RPF controlled the government and legislature, and its candidates continued to dominate elections at all levels.

Elections and Political Participation.—Recent Elections.—Senate elections in September were peaceful and orderly, with high turnout. International observers reported the senate elections met the generally recognized standards of free and fair elections in most respects but noted concerns regarding the independence of voters' decisions. The elections were technically nonpartisan in that candidates could not identify or exploit party affiliation during the campaign season and included numerous candidates. Winning candidates typically received 80 percent of the vote. The RPF dominated the Senate elections, winning 11 of 14 seats up for election.

International and local observers noted that election procedures appeared generally well organized, transparent, and calm. Observers recorded four unregistered voters casting ballots, a late-sealed voting box, and a skipped vote for a winning candidate. Several successful candidates, including non-RPF candidates, remarked that the RPF asked them to run for office and gave assurances that they would win. Some voters claimed that they and all other voting RPF members received a text message from provincial RPF headquarters on the morning of the election instructing them to vote for particular RPF and non-RPF candidates. Observers reported a large number of identical ballots.

Observers were able to monitor provincial vote consolidation during the Senate elections. Observers commented that media coverage was generally professional and educated citizens on the laws and the electoral process.

Political Parties.—The constitution outlines a multiparty system but provides few rights for parties and their candidates. There were reports that the RPF pressured youth into joining the party during mandatory "Ingando" civic and military training camps held after secondary school graduation. Some 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 threatening state security. The government's enforcement of laws against genocide ideology and divisionism discouraged debate or criticism of the government and resulted in occasional detentions.

The constitution requires all political organizations to join the National Consultative Forum for Political Organizations (Party Forum), which promoted consensus at the expense of political competition. To register as a political party, an organization must demonstrate membership in every district, reserve at least 30 percent of its leadership positions for women, and provide a written party statute signed by a notary.

Attempts in 2009 and 2010 by the Democratic Green Party (DGP) to register were impeded. Government officials charged that DGP president Frank Habineza organized the party as a splinter group of the RPF with the support of Ugandan intelligence. In July 2010 DGP vice president Andre Kagwa Rwisereka was killed. Police initially suspected robbery but later indicated his death may have been over a financial dispute. Some human rights organizations claimed the killing could have been politically motivated and called for an independent autopsy by foreign experts. As of October the investigation continued, but the RNP had not identified a suspect. Following Kagwa Rwisereka's death, Habineza fled to Sweden. The DGP thereupon discontinued activities in Rwanda.

Police arbitrarily arrested some members of the DGP, PS-Imberakuri, and FDU-Inkingi, and members also reported receiving threats because of their association with those parties.

In accordance with the constitution, which states a majority party in the Chamber of Deputies may not fill more than 50 percent of cabinet positions, independents and members of other political parties held key positions in government including that of prime minister. PS-Imberakuri was the only registered political party not represented in cabinet.

Participation of Women and Minorities.—The constitution requires at least 30 percent of the seats in Parliament's Chamber of Deputies be reserved for women. At year's end there were 10 women in the 26-seat Senate and 45 women in the 80-seat Chamber of Deputies. Women filled eight of 26 cabinet positions.

There was one member of the Twa minority in the Senate and none in the Chamber of Deputies or cabinet.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government continued to make implementation of these laws a national priority. However, corruption remained a problem.

On July 27, NPPA Inspector General Julius Marius Ntete announced that the government was prosecuting 223 people, including unidentified government ministers, directors of national institutions, university heads, and national researchers, for stealing public funds totaling approximately three billion Rwandan francs (\$5 million). The government issued 22.8 million Rwandan francs (\$38,000) in fines and recovered 17.9 million Rwanda francs (\$30,000) from officials who voluntarily returned funds. At year's end the government had successfully prosecuted 145 individuals, resulting in prison terms of up to 10 years as well as fines. Prosecutors continued to investigate some cases and scheduled others for trial.

In September LIPRODHOR reported that a local official in Bugarama, Rusizi, evicted a number of rice farmers without compensation and redistributed the land to military and police officers and others who assisted in the evictions. By year's end the RNP had not responded to the report.

The NPPA, under MINIJUST, is responsible for prosecuting police abuse cases. During the year the RNP Inspectorate of Services investigated 250 cases of police misconduct. The RNP suspended 68 police officers for corruption, abuse of power, or misconduct and imposed administrative punishment for indiscipline on 176 officers. The RNP referred criminal offenses committed by police to the NPPA, and several prosecutions were underway at year's end. The RNP advertised a toll-free hotline number in the local radio and press and provided complaint and compliment boxes in many communities to encourage citizens to report both positive and negative behavior by police and LDF members.

The Office of the Auditor General worked to prevent corruption, including by investigations of improper tendering practices at government ministries. The RNP and the NPPA used the auditor general's annual report to pursue investigations into government businesses. The Office of the Ombudsman led the National Anti-Corruption Council and had an active good governance program and several local level anticorruption units. The office pursued many corruption cases, the majority of which involved misuse of public funds. The Rwanda Governance Board (RGB), formerly the Rwanda Governance Advisory Council, monitored good governance more broadly and promoted mechanisms to control corruption. The Rwanda Revenue Authority's Anti-Corruption Unit had a code of conduct and an active mechanism for internal discipline. The National Tender Board, RURA, and the National Bureau of Standards also enforced regulations.

The law provides for annual reporting of assets by public officials but not public disclosure of those assets. The government reported that most officials complied with this requirement.

The law does not provide for access to government information, and it was 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 print.

The government implemented a "bagging and tagging" system to comply with anticipated due diligence requirements of a foreign government related to conflict minerals. The government banned the purchase or sale of undocumented minerals from neighboring countries in March and made efforts to seize smuggled minerals at the border and within the country. However, observers and government officials reported that smugglers succeeded in trafficking an unquantifiable amount of undocumented minerals through the country. A December U.N. Group of Experts report on the DRC alluded to SSF complicity in such smuggling, noting that "RDF soldiers had sentry posts all along the border" and charging that "nothing could cross without their knowledge." Government officials confiscated more than 80 metric tons of smuggled minerals during the year and returned the minerals to the DRC government.

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

A variety of international NGOs and several domestic NGOs operated in the country, investigating and publishing their findings on human rights cases. Some domestic NGOs reported relations with the government were generally positive. However, others indicated 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.

Various domestic NGOs, including LIPRODHOR and the League for Human Rights in the Great Lakes Region (LDGL), focused on human rights abuses. LIPRODHOR and the LDGL published their findings and discussed them with government officials.

In February LIPRODHOR's president reported receiving accusations and threats regarding the organization's reports. In May one of its members claimed he had been abducted, interrogated, and tortured by SSF. In July another member fled the country after allegedly receiving death threats. The NGO's former executive secretary remained outside the country.

In August border officials arrested LDGL's president and acting executive secretary on embezzlement charges. After questioning, the RNP ordered their release. LDGL's executive secretary remained outside the country and claimed to continue receiving death threats related to his work with the organization.

The law on nonprofit associations permits government authorities to review budgets and the hiring of personnel. Local and international NGOs often found the registration process difficult. A domestic NGO must present its objectives, plan of action, and financial information to local authorities of every district in which it would like to work. Domestic and international NGOs must reapply to RGB and Directorate General for Immigration and Emigration, respectively, for registration each year and must submit yearly financial and activity reports. NGOs complained these requirements strained their limited resources. The government threatened legal action against organizations that did not submit reports or registration paperwork on time. Many organizations complained that government delays and unpublished requirements caused late submissions and that the regulatory environment worsened during the year.

The government generally cooperated with international NGOs. However, it criticized HRW, Reporters without Borders, Freedom House, and Amnesty International as being inaccurate and biased. The government reportedly conducted surveillance on certain international and domestic NGOs. Some NGOs reported that authorities pressured individuals affiliated with them to provide information on their activities.

Several international organizations complained that the government used the Law on Immigration and Emigration and a May ministerial order implementing the law improperly to deny visas to some personnel.

A progovernment NGO, the Civil Society Platform, managed and directed some NGOs through umbrella groups, which theoretically aggregated NGOs working in particular thematic sectors. Many observers believed the government controlled some of these groups.

The government completed the country's first Universal Periodic Review (UPR) with the U.N. Office of the High Commissioner for Human Rights. The government accepted 67 of 73 UPR recommendations.

Government Human Rights Bodies: 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 4). The Office of the Ombudsman was independent and its resources adequate.

The government cooperated with the National Human Rights Commission (NHRC). However, the NHRC did not have adequate resources to investigate all reported violations and remained biased in favor of the government, according to many observers.

The ICTR in Tanzania continued to prosecute genocide suspects. Since 1994 the ICTR had completed 70 cases, with 45 convictions, 15 convictions pending appeal, and 10 acquittals. At year's end there were five persons on trial, one person awaiting trial, and nine fugitives. The ICTR approved its first case transfer to Rwanda. The ICTR had tried no RPF members by year's end, and none were under indictment. The government continued to claim that calls by human rights groups or opposition figures for investigation of alleged RPF war crimes constituted attempts to equate the genocide with much more minor 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.—Rape and Domestic Violence.—The law criminalizes rape and spousal rape, and the government handled rape cases as a judicial system priority. 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 prosecutors

reported receiving 1,056 cases of adult rape, and police reported investigating 287 cases. Among those 1,056 cases, 433 were filed in courts, 201 were dropped, and 422 were pending investigation at year's end. From January through May, the courts adjudicated 1,090 cases of adult rape and child defilement, convicting 750 and acquitting 340. Among those convicted, the courts sentenced 71 to life in prison. 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 from 2006 indicated 31 percent of women and girls over the age of 15 were victims of domestic violence, and 10.2 percent of women and girls experienced domestic violence during pregnancy. Police investigated 3,585 cases of gender-based violence (GBV) during the year. Prosecutors received 363 cases of spousal harassment, exclusive of other forms of GBV, of which 177 were filed in court, 18 were dropped, one was reclassified, and 167 were pending investigation at year's end. Conviction statistics were unavailable.

The law on the prevention and punishment of GBV provides for imprisonment of six months to two years for threatening, harassing, or beating one's spouse. However, most incidents remained within the extended family and were not reported or prosecuted. Police headquarters in Kigali had a hotline for domestic violence, an examination room, and trained counselors who provided access to a police hospital for more intensive interventions. Several other government ministries also had free GBV hotlines. Each of the 75 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 of GBV.

During the year the RDF opened a gender desk, and many ministries established gender focal points. The Isange Center provided one-stop medical, psychological, and police assistance at no cost to victims of domestic violence at the Kigali police hospital. The first public hospital with a one-stop center opened in October near the northwest border in Rubavu. In May the government hosted training for Rwandan SSF and others from the region on the prevention, assessment, and treatment of GBV. In August the RNP concluded a year-long, high-profile campaign against GBV. In October the government launched a whole-of-government, multistakeholder campaign against GBV, child abuse, and other types of domestic violence to coincide with the elevation of the RNP gender desk to the directorate level. In November the RNP trained two additional GBV investigators per police station. During the year GBV became a required module of basic training for all police and military.

Female Genital Mutilation.—The law prohibits female genital mutilation, and the practice was not known to occur.

Sexual Harassment.—The law prohibits sexual harassment by employers and provides for penalties of two to five years' imprisonment and fines from 100,000 to 300,000 Rwandan francs (\$165 to \$500). Nevertheless, sexual harassment remained common. According to a Transparency Rwanda study, 21 percent of female respondents believed that their salary determination was not objective, and some claimed their salaries were determined by their willingness to have sex with company executives. The effectiveness of government enforcement efforts was unknown.

Reproductive Rights.—The government encouraged citizens not to have more than three children but respected the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of children and to have the information and means to do so free from discrimination, coercion, and violence. 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, with free coverage provided to the poorest of the population. Insurance plans did not provide adequate coverage for more expensive medical care.

There was a small copayment for obstetric services, but 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 U.N., the estimated maternal mortality ratio in 2008 was 540 maternal deaths per 100,000 live births. Major factors influencing maternal mortality included lack of skilled attendance at birth and unhygienic conditions. Between the 2005 and 2010 Demographic and Health Surveys, the use of modern contraceptives increased from 10 percent to 45 percent and skilled attendance at birth rose from 39 to 69 percent. The proportion of babies delivered at a health facility increased from 45 percent in 2007-08 to 69 percent in 2010. The government provided 21 percent of available contraceptives.

Discrimination.—Women have the same legal status and are entitled to the same rights as men. 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 due to lack of knowledge, inheritance issues, polygyny, and the threat of GBV. After the 1994 genocide, which left many women as heads of households, women assumed a larger role in the formal sector, and many operated their own businesses. According to the U.N. Development Program, nearly one-third of households in the country were headed by women, and 62 percent of these households were below the poverty line, compared to 54 percent of households headed by men. Despite the election in 2008 of a Chamber of Deputies with a female majority, women continued to have limited opportunities for employment and promotion. According to the Ministry of Industry and Commerce 2011 Establishment Census, women managed approximately 26 percent of all formal enterprises. However, men owned key assets of most households, particularly those at the lower end of the economic spectrum, making formal bank credit inaccessible to many women and rendering it difficult to start or expand a business. According to the 2005 Demographic and Health Survey, more than 85 percent of working women were engaged in agriculture. Seventy-two percent of these women were self-employed, and 64 percent received no payment for their work.

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 Ministry of Gender and Family Promotion led government programs to address women's issues and coordinated programs with other ministries, police, and NGOs. This included implementation of the National Action Plan for the Implementation of U.N. Security Council Resolution 1325 on Women, Peace, and Security. 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 and children's concerns, particularly those of widows, orphaned girls, and households headed by children. The government-run Gender Monitoring Office tracked the mainstreaming of gender equality and women's empowerment throughout all sectors of society and collected gender-disaggregated data to inform policy processes.

Children.—Birth Registration.—Citizenship is derived from one's parents. Children born to two Rwandan parents automatically receive citizenship. Children with one Rwandan parent must apply for citizenship before turning 18 years old. Children born in the country 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.

Education.—Primary education is compulsory. Parents are not required to pay tuition fees through nine years of basic education. However, most parents were required to pay unofficial fees to support basic school operations.

Child Abuse.—Statistics on child abuse were unavailable. However, such abuse was common. The government began a high-profile public campaign against GBV and child abuse in October and conducted training for police and investigators in November.

Child Marriage.—The minimum age for marriage is 21. There were no statistics available on child marriage. However, it occurred occasionally in rural areas and refugee camps.

Sexual Exploitation of Children.—Due to the genocide and deaths from HIV/AIDS, there were many 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 years old is considered defilement and is punishable by 20 years to life in prison and a fine of 100,000 to 500,000 Rwandan francs (\$165 to \$830). During the year prosecutors received 1,219 cases of child defilement, of which 612 were filed in court, 168 were dropped, two were reclassified, and 437 were pending investigation. From January through May, the courts adjudicated 1,090 cases of adult rape and child defilement, convicting 750 and acquitting 340. Among those convicted, the courts sentenced 71 to life in prison.

During the year the government continued a high-profile public campaign to discourage intergenerational sex and sexual procurement.

The law prohibits commercial sexual exploitation of children and child pornography, with penalties of between five and 10 years in prison and a fine of 200,000 to 500,000 Rwandan francs (\$330 to \$830). Police reported investigating one case of forcing a child into prostitution. Conviction statistics were not available.

Child Soldiers.—The government continued to support the Muhazi Child Rehabilitation Center in Eastern Province, which provided care and social reintegration preparation for 52 children who had previously served in armed groups in the DRC. At year's end 21 of the former child soldiers were reunited with their families.

UNICEF concluded a project at the center to provide literacy and numeric education, psychosocial support, recreational and cultural activities, an improved medical unit, and increased nutrition through gardens and fish farming.

Displaced Children.—Approximately 18 percent of the estimated 55,000 refugees in the country were under the age of 18. They had access to primary education and health care (see section 2.d.).

There were numerous street children throughout the country. Authorities gathered street children and placed them in foster homes or government-run facilities, including: eight rehabilitation centers, which offered psychosocial counseling, education, and reintegration services; Iwawa Rehabilitation and Vocational Development Center, where young adults received job training; and three transit centers, where street children, vagrants, and street sellers were held in substandard conditions (see section 1.d.).

Institutionalized Children.—The government supported 34 child-care institutions across the country that provided shelter, basic needs, and rehabilitation for 3,830 orphans and street children during the year. The government worked with international organizations and NGOs to provide vocational training and psychosocial support to orphans and street children, reintegrate them into their communities, and educate parents on how to prevent their children from becoming street children. In August the government announced plans to downsize and eventually phase out orphanages by integrating orphans and street children with families.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was a very small Jewish community, consisting entirely of foreigners, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The constitution prohibits discrimination on the basis of physical or mental disability and establishes the National Council for Persons with Disabilities (NCPD) to assist in coordinating government efforts to provide for the rights of persons with disabilities. The law prohibits discrimination against people with physical, sensory, intellectual, and mental disabilities in regard to employment, education, access to health care, and the provision of other state services, and the government generally enforced these provisions. 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 all of the foregoing provisions. The NCPD designated one member in the Chamber of Deputies. The National Union of Disability Organizations in Rwanda (NUDOR) provided an umbrella civil society platform for advocacy on behalf of persons with disabilities.

In December 2010 MINALOC conducted a census to establish a database of persons with disabilities, to be used as a planning tool for development projects, training for therapists, medical practitioners, and teachers in special education, including vocational training programs.

On August 22, the government launched a campaign to enable people with disabilities to have a barrier-free environment. However, handicap accessibility remained a problem throughout the country.

Some Rwandans viewed disability as a curse or punishment, which could result in social exclusion and sometimes abandonment or hiding of children from the community. From November 26 to December 3, the NCPD organized the first annual Disability Week, culminating in National Disability Day on December 3, to sensitize Rwandans to problems faced by persons with disabilities. On December 23, the NCPD followed up with the country's first National Day of Children with Disabilities.

There was one government psychiatric referral hospital in Kigali, with district hospitals providing limited psychiatric services. All other mental health facilities were nongovernmental. In general facilities were underequipped and understaffed. Individuals can be committed by a judge to Ndera Psychiatric Hospital involuntarily but must be referred by district officials after counseling and consultations with family members.

There were numerous claims of employment discrimination against people with disabilities. For example, a recent graduate of the School of Finance and Banking filed a complaint against the brewery Bralirwa after it allegedly refused her a job because she was deaf. NUDOR worked with the NCPD on the resolution of such claims.

Institutes of higher education admitted students with disabilities, but only the National University of Rwanda and the Kigali Institute of Education were able to accommodate students with visual disabilities. However, few disabled students could reach the university level because many primary and secondary schools were unable to accommodate their disabilities.

National/Racial/Ethnic Minorities.—Long-standing tensions in the country culminated in the 1994 state-orchestrated genocide, in which Rwandans killed between 750,000 and one 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 that included members of eight political parties. President Kagame was elected in 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. In practice most Rwandans knew the regional or ethnic origin of their fellow Rwandans. 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.

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 organizations 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 34,000, lost their official designation as an ethnic group. The government no longer recognizes groups advocating specifically for Twa needs, and some Twa believed these government policies denied them their rights as an indigenous ethnic group. However, the government recognized the COPORWA, an organization that focused primarily on Twa community needs, as an advocate for the most marginalized. Most Twa continued to live on the margins of society with very limited access to health care or education and were viewed generally as second-class citizens by other Rwandans (also see section 2.d.).

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws that criminalize sexual orientation or consensual same-sex conduct. However, some members of the lesbian, gay, bisexual, and transgender (LGBT) community reported societal discrimination and abuse. One local LGBT rights group, the Horizon Community Association (HOCA), opened an office in Kigali in April but was evicted in August after the landlord reported pressure from community members. HOCA leaders and staff reported receiving threats, and several fled the country. There were some violent physical attacks with anti-LGBT overtones.

The RNP investigated reports of threats to LGBT activists. On March 22, the government signed a U.N. Human Rights Council statement on “Ending Acts of Violence and Related Human Rights Violations Based on Sexual Orientation and Gender Identity.”

Other Societal Violence or Discrimination.—Discrimination against people 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 stigmatization of those with the disease.

According to RDF policy and in keeping with U.N. guidelines, members of the military with HIV/AIDS are not permitted to participate in peacekeeping missions abroad but may remain in the military.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides all salaried workers, except for certain public servants, the right to form and

join independent unions, conduct legal strikes, and bargain collectively. These rights were sometimes abrogated by other provisions of law.

All unions must register with the Ministry of Public Service and Labor (MIFOTRA). The application process was cumbersome and required unions to disclose their membership and property.

The law provides some workers the right to conduct strikes, as long as numerous restrictions are observed. Public servants are not allowed to strike, and 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 through complex, compulsory arbitration, conciliation, and mediation processes prescribed by MIFOTRA. The law also allows unions to negotiate with employers for an industry-level minimum wage in certain sectors. The law allows unions to conduct their activities without interference, prohibits antiunion discrimination, and requires employers to reinstate workers fired for union activity.

The government did not enforce applicable laws effectively and restricted these rights in practice. Government-led aggregation of small and medium enterprises into sector-specific cooperatives precluded unionization and led to the shutdown of unions for moto-taxi drivers and bus drivers, among others. In addition, local government officials and employers routinely impeded the right to join or form unions in practice. Employers often harassed union members and prevented organized workers from meeting by prohibiting meetings during work hours. Approximately 30 percent of the total workforce, including agricultural workers, belonged to unions.

The government severely limited the right to collective bargaining. The government was heavily involved in the collective bargaining process since most union members worked in the public sector. The government also controlled collective bargaining for cooperatives. No labor unions had an established collective bargaining agreement with the government, and despite the law, no unions negotiated with employers for an industry-level minimum wage during the year.

Between December 2010 and February, workers at textile manufacturer Utexrwa went on strike to protest excessive compulsory unpaid overtime. MIFOTRA worked with the Central Union of Rwandan Workers (CESTRAR) and the Congress of Labor and Brotherhood of Rwanda to negotiate an agreement between Utexrwa and its employees. However, some employees were fired or laid off during the strike, and their grievances remained unresolved at year's end.

In August employees at auto dealership Akagera Motors held a strike to protest unrealized promises to increase salaries. According to union representatives, President Kagame and several ministers personally pressured CESTRAR and Akagera Motor employees to preclude a strike. Akagera Motors eventually agreed to collective bargaining with its employees.

There were no functioning labor courts or other formal mechanisms to resolve antiunion discrimination complaints. According to CESTRAR, employers in small companies frequently intimidated unionists through the use of transfers, demotions, and dismissals.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits most forms of forced or compulsory labor, and the government generally enforced the law. However, forced labor occurred in practice. Prison authorities assigned prisoners to work details that generally involved uncompensated public maintenance duties, and community leaders monitored participation in a monthly community service day called umuganda. The government required citizens to participate in three hours of umuganda community service and public works per month as a way to bring the country together to rebuild from the 1994 genocide. There were reports that some localities required umuganda more than once a month. Jehovah's Witnesses performed additional umuganda in exchange for exemption from LDF commitments.

There were no reports that children in refugee camps were recruited as combatants in eastern DRC, but children in refugee camps were sometimes trafficked to Uganda and Kenya as forced laborers. Statistics on the number of victims removed from forced labor were not available. The government prosecuted one case of slavery, and the case continued at year's end. Other forced labor cases may have been tried under different laws. Government efforts to prevent and eliminate forced labor focused on trafficking in persons and child labor (see section 7.c.).

Also see the Department of State's annual Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits forced or compulsory labor by children. The law does not prohibit children younger than 16 from working without their parents' or guardians' permission in the subsistence agriculture sector, which accounted for an estimated 85 percent of

child labor. In other sectors the law prohibits children younger than 18 from participating in night work (between 7 p.m. and 5 a.m.), the worst forms of child labor as defined under International Labor Organization (ILO) Convention 182, or any work deemed difficult, unsanitary, or dangerous by MIFOTRA. The 2010 ministerial order on the worst forms of child labor prohibits children from working at industrial institutions and in domestic service, mining and quarrying, construction, brick making, or applying fertilizers and pesticides. Other laws prohibit children in military service, prostitution, or pornography, as well as child trafficking and slavery. Children must have a rest period of at least 12 hours between work periods. The minimum age for full-time employment is 18 (16 for apprenticeships), provided that the child has completed primary school. The law provides six months to 20 years' incarceration and/or fines of 500,000 Rwandan francs (\$830) to 5 million Rwandan francs (\$8,300) for violations. The law applies to contractual employment, but not unregistered employment such as in agricultural cooperatives, and thus leaves most working children unprotected. In addition to the national laws, some districts enacted laws against hazardous child labor, sanctioning employers and parents for violations.

However, the government did not enforce the law effectively, and forced child labor and trafficking of children for sexual exploitation occasionally occurred. Police and labor inspectors received training to identify potential trafficking victims.

The National Advisory Committee on Child Labor, National Commission on Orphans and Vulnerable Children, Inter-Ministerial Committee on Child Rights, and National Commission on Children each have specific roles in designating responsible agencies and establishing actions to be taken, timelines, and other concrete measures in relation to the various national plans and policies related to child protection. By year's end the National Advisory Committee on Child Labor had not finalized its 2008 National Policy for the Elimination of Child Labor and 2007 Five Year Action Plan to Combat Child Labor. At the local level, 149 local child labor committees monitored incidents of child labor. The government supported 30 labor inspectors, one in each district. Although the government was unable to provide them with adequate resources to identify effectively and prevent the use of child labor, the inspectors regularly trained employers and local authorities on child labor issues. The RNP continued to operate a Child Protection Unit. Child labor reduction and school attendance benchmarks were enforced as part of district government officials' performance contracts.

The government continued to work with NGOs to raise awareness of the problem and to identify and send to school or vocational training children involved in child labor. The government fined those who illegally employed children or sent their children to work instead of school. On August 18, the government closed the Comar Mining Cooperative and arrested eight persons after discovering 11 children illegally employed in the mines. Teachers and local authorities continued to receive training on the rights of children and human rights. MIFOTRA raised public awareness of the worst forms of child labor through radio shows, television announcements, and skits. The government continued efforts to stop child prostitution through a high-profile public campaign to discourage intergenerational sex and sexual procurement.

Child labor persisted throughout the agricultural sector, among household domestics, in small companies and light manufacturing, in cross-border transportation, and in the brick-making, charcoal, rock-crushing, and mining industries. Children received low wages and abuse was common. In addition child prostitution and trafficking of children were problems. According to a report released in June by the ILO, UNICEF, and the World Bank Group in partnership with the government, approximately 260,000 children (9 percent of children between the ages of five and 17) engaged in child labor.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—There was no national minimum wage, but MIFOTRA set industry-specific minimum wages in the country's small formal sector. For example, in 2010 the minimum wage in the tea industry ranged from 500 to 1,000 Rwandan francs per day (approximately \$0.83 to \$1.66), while in the construction industry it ranged from 1,500 to 5,000 Rwandan francs a day (\$2.50 to \$8.30), depending on the skill level. Minimum wages provided a higher standard of living than that of the approximately 80 percent of the population relying on subsistence farming. The government, as the country's largest employer, effectively set most other formal sector wage rates.

The law provides a standard workweek of 45 hours and 18 to 21 days paid annual leave, in addition to official holidays. Maternity leave is set at six weeks with full salary, and an optional additional six weeks at 20 percent of salary. The law does

not provide for premium pay for overtime, but there are prohibitions on excessive compulsory overtime. The law provides employers with the right to determine daily rest periods. In practice most employees received a one-hour lunch break. The law regulates hours of work and occupational health and safety standards in the formal wage sector. Workers do 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 labor standards apply to migrant and foreign workers as to Rwandan nationals. There are no effective labor standards for the informal sector, which accounted for 89 percent of all establishments according to the 2011 Establishment Census.

MIFOTRA supported 30 labor inspectors, one in each district, but the inspectors did not enforce these standards effectively. Penalties helped to deter the worst forms of child labor as indicated by the continuing decrease in child labor, the high level of media attention to arrests for the worst forms of child labor, and action by some key industries to eliminate child labor. However, the government did not enforce the law consistently. With regard to adult labor, the many violations reported to labor unions compared with the relatively few actions taken by the government and employers to remedy substandard working conditions suggested that penalties were insufficient to deter violations.

Some workers accepted less than the minimum wage. Families regularly supplemented their incomes by working in small businesses or subsistence agriculture. Most workers in the formal sector worked six days per week. Violations of wage, overtime, and occupational safety and health standards were common in both the formal and informal sectors. Workers in subcontractor and business process outsourcing sectors were especially vulnerable to hazardous or exploitative working conditions. Statistics on workplace fatalities and accidents were not available. There were no major industrial accidents during the year.

SAO TOME AND PRINCIPE

EXECUTIVE SUMMARY

The Democratic Republic of Sao Tome and Principe is a multiparty constitutional democracy. The head of state is President Manuel Pinto da Costa, who was elected on August 7. The head of government is Prime Minister Patrice Emery Trovoada, whose party won the most seats in legislative elections held in August 2010. International observers deemed both elections free and fair. Security forces reported to civilian authorities.

Human rights abuses included difficult prison conditions, official corruption, and violence and discrimination against women.

While the government took some steps to punish officials who committed abuses, impunity was a problem.

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 there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions were difficult, but not life threatening. Medical care was poor, and food often was inadequate. Extremely high temperatures were frequent and ventilation was insufficient.

Pretrial prisoners were held with convicted prisoners. There was one prison and no jails or detention centers. Police stations had a small room or space to incarcerate offenders for brief periods.

There were a total of 185 prison inmates, of whom 65 were pretrial detainees and three women. As a result of closure of half the facility due to building deterioration, there was some overcrowding in the prison, which was built for 260 prisoners. There were no reports of prison deaths.

Prisoners and detainees had reasonable access to potable water and visitors on a weekly basis. They were permitted religious observances. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions, although there was no prison ombudsman. Legal representatives from the prosecutor's staff and court personnel were available to address prisoner grievances. There was

no provision for authorities to use alternatives to sentencing for nonviolent offenders. Little information was available on prison recordkeeping.

The Ministry of Justice, Government Reform, and Public Administration investigated and monitored prison and detention center conditions.

The government permits human rights monitors to visit the prison, but there were no such 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 August 2010 the national police and immigration service were put under the control of the Ministry of Defense and Public Security. The ministry continues to supervise and control the military. Despite increased personnel and training offered throughout the year, police were widely viewed as ineffective and corrupt.

Civilian authorities maintained effective control over the security forces. While the government has effective mechanisms to investigate and punish abuse and corruption, impunity was a problem, and efforts to reform the Criminal Investigation Police, a separate agency under the Ministry of Justice, Government Reform, and Public Administration, were hampered by inadequate resources.

Arrest Procedures and Treatment While in Detention.—The law requires arrest warrants issued by an authorized official to apprehend suspects, unless the suspect is caught committing a crime. It requires a determination within 48 hours of the legality of a detention, and authorities generally respected this right. Detainees are informed promptly of charges against them and are allowed prompt access to family members. Detainees are allowed prompt access to a lawyer and, if indigent, to one provided by the state. There was a functioning bail system.

Pretrial Detention.—Lengthy pretrial detention greatly hindered investigations in criminal cases. Inadequate facilities and a shortage of trained judges and lawyers were additional factors leading to lengthy pretrial detention.

According to the director of the Sao Tome prison, 35 percent of the country's prisoners were awaiting trial during the year, and approximately 58 pretrial detainees had been held for more than a year. The majority of prisoners were 18 to 35 years old.

Amnesty.—Two amnesties were granted to prisoners charged with nonviolent crimes, once at the end of 2010 and again in August at the end of former president Menezes' final term in office.

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, at times the judicial system was subject to political influence or manipulation. Judicial salaries remained low, and judges reportedly accepted bribes.

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 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.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech including for members of the press, and the government generally respected these rights in practice. The law grants all opposition parties access to the state-run media, including a minimum of three minutes per month on television.

Freedom of Speech.—Individuals could privately or publicly criticize the government, including specific officials, without fear of reprisal. There were no reports of the government impeding criticism.

Freedom of Press.—Two government-run and seven independent newspapers and newsletters were published sporadically, usually on a monthly or biweekly basis, when resources permitted. The independent media were active and expressed a wide variety of views without restriction.

International media operated freely. The government operated television and radio stations. Several foreign broadcasters also were rebroadcast locally.

Censorship or Content Restrictions.—Journalists occasionally practiced self-censorship.

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.

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.—See the Department of State's International Religious Freedom Report at <http://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 in practice.

Protection of Refugees.—The law does not specifically 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 protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. During the year there were no known requests for refugee or asylum status.

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.—Recent Elections.—Presidential elections were held on July 17 with a runoff election August 7. Citizens elected former President Manuel Pinto da Costa with 52.88 percent of the vote. International observers deemed the election generally free and fair.

The August 2010 legislative elections gave a plurality of seats in the National Assembly to the Independent Democratic Action (ADI) party. The ADI subsequently formed a government headed by Prime Minister Trovoada. International observers deemed the election generally free and fair.

Participation of Women and Minorities.—Women held 10 seats in the 55-seat National Assembly, one of 13 cabinet positions, one seat on the five-member Supreme Court, and six of the 12 judgeships on the circuit courts.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, but the government did not implement the law effectively, and some officials were widely viewed as corrupt. The World Bank's 2010 Worldwide Governance Indicators reflected that corruption was a problem. The police were viewed as ineffective and corrupt.

While no laws provide for public access to government information, 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. Because of the general respect for human rights, such groups generally remained inactive. Government officials 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 societal discrimination.

Women.—Rape and Domestic Violence.—Rape, including spousal rape, is illegal and punishable by two to 12 years' imprisonment. Rape occurred, with prosecution most likely in cases where there was evidence of violent assault as well as rape or the victim was a minor. However, no statistics on prosecutions were available. A government family planning clinic and nongovernmental organizations (NGOs) sought to combat rape by raising awareness of the problem.

Widespread reports of domestic violence continued.

Although women have the right to legal recourse, including against spouses, many were reluctant to bring legal action because of the cost and a general lack of faith in the legal system to address their concerns effectively. Women often were ignorant of their legal rights. Tradition inhibited women from taking domestic disputes outside the family. The law specifically addresses domestic violence cases. If the victim misses fewer than 10 days of work, the penalty for assault is six months in prison. If the victim misses 10 to 20 workdays, the penalty is one year, and so forth. The law was strictly enforced, but there was no data on the number of prosecutions or convictions for domestic violence.

The Office of Women's Affairs and UNICEF maintained a counseling center with a hotline. The hotline did not receive many calls, but the counseling center received numerous walk-ins.

Sexual Harassment.—The law does not prohibit sexual harassment, and it was a problem. No data were available on its extent.

Reproductive Rights.—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 they were not widely used. NGOs and the Ministry of Health had insufficient supplies of contraceptives, leading to a decrease in availability and use. The government provided free childbirth services, but the lack of doctors obliged many women, especially in rural areas, to rely on nurses or midwives during childbirth, unless the mother or child suffered more serious health complications. Pre- and post-natal care outside the family was provided only in the government clinic. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, but women were more likely than men to seek treatment and refer their partners. No information was available on incidence of maternal mortality.

Discrimination.—The constitution stipulates that women and men have equal political, economic, and social rights. Women did not experience economic discrimination. While many women had 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 opportunity to enter a profession. A high teenage pregnancy rate further reduced economic opportunities for women. The Gender Equality Institute within the Office of Women's Affairs held numerous seminars and workshops to raise awareness of discrimination against women.

Children.—Birth Registration.—Citizenship is acquired either through parents or by being born within the country. Either parent, if a citizen, can confer citizenship on a child born outside the country. The law 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 office. Failure to register a birth can be penalized by a fine.

Education.—By law education is universal, compulsory through sixth grade, and tuition-free to the age of 15 or sixth grade.

Child Abuse.—Mistreatment of children was not widespread; however, there were few protections for orphans and abandoned children.

Sexual Exploitation of Children.—There were no reports of children engaged in prostitution. There is no statutory rape law or specific legislation to prohibit child pornography. However, the government uses other laws such as kidnapping or unlawful forced labor, as well as its existing rape-related laws, to address instances of sexual exploitation of children.

Displaced Children.—The Ministry of Health and Social Affairs operated a social services program that 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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There is no known Jewish community and there were no reports of anti-Semitic acts.

Trafficking in Persons.—In 2011 there were no confirmed reports that persons were trafficked to, from, or within Sao Tome and Principe.

Persons With Disabilities.—The law does not prohibit discrimination against persons with physical, sensory, mental, or intellectual disabilities. Nevertheless, there were no reports of discrimination against such persons. The law does not mandate access to buildings, transportation, or services for persons with disabilities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—No law criminalizes consensual same-sex sexual activity, but there were occasional reports of societal discrimination based on sexual orientation.

Other Societal Violence or Discrimination.—Persons with HIV/AIDS often were rejected by their communities and shunned by their families. However, there were no reports of discrimination due to HIV/AIDS status. There were a number of government-sponsored workshops and awareness campaigns to reduce such discrimination. The government provided free HIV/AIDS testing and distributed antiretroviral drugs to all recognized patients.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The constitution and law allow workers to form and join unions of their choice without previous authorization or excessive requirements. The law does not prohibit antiunion discrimination. The constitution provides for the freedom to strike, including by government employees and other essential workers; however, the laws do not prohibit retaliation against strikers. The provisions regulating strikes require that a majority is needed to call a strike, and replacement workers can be hired without consultation with the trade unions to perform essential services in the event the enterprise is threatened by a strike. Under the provision concerning “minimum services,” in the event of disagreement in determining such services, the matter will be determined by the employer (instead of an independent body). The law also requires compulsory arbitration for services, including postal, banking, and loan services. The constitution and law state that workers may organize and bargain collectively. No particular groups of workers were excluded from the aforementioned legal protections.

The government effectively enforced the laws and workers generally exercised these rights in practice. For example, there were no reports that antiunion discrimination occurred. Although the law provides for the right to strike, no strikes occurred during the year.

Workers’ collective bargaining rights remained relatively weak due to the government’s role as the principal employer in the formal wage sector and key interlocutor for organized labor on all matters, including wages. There were no attempts by unions or workers to negotiate collective agreements during the year.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports or evidence that such practices occurred.

c. Prohibition of Child Labor and Minimum Age for Employment.—There are laws to protect children from exploitation in the formal sector workplace. The law sets the minimum age for normal work at 14 years and the minimum age for hazardous work at 18 years. The law prohibits minors from working more than seven hours a day and 35 hours a week, and the government effectively enforced the law. Employers in the formal wage sector generally respected the legally mandated minimum employment age of 18. Children worked in informal commerce, including street work and begging. Children also reportedly performed light work in agriculture and domestic service. The law states that employers of underage workers can be fined. The Ministry of Health and Social Affairs is responsible for enforcing child labor laws.

A media campaign aimed at preventing child labor continued during the year. The Ministry of Education mandated compulsory school attendance through the sixth grade, and the government granted some assistance to several low-income families to keep their children in school. The Ministry of Labor utilized teams of labor inspectors to inspect work sites.

d. Acceptable Conditions of Work.—There is no national minimum wage. The legal minimum wage for civil servants was 750,000 dobras (\$40) per month. The legal workweek is 40 hours, with 48 consecutive hours mandated for rest. However, shopkeepers could work 48 hours a week with eight hours of overtime or in shifts. The law provides for compensation for overtime work. The law prescribes basic occupational health and safety standards. 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, the Criminal Investigation Police, and the military, earned up to 400 percent more than other public sector employees.

Working conditions on many of the largely family-owned cocoa farms—the largest informal wage sector—were unregulated and harsh. The low purchasing power of average salaries for agricultural workers was further eroded by inflation.

The Ministry of Justice, Government Reform, and Public Administration and the Ministry of Health and Social Affairs, which covers labor issues, did not monitor labor conditions sufficiently, and enforcement of these standards seldom occurred. Reliable data on workplace fatalities or accidents was not available. Employees have the right to leave unsafe working conditions, but none sought to do so, and enforcement of the right was very limited. Government is the largest employer, and the standards on hours of work and health and safety were effectively enforced in that sector.

SENEGAL

EXECUTIVE SUMMARY

Senegal is a moderately decentralized republic dominated by a strong executive branch. In 2007 Abdoulaye Wade was reelected president for a five-year term in an election generally viewed as free and fair, despite sporadic incidents of violence and intimidation. Also 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. Security forces reported to civilian authorities.

The most significant human rights problems included reports of physical abuse and torture; limits on freedoms of speech, press, and assembly; and corruption.

Other major human rights problems included the following: inhuman and degrading treatment of detainees and prisoners, including overcrowded prisons; questionable investigative detention and long pretrial detention; lack of an independent judiciary; rape, domestic violence, sexual harassment of 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.

Impunity existed for security forces and other actors. No prosecutions or investigations of government officials, including law enforcement or security officials, who allegedly committed abuses, were closed during the year.

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 was one report of an arbitrary killing by a security force member.

On May 30, the commander of a paramilitary police (gendarmerie) station in Sangalkam shot and killed protestor Malick Ba during a demonstration against a government decision to replace local elected officials with government appointees. Samba Sarr, the police station commander who shot Ba, was moved to another police station; however, no charges were filed in the case.

Park ranger Yaya Sonko, who shot and killed fisherman Moustapha Sarr in July 2010, was provisionally released in February pending his trial by a military tribunal, which began in October.

On April 11, the prosecutor ordered an investigation into the death of Abdoulaye Wade Yinghou, who died in July 2010 while in police custody. A postmortem indicated that Yinghou suffered a broken cervical vertebra, wounds from sharp instruments, and lung injuries.

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 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 reportedly forced detainees to sleep on bare floors, directed bright lights at detainees, 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. While abuses occurred, the government claimed that these practices were not widespread and that it usually launched formal investigations into cases of abuse. However, the investigations were often lengthy and rarely resulted in charges or indictments of suspects.

On April 16, three human rights groups called for an investigation into the death of Aladi Konate in the town of Bakel. Following Konate's arrest by gendarmerie forces, his body was found naked on the banks of the Senegal River and exhibited evidence of torture. As of the end of the year, authorities had opened no formal investigation.

On May 6, the African Assembly for Human Rights (RADDHO), a local human rights organization, accused officers at the Nord Police Station in St. Louis of torturing Yatma Fall, who had been arrested for gasoline theft along with an accomplice. According to RADDHO, investigators extracted confessions from Fall under torture; RADDHO also cited a report by a doctor at St. Louis Hospital which concluded that Fall had suffered physical abuse. In April the prosecutor dropped charges against Fall, who later filed a suit against police that remained pending at the year's end.

Prison and Detention Center Conditions.—Prison and detention center conditions were harsh, and no new prisons have been built since 1960. The local nongovernmental organization (NGO) National Organization for Human Rights identified overcrowding and lack of adequate sanitation as major problems. There were 37 prisons with a designed maximum capacity of 3,000 prisoners. According to Ci-Biti, an NGO specializing in prisoners' rights, 7,300 individuals were held in prison facilities in 2010, approximately 3,000 of whom were in pretrial detention. A U.N. study group on pretrial detention visited the country in 2009 and found that Dakar's main prison facility, known as "Rebeuss," housed 1,592 inmates while its designed capacity was 800. The group criticized long pretrial detention, prolonged police custody beyond the legal time limit, and detainees' lack of access to attorneys for 48 hours after arrest.

Men and women were held in separate facilities. The conditions in which women prisoners were held were generally considered to be superior to the conditions in which males were held. Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without censorship or request investigation of credible allegations of inhumane conditions. Prisoners were generally allowed reasonable access to visitors and were permitted religious observance.

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. They were infested with insects, and food was of low quality. Prisons usually were tied into the local water supply, and prisoners had access to potable water.

During the year the government permitted prison visits by local human rights groups. Members of the International Committee of the Red Cross also visited prisons in Dakar and Casamance, where 20 MFDC members were held on various criminal charges.

In September 2010 Abdoulaye Babou, chairman of the Law Committee of the National Assembly, and 10 other members of parliament visited the prisons of Louga and Fatick. They regretted cases of long pretrial detention and stated that some members of the group who are attorneys would represent detainees involved in the longest delayed cases. They also noted the poor conditions of the prison in Fatick, with bad hygiene, crumbling buildings, and overcrowding. They called on the government to increase prison budgets. Currently prisons are allocated 500 francs CFA (\$1.00) per prisoner per day; 450 francs CFA (\$0.90) for daily meals and 50 francs CFA (\$0.10) for hygiene.

The parliamentary group also called on the government to build a new prison in Louga to replace the old warehouse used as a prison, which they termed inappropriate and overcrowded.

There were no significant efforts to modernize record keeping during the year. In general, efforts at computerizing record keeping were impaired by the irregular power supply at many government facilities and inadequate training of government personnel on computerized systems. A lack of funding precluded significant modernization or improvement of prison facilities.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention. The government generally observed these prohibitions, although NGOs and the media reported that police often forcibly dispersed unauthorized marches, arbitrarily arrested individuals, and released them several hours later.

On March 19, immediately prior to a scheduled day of protest, the minister of justice announced that a coup plot had been uncovered and that four youths had been arrested for planning actions around the capital “to create panic and cause fatalities.” However, on March 22, the government announced there was no concrete evidence the four detainees intended to overthrow the government, and the individuals were released.

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 is primarily employed in rural areas where there is no police presence.

Impunity and corruption were pervasive problems. An amnesty law covers police and other security personnel involved in “political crimes” committed between 1983 and 2004, except those who committed assassinations in “cold blood.”

The Criminal Investigation Department (DIC) is in charge of investigating police abuses. The DIC did not close any investigations in 2011 and was not effective in addressing impunity or corruption among police.

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 (eight days) without being formally charged.

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 examination and possibly access to family; however, family access was not allowed generally. The accused has the right to an attorney, and an attorney is provided at public expense in felony cases to all criminal defendants who cannot afford one, after the initial period of detention. Attorneys are not always provided for defendants in misdemeanor cases. A number of NGOs also provided legal assistance or counseling to those charged with crimes.

Arbitrary Arrest.—The government used security forces, especially the DIC, to harass journalists and arrest political opponents and civil society leaders (see sections 2.a. and 2.b.).

Pretrial Detention.—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. In 2009 a U.N. study group on pretrial detention criticized the country for its use of long pretrial detention.

In July several human rights activists expressed concern about the government’s decision to postpone, allegedly for financial reasons, pretrial sessions for 41 detainees held under felony charges. Human rights activists maintained that the postponement was in breach of the 2008 code of criminal procedure that mandates such

sessions should be held every four months, and that it would unduly prolong the pretrial detention of the 41 detainees in Dakar, Kaolack, Ziguinchor, and Tambacounda.

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 with the prosecutor's consent may order release pending trial. 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 of public funds. 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 caseloads, lack of adequate space and office equipment, and inadequate transportation. Magistrates also openly questioned the government's commitment to judicial independence.

Besides the formal civil court system, some citizens relied on traditional leaders to settle family and community disputes.

The Regional Court of Dakar includes a military tribunal, which has jurisdiction over crimes committed by military personnel. 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, confront witnesses, present evidence and witnesses, and have an attorney, at public expense if needed, 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 whether to refer a case for trial, they do not always have access to all evidence against a defendant presented prior to trial. Police or prosecutors may limit access to evidence. A panel of judges presides over ordinary courts in civil and criminal cases since a law passed in July eliminated trials by jury. The right of appeal exists in all courts, except for the High Court of Justice. These rights extend to all citizens.

Political Prisoners and Detainees.—On July 25, Oumar Cyrile Toure (also known as Thiat), a rapper and leader in the "Y En a Marre" movement, was detained following a speech he gave at a July 23 rally in which he said that "a 90 year old liar cannot lead the country." Following a 25-hour detention by the DIC, Toure was released without charge on July 26 (see section 2.b., Freedom of Assembly).

On October 20, opposition figure Malick Noel Seck was sentenced to two years in prison for contempt of court and issuing a death threat in an open letter he wrote to the Constitutional Council protesting President Wade's running for a third term. Numerous human rights groups considered Seck's conviction to be politically motivated and disputed the charges were legitimate.

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.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—The level of violence increased during the year in the Casamance Region. There were numerous instances of combat between MFDC and army soldiers, as well as between MFDC factions. The army conducted several sweeps in the area of Sindian in northern Casamance, close to the Gambian border, around the regional capital Ziguinchor, and in the area of Oulampane in northern Casamance. An estimated 83 people were

killed as a result of the Casamance conflict during the year: 36 Senegalese soldiers, 14 civilians, and approximately 33 MFDC rebels.

No civilian landmine-related deaths were noted during the year, indicating that awareness campaigns about land mines have been somewhat effective. However, some observers noted an increased use of land mines by the MFDC. Two civilian women were injured in a landmine attack on March 27 in Diankadiou, North Sindian. Handicap International continued work on an antimine campaign under the supervision of and in coordination with the National Mine Action Center, a governmental organization.

Several landmine accidents killed soldiers.

MFDC rebels committed several highway robberies in the Casamance. Two civilians were killed in suspected MFDC robberies or attacks during the year.

On January 19, a 30-year-old Senegalese woman was kidnapped, beaten, and raped by suspected MFDC rebels near the village of Teidouboune. Senegalese soldiers found her body with fatal gunshot wounds the following day.

On January 28, a motorcyclist was ambushed and killed by suspected MFDC rebels near Bignona.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The constitution and law provide for freedom of speech including for members of the press; however, the government limited these rights in practice, and security forces and politicians intimidated or harassed journalists during the year.

Freedom of Speech.—Individuals generally could criticize the government publicly or privately without reprisals.

Freedom of Press.—There were a large number of 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 regulates radio frequency assignments, community radio operators claimed there was a lack of transparency in the allocation of frequencies. Radio stations were occasionally 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), five privately owned television channels broadcast during the year. By law the government must hold a majority interest in the 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 ability of some religious leaders 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's selective provision of 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 newspaper *Le Messager*, and radio stations Anur FM and Radio Municipale de Dakar, were created solely to refute antigovernment criticism.

The international media were active and expressed a wide variety of views without restriction.

Violence and Harassment.—The government continued to perceive some media organizations 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 and private citizens for libel.

For example, on July 13 four journalists affiliated with the independent Wal Fadji media network (Abdourahmane Camara, Charles Gaiky Diene, Yakhya Massaly, and Mohamed Mboyo) were detained by the DIC following the publication in the Wal Fadji newspaper of an article entitled "Liars, Abusers, Hijackers: The Thugs of the Republic." They were released without charge after several hours.

On September 25, three journalists of the newly established privately owned daily newspaper *La Tribune* were released after being detained overnight at the police headquarters. Felix Nzale, managing director, Ahmet Bachir Ndiaye, reporter, and Mamadou Diop, a photojournalist, were accused of discrediting the police in a front-page story on September 23 and its accompanying photographs that accused the police of using high-handed measures in the quelling of a demonstration. Police said the photographs were fake; the journalists claimed the pictures were genuine.

Censorship or Content Restrictions.—Journalists practiced self-censorship, and selective government media assistance appeared to favor those outlets more friendly to the administration.

Government efforts to control media content by selectively granting or withholding state subsidies, which were routinely given to both government-affiliated and private independent media, were of concern to journalists. The government frequently used subsidies, and in a few cases threats and intimidation, to pressure the media not to publicize certain issues.

Libel Laws/National Security.—The law criminalizes libel and the law is used to harass and discourage investigative reporting.

The NGO Reporters Without Borders reported that on April 14, Abdou Latif Coulibaly was given a suspended jail sentence of three months and fined 10 million francs CFA (\$20,000) for investigative journalism accusing a businessman close to the president of fraudulent dealings with the government. This was the second suspended sentence and fine on Coulibaly since 2010, when a libel charge was brought by a presidential advisor.

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.

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.

On May 26, police used teargas to disperse a meeting called by the Postal Workers Union (SNTPT) at its Medina office.

On June 5, police arrested four leaders of the “Y En a Marre” movement and their local coordinator in Mbacke. The group of rappers and journalists were on a countrywide tour to promote voter registration, particularly among youth. The group’s initial request for permission to hold a concert and an awareness campaign was denied. Following a radio interview by the group, four leaders of the movement were arrested by police, but released without charge several hours later (see section 1.e., Political Prisoners and Detainees).

On June 23 and 27, large demonstrations and riots took place to protest proposed constitutional changes and power outages. On June 23, police employed teargas and concussion grenades to control a large crowd that had assembled downtown in front of the National Assembly. On June 27, widespread riots developed in Dakar and its suburbs. Thousands of rioters blocked major roads, ransacked homes of government officials, and set fire to dozens of vehicles. Police attempted to disperse the crowds in Dakar and Mbour with teargas, but the riots were largely uncontrolled. For the first time in more than 20 years, the military was deployed for possible crowd control purposes but did not directly engage the demonstrators on June 27.

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.—See the Department of State’s International Religious Freedom Report at <http://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 in practice.

The government generally cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, and stateless persons.

Foreign Travel.—Some public employees, including teachers, are required by law to obtain government approval before departing the country; however, this law was not generally enforced.

Internally Displaced Persons (IDPs).—During the 29-year Casamance conflict, tens of thousands of persons left villages in the region due to fighting, forced removal, and land mines. Many persons reportedly became newly displaced during the year. The government estimated that 10,000 IDPs remain in the Casamance, although this number tended to fluctuate with the ebb and flow of the conflict. Some inter-

national humanitarian assistance agencies estimated the IDP number to be as high as 40,000. 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.

During the year the government supplied food to and enrolled children of IDPs in local schools in Ziguinchor.

Protection of Refugees.—Access to Asylum.—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. Since the president must approve each case, delays of one to two years in granting refugee status remained a problem. 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 are examined by the same committee that examined their original case 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 UNHCR, as of January there were 2,177 asylum seekers in the country.

Nonrefoulement.—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.

Durable Solutions.—Since 1989 the country has offered temporary protection to Mauritanian refugees, who generally lived in dispersed locations in the Senegal 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. Following discussion with UNHCR, the government agreed to issue identification cards. The government and UNHCR completed the registration process, and new refugee cards were issued in October.

In 2008 UNHCR began a repatriation program of Afro-Mauritanians to Mauritania. According to UNHCR, an estimated 34,000 Afro-Mauritanians were registered for voluntary repatriation and by January approximately 20,500 had been repatriated. Repatriations were temporarily stopped in January 2010 due to the internal sociopolitical situation in Mauritania but resumed in October 2010. Repatriations halted again briefly in December 2010 but resumed in January. UNHCR reports that 380 Mauritanian refugees were repatriated during the year.

The government continued to permit generally unsupervised and largely informal repatriation of Casamance 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, and citizens generally exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation.—Recent Elections.—In 2007 President Wade was reelected to a constitutional five-year second term with approximately 55 percent of the vote. International observers declared the voting to be generally free and fair; however, there were irregularities, especially in the issuance of voter cards, and pre-election violence. Many opposition parties did not accept the election results and unsuccessfully petitioned the Constitutional Council to void the election.

In the 2007 legislative election, President Wade's PDS coalition won 131 of 150 National Assembly 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 presidential appointment. The main opposition parties boycotted the Senate elections, since the president appoints the majority of Senate seats.

Political Parties.—The 150 registered political parties generally operated without restriction or outside interference.

Participation of Women and Minorities.—In May 2010 the National Assembly passed a law on gender parity that provides women equal access to all elected assemblies and management boards of totally or partially owned government companies. At year's end, there were 37 women in the 150-seat National Assembly and

nine women in the 40-member cabinet. Only 13 percent of locally elected leaders were women. The 100-member Senate included 40 women.

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. Public officials were subject to financial disclosure laws only in cases of investigations. The president is the only official required by law to disclose assets at the beginning of his term.

The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a serious problem, and there was widespread public perception of government corruption. Officials' granting themselves, members of the National Assembly, and civil servants salary increases, vehicles, and land over the previous few years exacerbated the perception.

Impunity and corruption among police were pervasive problems. According to human rights groups, attorneys, and victims, security forces regularly extorted money from detainees in exchange for release, and from prostitutes to overlook non-compliance with prostitution regulations.

The National Commission to Fight Non-transparency, Corruption, and Government Fraud had no authority to investigate or 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.

Several meetings to decide matters of great import to the people of Senegal were held behind closed doors and without stakeholder or civil society participation in decision making or access to the proceedings. The NGO Article 19 reported on November 15 that the public and civil society groups were excluded from participating in the decision-making process for privatization of water resources.

During the year the Agency for Regulation of Public Markets (ARMP) published on the Internet its investigations into procurement code violations that occurred in 2009. The investigation reports were long and detailed, but did not result in any criminal prosecutions. ARMP has a mandate to publish its investigation report findings regardless of government consent.

The constitution and law provide citizens the right to access government information freely; however, the government rarely provided access in practice.

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 but rarely responsive to their findings. Some human rights organizations alleged that their telephones were regularly tapped during the year and violence against human rights leaders occurred (see section 1.c.).

Death threats against leaders of opposition political parties, unions, journalists, NGOs, and senior officials were common and generally were believed to originate from the ruling party.

For example, Alioune Tine, the head of RADDHO, was attacked and brutally beaten by individuals thought to have been paid by the government. Tine claims the attack was organized by Farba Sengor, a well-known associate of President Wade, and that Sengor participated in the attack. Tine was hospitalized after the beating and remained in a coma for several days.

U.N. and Other International Bodies.—In 2008 the constitution was amended to allow retroactive prosecution on charges of torture and crimes against humanity of former Chadian dictator Hissene Habre, who has lived in exile in the country since 1990. Donors worked with the government to formulate a feasible budget and, in November 2010, pledged approximately \$11,350,000 to finance the trial. At the same time, the Court of Justice of the Economic Community of West African States (ECOWAS) released a ruling that concurred with charges brought by Habre's lawyers against Senegal, arguing that Senegal made its criminal laws retroactive for the sole purpose of prosecuting Habre and thus had violated his rights. The African Union and the EU urged that the trial should proceed despite ECOWAS' decision.

In a February 7 interview with a French newspaper, President Wade expressed his opposition to trying Habre in Senegal, saying he was "finished" with the case following the ECOWAS court decision. On July 8, President Wade's office announced that Habre would be expelled to Chad on July 11. However, on July 10, the Foreign Ministry declared that Habre's expulsion had been "suspended" based on a request by the U.N. High Commissioner for Human Rights.

Government Human Rights Bodies.—The government's National Committee on Human Rights (NCHR) includes government representatives, civil society groups, and independent human rights organizations. The NCHR has authority to investigate abuses; however, it lacked credibility, was poorly funded, did not meet regularly, did not conduct investigations, and last released its annual report in 2001.

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 NGO inquiries and held meetings with them to discuss human rights issues such as torture, domestic violence, and the case against Habre.

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

The constitution provides that men and women are equal under the law and prohibits discrimination based on race, gender, disability, language, or social status. However, gender discrimination was widespread in practice, and antidiscrimination laws, in particular laws against violence against women and children, generally were not enforced.

Women.—Rape and Domestic Violence.—Rape was widespread. 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 10 years' imprisonment. NGO's criticized the lack of shield laws for rape; the law 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 evidence 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. The Ministry of Justice estimated in 2009 that 47 percent of accused rapists went unpunished and were released without trial, but was unable to provide more recent estimates.

On August 8, up to 15 local human rights organizations publicly called for a halt to gang rape and the end of impunity for such crimes. They denounced the fact that, during violent protests on June 27, a group of men took advantage of the lack of electricity and unrest to rape several women present at a bar/restaurant in the Dakar neighborhood of Dieuepeul. The group also condemned a separate incident that took place on July 31 in the Guediawaye suburb of Dakar. Following a wrestling match and subsequent power shutdown, a group of men reportedly raped a number of female fans who had gathered in front of the house of wrestler Balla Gaye to celebrate his victory. At the end of the year no arrests had been made in the two incidents.

Domestic violence, including spousal abuse, was a widespread problem. The Ministry of Justice is responsible for combating domestic violence. Several women's groups and the NGO Committee to Combat Violence Against Women and Children (CLVF) reported a rise in violence against women during the year. The CLVF reported that domestic violence cases accounted for 65 percent of all reported cases of violence against women in 2009.

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. CLVF also noted that the government authorized civil society organizations to represent victims of trafficking in civil cases but continued to deny them the right to do so in rape cases. The media reported several cases of incest. Domestic violence against women is punishable by one to 10 years in prison and fines ranging from 30,000 francs CFA (\$60) to 500,000 francs CFA (\$1,000), 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 suits on behalf of victims. The Ministry of Women, Family, Social Development, and Women's Entrepreneurship was responsible for ensuring the rights of women.

The government-run Ginddi Center provided shelter to women and girls who were victims of rape or early marriage, in addition to street children.

Female Genital Mutilation (FGM).—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. Prevalence of the practice in those over 10 years of age is reported to be less than 6 percent (see “Children” later in this section).

Sexual Harassment.—The law mandates prison terms of five months to three years and fines of 50,000 to 500,000 francs CFA (\$100 to \$1,000) 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.

Sex Tourism.—There were instances of sex tourism. For example, there were reports that European tourists in the Saly district of Mbour sought sexual services.

Reproductive Rights.—The law provides for the right of all individuals to be informed about and to choose methods for spacing births. It also provides for the right to medical services for 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 constrained these rights, particularly in rural areas and in some urban areas where lack of funds led to closing maternity wards and operating rooms. According to Demographic Health Surveys, skilled personnel attended approximately 65 percent of births and prenatal care was provided in 93 percent of cases. According to UNICEF, the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) was 410 in 2008. The Ministry of Health estimated that a majority of maternal deaths in childbirth could be prevented through the assistance of skilled personnel and the availability of emergency obstetrical services. Social and cultural pressures to have large families reportedly led some husbands to ask health workers to terminate the use of contraceptives by their spouses. This reportedly led women to be discreet in the use of contraception. The U.N. Population Fund estimated that 12 percent of all girls and women between the ages of 15 and 45 used some form of contraception. Men and women were diagnosed and treated equally for sexually transmitted diseases.

In an effort to improve maternal and infant mortality rates, on February 3 the Ministry of Health announced that costs for cesarean sections within the district of Dakar would be covered by the government.

Discrimination.—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 needed to be notified nor to give prior consent if the man took 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 authorities. However, it was also 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.—Birth Registration.—Citizenship is acquired by birth or naturalization. Only the father can automatically transmit nationality to legitimate children; a woman can if her husband is stateless. Legitimate children born to Senegalese women with foreign husbands have the option to acquire citizenship between the ages of 18 and 25. Illegitimate children acquire the citizenship of the first-known parent at birth. Children are not registered at birth unless a parent requests it be done, but failure to do so does 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.

Education.—The law provides for tuition-free education through the compulsory ages of 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. The historical gap in enrollment levels between boys and girls has been closed, and during the year there were more girls than boys enrolled in elementary education.

Girls encountered greater difficulties in continuing in school, however. When families could not afford for all their children to attend school, parents tended to remove daughters rather than sons from school. Sexual harassment by school staff and early pregnancy also caused the departure of girls from school. According to the most recent UNICEF data, 45 percent of girls and women ages 15-24 were literate, compared with 58 percent of boys and men of the same ages. While roughly equal numbers of boys and girls were enrolled in primary education, UNICEF reported that 28 percent of boys were enrolled in secondary education compared with 22 percent of girls.

Child Abuse.—Child abuse was common. Poorly dressed, barefoot young boys, known as talibes, begged on street corners for food or money for themselves and their Qur'anic teachers, known as marabouts. Many of these children were exploited by their teachers and exposed to dangers. Physical abuse of talibes was widely reported. A 2008 joint study by UNICEF, the International Labor Organization (ILO), the World Bank, and the NGO Partnership for the Withdrawal and Reinsertion of Street Children identified an estimated 7,800 child beggars in the Dakar area. A report issued by Human Rights Watch (HRW) in April 2010 estimated 50,000 child beggars in the country. Most were approximately 10 years old, although some as young as two years old were reported. In general they were undernourished and prone to sickness. Since they begged full time, they devoted almost no time to Qur'anic studies. They were forced to give the proceeds of their begging to their teachers. Each child was expected to collect an average of 400 francs CFA (\$0.80) per day.

Child Marriage.—Officials from the Ministry of Women, Family, Social Development, and Women's Entrepreneurship and women's rights groups stated that child marriage was a significant problem in parts of the country, particularly in rural areas, although it is against the law. Girls, sometimes as young as nine, were married to older men.

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 of girls younger than 16, but this law was generally not enforced in most 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. According to UNICEF data, 39 percent of women between the ages of 20 and 24 were married before the age of 18.

Harmful Traditional Practices.—Almost all girls in the country's northern Fouta Region were FGM victims before adulthood, as were 60 to 70 percent of girls 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 ethnic groups, particularly in rural and some urban areas. According to a survey on health and demographics by the National Institute for Statistics, the practice of FGM decreased slightly from 28 percent in 2005 to almost 26 percent in 2011.

The government collaborated with the NGO Tostan and other groups to educate persons about FGM's inherent dangers. Tostan reported no real improvement over 2010 with 817 communities still practicing FGM. Tostan worked with 522 villages.

Sexual Exploitation of Children.—The law provides that convicted sexual abusers of children receive five to 10 years' imprisonment. If the offender is a family member the maximum is applied. 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 francs CFA (\$600 to \$8,000). If the crime involves a victim younger than 13, the maximum penalty is applied. However, the law was not effectively enforced.

Rape of children remained a problem. The director charged with protection of children's rights reported an estimated 400 cases of rape between 2008 and 2009; however, this figure likely greatly underestimated the reality. No more recent data was available.

On May 9, Jean Delhoune, a 72-year-old French citizen, was arrested in Mbour on charges of pedophilia after having been caught assaulting three underage girls

in a villa. The media reported that Delhoune had been caught in the course of a larger investigation into an underage prostitution network.

On May 17, media reported that Oumar Gallo Ba, a leader in the youth wing of the ruling party, was arrested in the eastern city of Tambacounda for the rape and subsequent pregnancy of an underage female student. After his arrest, Ba agreed to marry the girl after she gave birth and pay her a monthly stipend. The prosecutor recommended the case proceed to trial, and the case was pending at year's end.

Due to social pressures and fear of embarrassment, incest remained taboo and often went unreported and unpunished.

While prostitution is legal procuring a minor for prostitution is punishable by imprisonment for two to five years and a fine of 300,000 to four million francs CFA (\$600 to \$8,000).

Pornography is prohibited and pornography involving children under the age of 16 is considered pedophilia.

Infanticide.—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. If the identity of the mother was discovered, police arrested and prosecuted her.

Displaced Children.—Many children displaced by the Casamance conflict often lived with extended family members, neighbors, in children's homes, or on the streets. The government failed to support these children effectively. According to NGOs in Casamance, displaced children suffered from the psychological effects of conflict, malnutrition, and poor health.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were approximately 100 resident Jews in the country; there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/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 somewhat effectively enforced it. The law also mandates accessibility for persons with disabilities; however, there remained a lack of infrastructure to assist them, including in appropriately accessing voting sites. 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, as of year's end the government failed to issue the executive decree required 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 a lack of special education training for teachers and facilities accessible to children with disabilities, only 40 percent of such children were enrolled in primary school.

Mental health treatment was not generally available, and incidents of abuse of the mentally disabled were common.

National/Racial/Ethnic Minorities.—While the country's many ethnic groups have coexisted relatively peacefully, interethnic tensions between the Wolof and southern ethnic groups played a significant role in the long-running Casamance rebellion that has been characterized by grievous human rights abuses.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Consensual same-sex activity, which is indirectly referred to in the law as "unnatural sexual intercourse," is a criminal offense. In the recent past gays, lesbians, bisexual, and transgender (LGBT) persons often faced criminal prosecution and widespread discrimination, social intolerance, and acts of violence.

The media failed to report acts of hatred or violence against LGBT persons. In November 2010 HRW released a report entitled "Fear of Life: Violence against Gay Men and Men Perceived as Gay in Senegal." The report discussed cases of violence

against gay men and the legal and cultural milieu that fostered such violence. While the cases cited in the report were from 2009 and earlier, NGO observers speculated that the drop in cases reported during the year was due to several factors. First, violence against gay men and lesbians might have caused many LGBT persons in the country to go underground. Second, increased international attention might have caused the government to curtail prosecutions and other official discrimination. A report by the Panos Institute West Africa released on July 20 found that local media contributed to negative societal attitudes toward LGBT persons. Finally, successful legal challenges to the law used to prosecute gays and lesbians for consensual sexual activity may have helped curtail its use by prosecutors.

Other Societal Violence or Discrimination.—As a result of government and NGO HIV/AIDS awareness campaigns, persons with HIV or AIDS increasingly were accepted in society.

The law protects persons with HIV/AIDS against all forms of discrimination. The law also allows medical doctors to inform spouses of persons with HIV/AIDS of their partners' status if the latter fail to do so after a reasonable time.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—By law all workers except security forces, including police and gendarmes, customs officers, and judges, are free to form and join unions. The labor code requires the Ministry of Interior to give prior authorization before a trade union can exist legally. The government can also dissolve and disband trade unions by administrative order. Antiunion discrimination is prohibited by law.

The law allows the right to strike; however, certain regulations restrict this right in practice, and the law was not effectively enforced. The constitution seriously undermines the right to strike by stipulating that a strike must not infringe on the freedom to work or jeopardize an enterprise. The law states that workplaces may not be occupied during a strike. 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. The right to strike is further restricted by the power of authorities to requisition workers to replace those on strike. The labor code does not apply to the informal sectors, and thus excludes the majority of the workforce, including subsistence farmers and those employed in many family businesses.

The law allows unions to conduct their activities without interference, and workers exercised the right to form or join unions in practice. However, antiunion sentiment within the government was strong.

The law provides for the right to collective bargaining. However, collective bargaining agreements only apply to an estimated 44 percent of union workers. Trade unions organize on an industry-wide basis, very similar to the French system of union organization. Trade unionists were reportedly frequently subjected to harassment. In addition the ILO has raised questions regarding the country's full adherence to worker rights, particularly, the right of association. Nevertheless, there were no confirmed reports of antiunion discrimination activities during the year. Some newspapers have reported legal action against union leaders, for example in the telecommunications industry, but there were no reports of people being harassed for being a union member. Transportation, health, lawyers, telecommunication workers, waste collection workers, and fishermen staged several strikes during the year.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, including by children; however, such practices occurred. The predominant type of forced labor was forced begging by talibes, where young boys were forced to beg for food/money by the teachers at Islamic schools. Parents living in villages sent their children to these schools to get an Islamic education, but in a cruel bait-and-switch, the children wound up begging instead. Many religious instructors in Qur'anic schools brought talibes 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 to work in the agriculture sector under the threat of physical punishment. Talibes occasionally worked in small-scale agriculture and harvested cashews, mangoes, and oranges. In the Casamance region, talibes working in the fields were exposed to land mines left from the war.

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 Qur'anic schools whose teachers do not force their students to engage in begging. The Ministry of Education provided funds to schools operated by religious institutions that met national education standards. During the year 40 new elementary schools were opened throughout the country; 10 middle schools were also established. These schools were bilingual, teaching in French and Arabic. This

program removed thousands of children from street begging and exploitation. The Ministry of Education also worked on a secular curriculum for use in Qur'anic schools. Funding continued to be available for existing schools but was insufficient to allow the opening of additional schools, although the budget for the Ministry of Preschool, Elementary School, Middle and Secondary Schools and National Languages rose over the last three years.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>

c. Prohibition of Child Labor and Minimum Age for Employment.—The law bans many forms of child labor exploitation. However, the law includes exceptions. For example it may allow a 12-year-old to work in a family environment so long as it is morally acceptable, and it also allows all boys under 16 to work in underground mines and quarries doing "light work." Given the nature of the dangers associated with mining, "light work" activities do not prevent their exposure to hazards. Regulations on child labor set the minimum working age, working hours, and working conditions, and prohibit children from performing particularly dangerous jobs.

The minimum age for employment is 15. In general work is 40 hours per week or 2,080 hours per year. Night work is performed between 10:00 p.m. and 5:00 a.m. and should receive a supplementary rate. Extensive language on occupational health and safety regulations exists in the labor codes. Inspectors from the Ministry of Labor are charged with investigating and initiating lawsuits in child labor cases. Investigators from the Ministry of Labor 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.

Labor laws prohibiting child labor largely were unenforced. For example the Ministry of Labor sent investigators to investigate formal work places. However, they were not trained to deal with child labor problems, and many of the child labor abuses took place in the informal economy, where there were no inspections. The Child Labor Division in the Ministry of Labor was eliminated in May. Inspectors did not initiate visits to investigate child labor violations because they lacked adequate funding and expertise to handle child labor cases. There was no specific system in place to report child labor violations largely due to inadequate funding of the Child Labor Office and the Ministry of Labor. Instead the ministry relied on unions to report violators.

The government raised awareness of the dangers of child labor and exploitive begging through seminars with local officials, NGOs, and civil society. The government also participated in an ILO project to combat child labor. The government was implementing the Child Labor Plan, which focused on better management of child labor issues. While the training created more awareness of child labor issues in local communities, there were no further outcomes.

In August 2010 the Ministry of Justice announced the formation of an office to combat the mistreatment of women and children. However, the office received no funding for the year 2011 and was eliminated in May.

Child labor was a problem, including in the gold mining sector, 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 work over education for their children. 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 (millet, corn, and peanuts), fishing, artisanal gold mining, garages, dumpsites, slaughterhouses, production of salt, and metal and woodworking shops. There were also reports of children working on family farms or herding cattle. Children also worked as domestics, in tailoring shops, as garage mechanics, in metal and wood working shops, and in other areas of the informal economy, such as fruit and vegetable stands.

In August 2008 (the most recent year for which such data was available) 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 (37 percent) between the ages of five and 17 worked.

One of the worst situations 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 also 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. The NGO La Lumiere reported an increase in children working in gold mines in the Kedougou area during the year due to an increase in the price of gold.

According to a 2007 government survey, 90 percent of children in Kaolack, Fatick, and Ziguinchor carried out tasks detrimental to their health and education. The study also found that 75 percent of girls were responsible for domestic chores, forcing many to leave school.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/PDF/2010TDA.pdf>.

d. Acceptable Conditions of Work.—The national minimum hourly wage was 209 francs CFA (\$0.42) and 183 francs CFA (\$0.37) for agricultural workers. In campaign speeches President Wade pegged the poverty income level at 100,000 francs CFA (\$200) per annum. 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 provisions apply to foreign and migrant workers as well.

Within the formal sector the law mandates for most occupations a standard workweek of 40 to 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. Premium pay for overtime was required in the formal sector. The law does not cover the informal sector. Legal regulations on occupational health and safety (OSH) exist, and the government sets the OSH standards. There was 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. The Ministry of Labor, through the Labor Inspection Office, enforced labor standards. The minimum wage was not respected in the informal sector, especially for domestic workers. Enforcement of the workweek standard was irregular. Labor inspectors had very poor working conditions and lacked transportation to conduct their mission effectively.

Workers seldom exercised their nominal right to remove themselves from situations that endangered health or safety due to high unemployment and a slow legal system.

SEYCHELLES

EXECUTIVE SUMMARY

Seychelles is a multiparty republic. In elections held May 19-21, voters reelected President James Michel. International observers deemed the process credible, although there were complaints of unfair campaign practices. The president and the People's Party, formerly the Seychelles People's Progressive Front, dominated the country through a pervasive system of political patronage and control over government jobs, contracts, and resources. Security forces reported to civilian authorities.

The most significant human rights problems in the country were an inefficient and politically influenced judiciary, and restrictions on freedom of assembly and labor rights.

The following human rights problems also were reported: poor prison conditions; prolonged pretrial detention; restrictions on speech, press, and association; restrictions on political participation; official corruption; violence against women and children; and trafficking in persons.

The government took steps to punish officials who committed abuses, whether in the security services or elsewhere in the government.

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

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

On February 23, the Supreme Court sentenced police officer Nelson Rose to 12 years in prison and acquitted another police officer in connection with a 2009 case in which a man was found dead in a cell while in police custody. On December 9, the Court of Appeals acquitted Rose.

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 there were no reports that police or prison officers were accused of inhumane treatment of detainees.

Prison and Detention Center Conditions.—Montagne Posee Prison, the country's main prison, did not meet international standards, and conditions were poor. Access to potable water remained a problem. Sanitation and hygiene were poor, although a full-time doctor and nurse were on staff to provide medical treatment and oversee

dietary needs. The prison system had limited rehabilitation programs and organized activities for prisoners, according to nongovernmental organizations (NGOs).

As of November 30, there were 471 prisoners and detainees, including 450 men, 20 women, and one juvenile. Prison conditions for female inmates were no worse than for male inmates.

Prisoners and detainees had access to visitors and were permitted religious observance. Prison authorities also provided Muslim Somali pirates being held in Montagne Posee Prison with access to imams and permitted daily prayers and religious observances, such as Ramadan. Prison authorities allowed prisoners and detainees to submit complaints to appropriate authorities and request investigation of credible allegations of inhumane conditions. The government investigated on a case-by-case basis and monitored prison conditions regularly.

The government generally permitted independent monitoring of prison conditions by local and international human rights groups. The International Committee of the Red Cross made no requests for prison visits.

During the year 51 inmates considered to be low-risk prisoners were sent to the Coetivy Island Prison as part of a voluntary rehabilitation program. While visitors were not allowed on Coetivy Island, facilities reportedly were adequate, and inmates were allowed to circulate freely on the island.

An ombudsman may make recommendations to the National Assembly and the president to improve conditions for prisoners and detainees, although the ombudsman has no power to enforce such recommendations. The ombudsman generally issues an annual report that includes complaints of and investigations into cases of human rights abuse and corruption. According to the 2010 annual report, 25 complaints alleging human rights abuses were filed, of which 21 were retained for further investigation, and four were dismissed for having no merit.

Authorities did not use alternatives to sentencing for nonviolent offenders, and no steps were taken during the year to improve record keeping.

In partnership with the U.N. Office of Drugs and Crime (UNODC), the government provided training for prison guards in tradecraft, leadership, fire safety, and emergency response.

On September 9, a new prison wing for Somali pirates opened at Montagne Posee Prison. At year's end the wing, which was designed for 60 prisoners, held 63 Somali pirates.

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 president has complete control over the security apparatus, which includes the Seychelles People's Defense Forces (SPDF), Presidential Protection Unit, Coast Guard, and police. During the year the National Guard was dissolved and its officers redeployed to other units. The police commissioner, who reports directly to the minister for Home Affairs, Environment and Transport, commands the unarmed police and the armed paramilitary Police Seychelles Support Unit, which together have primary responsibility for internal security. When necessary, the SPDF assisted police on matters of internal security.

Security forces were effective, although corruption, particularly the solicitation of bribes, was a problem. The Enquiry Board, a police complaint office, was rarely used. In practice private attorneys filed complaints or published them in 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.

Arrest Procedures and Treatment While in Detention.—Warrants are required by law, except for persons being arrested under the Misuse of Drugs Act, which allows police to arrest and detain without a warrant. The law provides for detention without charge for up to 14 days if authorized by court order. Persons arrested must be brought before a magistrate within 24 hours, with allowances for boat travel from distant islands, although police did not always respect this requirement. The law provides that detainees be promptly notified of charges against them and allowed prompt access to family members, although these rights were not always respected. Detainees have the right to legal counsel, and free counsel was usually provided to indigent persons. Courts accepted bail for most offenses.

Pretrial Detention.—The constitution provides that remand prisoners be released after six months of detention if their cases have 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 27 percent of the prison population consisted of pretrial detainees.

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, the judiciary was inefficient and subject to executive influ-

ence. 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. Authorities did not always respect court orders.

Two Supreme Court judges, two appeals court judges, and four magistrate court judges were citizens by birth. There were allegations that some of the justices were appointed because of their affiliation with the People's Party. All other justices were either naturalized citizens or citizens of other Commonwealth countries. There were reports that the executive branch interfered in the recruitment of foreign justices, who sometimes were hesitant to rule against the executive branch for fear of losing their jobs.

During the year the chief justice, who was appointed in 2009, continued efforts to increase judicial efficiency by increasing the number of judges, introducing alternative dispute resolution techniques, and automating judicial records.

An 18-member part-time family tribunal heard and decided all matters relating to access to, care, custody and maintenance of children, domestic violence, family disputes, and other family related cases. 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, are considered innocent until proven guilty, and have the right to be present at their trials and to appeal. Cases involving murder or treason use juries. 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. These rights were 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, case backlogs impeded judicial efficiency. UNODC funding was used to provide prosecutors to decrease the backlog in the Attorney General's Office. The National Human Rights Commission, which investigated allegations of human rights abuse, recommended cases for prosecution as well as for out of court settlements (see section 5).

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 communications without legal process.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press; however, the government did not respect these rights in practice. Journalists from state-controlled media practiced self-censorship.

Freedom of Speech.—Individuals who criticized the government publicly or privately sometimes suffered reprisals, such as harassment by police or the loss of jobs or contracts.

Freedom of Press.—The government operated a daily newspaper, and there were two privately owned daily newspapers and three political party weeklies.

On September 26, on the eve of legislative elections, police operating under orders of the Seychelles Licensing Authority seized opposition coalition campaign materials. The government claimed that the opposition did not have the appropriate license to publish the materials. The opposition claimed that the publications were flyers and did not require registration. The government countered that, according to the Newspaper Act, a flyer is considered a newspaper.

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 (\$61,538) per year discouraged the opening of any independent broadcasters. Political parties and religious groups were prohibited from obtaining radio licenses. 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 law was not enforced during the year.

Libel Laws/National Security.—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.

For example, on July 23, a cabinet minister filed a libel suit against Regar newspaper for publishing allegations in June regarding a conflict of interest in a land sale. On July 24, police searched the house of Regar's publishing director. A trial was pending at year's end.

On December 12, Le Nouveau Seychelles Weekly chief editor Ralph Volcere appeared in court for allegedly discrediting a Court of Appeals judge in a December 9 newspaper article. The case was scheduled for January 2012.

The Media Commission, a media regulatory body created as a result of December 2010 legislation, was composed of media professionals widely viewed to be ruling party supporters.

Internet Freedom.—Opposition activists claimed that the government blocked access to their party Web sites. There also were reports that the government monitored e-mail and Internet chat rooms.

For example, on June 9, an opposition supporter was detained for 15 days for having allegedly insulted the president on a social networking Web site. No charges were filed.

On December 5, police detained a man after he allegedly criticized a senior government official on a social networking Web site. The man was released the same day, and no charges were filed.

On October 28, a man was arrested, and later released, for posting negative comments against Air Seychelles. No charges were filed.

Academic Freedom and Cultural Events.—Opposition activists claimed that the government limited academic freedom by reportedly not allowing educators 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, the University of Seychelles, and boards of educational institutions.

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.

For example, on October 7, police denied the opposition coalition permission to hold a political rally in Beau Vallon on the grounds that the meeting was going to take place in a residential area. Although the law does not prohibit the holding of rallies in residential areas, police have used the same excuse to deny permits for years.

On November 17, police denied the opposition coalition permission to conduct a march in Victoria to protest the outcome of the legislative elections. No reason was given for the denial.

Freedom of Association.—The constitution and law provide for freedom of association; however, civil servants allegedly refrained from participating in opposition party activities for fear of political reprisal.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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 in practice.

Foreign Travel.—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," but the law was not invoked during the year.

Protection of Refugees.—Access to Asylum.—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.

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.—Recent Elections.—In presidential elections held May 19-21, voters reelected incumbent and ruling People's Party candidate James Michel to a third term. Michel received 55percent of the vote, while opposition Seychelles National Party (SNP) candidate Wavel Ramkalawan received 41percent. International observers deemed the process credible, although they cited allegations of unfair campaign practices. The Francophonie Observer Group, the Commonwealth Expert Team, and the Southern African Development Community

called for electoral reforms, such as a cap on campaign funding, a credible voters' register, and restrictions on the use of state resources.

In National Assembly elections held on September 29, 30, and October 1, the People's Party won all seats due to an opposition boycott of the elections. Both the SNP and New Democratic Party opted out of the election, charging that the ruling party obstructed their activities, particularly in the National Assembly. Despite the boycott, international observers found the election credible and transparent. Citizens Democracy Watch, a local observation group, the first domestic observer group allowed to monitor an election, expressed concern about "the sudden dissolution of the National Assembly, the use of state funds and resources during the election period, intimidation of candidates and activists; media coverage of events during cooling-off period; and nonadherence to agreed rules and procedures during campaigning."

Remand prisoners were not allowed to vote in the legislative elections, despite a July 12 Constitutional Court ruling that provided them the right to vote.

Political Parties.—The People's Party assumed power in a 1977 coup and continued to dominate the country through a pervasive system of political patronage and control over government jobs, contracts, and resources.

Opposition parties claimed that they operated under restrictions and outside interference, especially in the National Assembly, where dissent was sometimes penalized. SNP members who walked out of the assembly in protest, for example, lost a day's pay. The speaker sometimes ordered individual opposition members to leave the chamber if debate tactics became contentious. 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.

Participation of Women and Minorities.—There were 14 women in the 32-seat National Assembly, 11 elected by direct election and three appointed by proportional representation. Two of the 10 cabinet members were women.

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, and officials sometimes engaged in corrupt practices with impunity. The World Bank's 2009 Worldwide Governance Indicators reflected that corruption was a problem.

Police corruption remained a problem.

Although public officials and citizens serving on boards were subject to financial disclosure laws upon taking office, this did not always occur.

The ombudsman has legal authority to investigate and report on allegations of official fraud and corruption; however, no cases were reported or investigated during the year.

There are laws allowing public access to government information, but the government did not comply with them. Citizens generally had no 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 NGOs and three domestic human rights groups—the Center for Rights and Development (CEFRAD), Association of Concerned Citizens of Seychelles (ACCESS), and Friends of Prison—generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to the views of international NGOs but less cooperative with CEFRAD and ACCESS, which were perceived as aligned with the opposition. For example, the government refused to permit CEFRAD and other local groups to observe the May presidential election and prior elections.

Government Human Rights Bodies.—The National Human Rights Commission investigated allegations of human rights abuse, including those committed by members of law enforcement agencies. The commission operated without government or party interference, had adequate resources, and was considered effective.

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 and Domestic Violence.—Rape, spousal rape, and domestic abuse are criminal offenses punishable by a maximum of 20 years' imprisonment. Rape was a problem. The police registered 63 sexual assault cases for the year, although most rape cases went unreported for fear of reprisal or social stigma. The Social Af-

fairs Division of the Ministry of Social Development and Culture and the Women in Action and Solidarity Organization (WASO), a local NGO, provided counseling services to 15 domestic violence victims, including rape victims during the year. Nine sexual assault cases were prosecuted during the year, and 36 cases remained under investigation.

Domestic violence against women was a 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, and the court generally ordered light sentences for perpetrators. The Family Tribunal issued 268 restraining orders, 82 eviction orders, and 124 referrals of persons on restraining order to probation services during the year.

During the year GEM Plus, a local NGO that promotes awareness of domestic violence, worked on the Gender Justice Barometer and translated the Gender Protocol of the Southern African Development Community into Creole, one of the three official languages of the country.

Sexual Harassment.—The law prohibits sexual harassment, but enforcement was rare. The penal code provides no penalty for sexual harassment, although the court can order a person accused of such conduct to “keep a bond of peace,” which allows the court to assess a fine if the harasser fails to cease the harassment.

Reproductive Rights.—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 Social Development and Culture. There were no restrictions on the right to access contraceptives, but few couples reportedly used these measures. The government provided free childbirth services, although women traditionally preferred using 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. There were no legal, social, cultural, or other barriers that limited access to these services.

Discrimination.—Women enjoyed the same rights as men, and the society was largely matriarchal. Unwed mothers were 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.—Birth Registration.—Citizenship is derived by birth in the country or from parents, and births were generally registered immediately. Failure to do so, however, did not result in denial of public services.

Education.—The government requires children to attend school through the 10th grade and made free public education available through the secondary level until age 18.

Child Abuse.—The law prohibits physical abuse of children, but child abuse was a problem. According to government social workers, sexual abuse of children, usually perpetrated by stepfathers and older brothers, occurred. According to WASO, most rapes of girls under age 15 went unreported for fear of reprisal or social stigma. Authorities prosecuted very few child abuse cases in court due to lack of efficient working relations between government agencies. The strongest public advocate for young victims was a semiautonomous agency, the National Council for Children.

Child Marriage.—The minimum age for marriage is 15, with parental consent. Girls were allowed to attend school while pregnant, and many returned to school after giving birth.

Sexual Exploitation of Children.—The law provides a minimum punishment of seven years’ imprisonment for persons found guilty of sexual assault on a person under age 15. There were reports of commercial sexual exploitation of children; however, no complaints were filed with the police, and no abusers were prosecuted during the year.

International Child Abductions.—The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community numbered fewer than 10 persons. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State’s Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—Although the constitution and law provide for the right of persons with disabilities to special protection, including reasonable provisions for improving quality of life, no laws provide for access to public buildings, transportation, or state services, and the government did not provide such services. There was discrimination against persons with disabilities. For example, there were reports that some employers did not pay their employees with disabilities because the latter were already receiving disability social aid. The National Council for Disabled, a government agency under the Ministry of Social Development and Culture, developed work placement programs for persons with disabilities, although few such employment opportunities existed.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Consensual same-sex activity between men is punishable by 14 years' imprisonment; however, the law was not enforced. There were no reports of discrimination against gay men and lesbians.

Other Societal Violence or Discrimination.—There were no reports of violence or discrimination against persons with HIV/AIDS. Nevertheless, government policies require a foreign citizen marrying a Seychellois to undergo an HIV test. If the test is positive, the couple will be refused the right to marry in the country. Citizens applying for loans and life insurance are also required to undergo an HIV test.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows all workers—excluding police, military, prison, and firefighting personnel—to form and join independent unions and to bargain collectively; however, strikes are illegal unless arbitration procedures are first exhausted. The legislation requires that two-thirds of union members need to vote for a strike in a meeting specifically called to discuss the strike, and provides the minister with the right to call for a 60-day cooling off period before a strike starts. Anyone found guilty of calling for an illegal strike can be fined 5,000 rupees (\$384) and up to six months' imprisonment. The law provides discretionary powers to the registrar to refuse the registration of unions; however, the legislation was not used during the year. The law prohibits antiunion discrimination, but is silent regarding the rights of foreign or migrant workers to join a union. The government has the right to review and approve all collective bargaining agreements in the public and private sectors. The law also imposes compulsory arbitration in all cases where negotiating parties do not reach an agreement through collective bargaining. In the Seychelles International Trade Zone (SITZ), the country's export processing zone, the government did not require adherence to all labor, property, tax, business, or immigration laws. The Seychelles Trade Zone Act supersedes many legal provisions of the labor, property, tax, business, and immigration laws.

The government did not always respect rights to union participation and collective bargaining or effectively enforce applicable laws. Between 15 and 20 percent of the workforce was unionized. Collective bargaining seldom occurred. In the public sector, which employed more than 50 percent of the labor force, the government set mandatory wage rates for employees. Private sector employers generally set wages through individual agreements with the employee, while the government set wage rates in the few larger businesses. There was little flexibility in setting wages.

Although the law prohibits antiunion discrimination, there were unofficial reports that such discrimination occurred.

The law authorizes the Ministry of Education, Employment and Human Resources to establish and enforce employment terms, conditions, and benefits, and in practice workers frequently obtained recourse against their employers through the ministry.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

c. 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." It is otherwise a criminal offense punishable by a fine of 6,000 rupees (\$461) to employ a child under age 15. However, the law neither specifically prohibits children from engaging in hazardous work nor provides for a comprehensive list of hazardous work prohibited to children under age 18.

In practice the government adhered to these requirements, and the Ministry of Education, Employment and Human Resources effectively 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 reported to be working in the fishing, tourism, agricultural, boat-building, or processing industries;

the ministry carried out regular checks to ensure that children were actually attending school. No cases involving the worst forms of child labor were reported during the year.

Also see the Department of Labor's findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. 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. The minimum wage was 22.80 rupees (\$1.75) per hour. Private employers generally paid higher wages than the government to attract and retain qualified workers.

The legal maximum workweek varied from 45 to 55 hours, depending on the economic sector. Regulations entitled each full-time worker to a one-hour break per day and a minimum of 21 days of paid annual leave. Regulations permitted workers to work overtime up to 60 additional hours per month. The law requires premium pay for overtime work.

The Ministry of Health has formal responsibility for drafting the government's comprehensive occupational health and safety regulations. The law allows workers to remove themselves from dangerous or unhealthy work situations, report the employer to the Health and Safety Commission of the Department of Employment, and seek compensation without jeopardizing their employment. Foreign workers are not covered by these laws.

The government generally supported these standards but did not effectively enforce them in all sectors. Safety and health inspectors rarely visited job sites.

In practice some workers worked up to 60 hours per week. Government employees worked fewer hours. Foreign workers—mainly employed in the construction and commercial fishing sectors—enjoyed the same legal protections as citizens, even though they are not specifically identified in the labor law. However, companies in the SITZ sometimes paid foreign workers lower wages, forced them to work longer hours, and provided them with inadequate housing, resulting in substandard conditions. Occupational injuries were most common in the construction, marine, and port industries.

SIERRA LEONE

EXECUTIVE SUMMARY

Sierra Leone is a constitutional republic with a directly elected president and a unicameral legislature. In 2007, in peaceful multiparty presidential and parliamentary elections, the opposition All People's Congress (APC) won a majority in parliament, and citizens elected party leader Ernest Bai Koroma president. Security forces reported to civilian authorities.

Major human rights problems included prolonged detention and imprisonment under harsh and life-threatening conditions in prisons and jails; widespread official corruption in all branches of government; and trafficking in persons, including for child labor.

Other human rights problems included abusive treatment by police; arbitrary arrest and detention; some restrictions on freedoms of press and assembly; discrimination and violence against women and girls, including female genital mutilation; official and societal discrimination against lesbian, gay, bisexual, and transgender individuals; discrimination against people with disabilities; and vigilante violence.

The Anti-Corruption Commission aggressively investigated and prosecuted cases of corruption in a nonpartisan fashion and without political interference; however, impunity remained a serious concern.

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.

On June 12, Ibrahim Foday was killed while taking photographs for a story related to a land dispute; three suspects were detained, including police officer Musa Samura. None of the suspects had been charged by year's end.

On September 9, Abdulai Sesay was killed when police fired into a crowd during a riot. No officer had been charged by year's end (see section 2.b.).

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 police and other security personnel continued to use excessive force. The law allows

up to 36 lashes as punishment, although the nongovernmental organization (NGO) Prison Watch noted that sensitization on human rights had led to a reduction in such incidents.

Prison and Detention Center Conditions.—Prison and detention center conditions were harsh and sometimes life threatening. Overcrowding was a major problem. Prison Watch stated that as of November 30, there were 2,537 prisoners in the country. At year's end Pademba Road Prison, which was designed to house 324 prisoners, held more than 1,200 inmates.

In some cases cells measuring six feet by nine feet housed nine prisoners. According to Prison Watch's 2010 assessment of prisons, beatings, solitary confinement, reduction in or total denial of food rations, and forcing prisoners to sleep on a wet floor were routine disciplinary measures. In addition many prisoners reported being beaten by gangs of other prisoners at the incitement or explicit direction of prison officials to inflict punishment while shielding prison officials from charges of abuse.

Human rights observers reported detention conditions remained below minimum international standards because of overcrowding, unhygienic conditions, and insufficient medical attention. Prison cells often lacked proper lighting, bedding, ventilation, and protection from mosquitoes. At all prisons wells were the only source of water. At some prisons the wells dried up during the dry season and inmates were required to purchase water themselves.

One NGO noted an improvement in nutritional standards, but prisoners continued to receive inadequate portions of food. The Bureau of Prisons received only 2,500 leones (\$0.63) per prisoner per day for food rations; further, the failure of the government to pay food vendors resulted in severe food shortages throughout the year.

There are no prison ombudsmen to address prisoner concerns and grievances.

There was no alternative sentencing program for diversion of nonviolent offenders.

Conditions in holding cells in police stations were poor, especially in small stations outside Freetown. Cells were dark with little ventilation. Overcrowding in some police cells continued to be a problem, as there were only five roving magistrates covering the entire country, and any particular region would not see a magistrate for several months at a time.

Few prisoners had access to adequate medical facilities, and clinics lacked supplies and medical personnel to provide basic services. The Pademba Road Prison had a clinic staffed by one doctor; prisons outside Freetown sent patients to local government hospitals and clinics. Authorities allowed only emergency patients to visit the clinic outside of the assigned schedule. Women were treated as outpatients or referred to local hospitals for special care. However, doctors and nurses in these hospitals often refused to treat prisoners or provided inferior care because of the government's failure to pay medical bills. The Prisons Department attempted to transfer mentally ill prisoners to the psychiatric hospital in Freetown, but the hospital declined to admit them due to lack of space and resources.

Prison Watch reported a shortage of prison staff, resulting in a lack of security that endangered prisoners' safety.

During the year through November 30, 50 prisoners died in custody. Prison Watch reported the main causes of death in Freetown were anemia and pneumonia, and for prisoners elsewhere malaria.

Men and women were held in separate cells in all prisons except those in Kono District. During the year the 27 women prisoners held at Pademba Road Prison in Freetown were moved to detention facilities at the Special Court for Sierra Leone that were turned over to the government. No figure was available for female prisoners nationwide. Several prisons held infants, most of whom were born in prison and initially kept there with their mothers. Once weaned, these children were released to family members, or the Ministry of Social Welfare, Gender, and Children's Affairs placed them in foster care.

Offenders under the age of 18 are sent to "approved schools," or reformatory institutions. Although authorities made an effort to avoid detaining juveniles with adults, minors regularly were imprisoned with adult offenders. Prison Watch noted that young adults over 18 were often sent to the approved schools, while some children under 18 were sent to prison. Police officers had difficulty in determining a person's age, given the lack of documentation, and they often depended on circumstantial evidence, such as possession of a voter registration card or affidavits from parents who may have reasons to lie about their child's age. In some cases police officers inflated the ages of juveniles to escape blame for detaining them. Several boys reported they were victims of physical abuse, including sodomy, by older prisoners. In the three juvenile facilities, detainees did not have adequate access to food and education and sometimes were unable to attend court hearings due to lack of transportation. However, during the year vocational training and one year of for-

mal education were offered to juvenile prisoners under a grant from the Justice Sector Development Program (JSDP), a government program funded by the United Kingdom (UK). Juvenile facilities were deteriorating and mismanaged by the Ministry of Social Welfare, Gender, and Children's Affairs, which was responsible for all services but security. Violence among juvenile detainees, including small riots, occurred. Juveniles housed with adults and then moved to age-appropriate facilities were often instigators of violence, the JSDP noted.

In most cases pretrial detainees were held with convicted prisoners. According to Prison Watch, only 1,084 of the 2,537 prisoners across the country had been convicted.

The government permitted family visits to prisoners and detainees regularly during the year.

International monitors, including the U.N. Integrated Peacebuilding Office in Sierra Leone (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.

Following a December 2010 prison break, steps were taken to improve the morale and efficiency of prison officials and prisoner treatment. The Prisons Department invited civil society organizations and other government agencies to inspect and comment on prison operations. For example, the Prisons Department forged ties with Prison Watch to help eliminate abuse and violence by guards against prisoners. Management of prison guards was strengthened to encourage greater accountability and security.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, police occasionally arrested and detained persons arbitrarily. The government allows both the Sierra Leone Police (SLP) and the chiefdom police to hold suspects in police detention cells without charge or explanation for up to three days for suspected misdemeanors and up to 10 days for suspected felonies.

Role of the Police and Security Apparatus.—The SLP, under the Ministry of Internal Affairs, maintains internal security, but it was poorly equipped and lacked investigative, forensic, and riot control capabilities. The military is responsible for external security but also has some domestic military responsibilities through the "Military Assistance to the Civil Power" (MAC-P) program, which provides additional assistance to police in extraordinary circumstances upon their request.

MAC-P assistance was last called out in September to help the SLP quell a riot in Bo in which supporters of the two rival political parties threw rocks at each other and set buildings on fire. An SLP officer caused one death while seeking to quell the riot.

Civilian authorities maintained effective control over the SLP and the Republic of Sierra Leone Armed Forces (RSLAF), and the government has mechanisms to investigate and punish abuse and corruption. However, impunity continued.

For example, four SLP officers were identified as having shot and killed one demonstrator and injured several others during the September electoral violence in Bo. However, by year's end none had been arrested or charged, although several civilians had been charged and convicted for their roles in the violence. The local District Security Council and others believed political pressure shielded the four officers from accountability.

As in previous years, cases of police brutality and police corruption remained a serious problem. Some police and guards stole from detainees, required bribes at checkpoints, falsely charged motorists with violations, impounded vehicles to extort money, and accepted bribes from suspects to drop charges or for having their rivals arrested and charged with crimes.

In exchange for kickbacks, police reportedly arrested persons without charge for civil causes such as alleged breach of contract or failure to satisfy a debt.

The Police Complaints, Discipline, and Internal Investigations Department (CDIID) heard complaints against police officers. A Police Council, which included the vice president, minister of internal affairs, inspector general, and others, accepted written complaints against senior police officers. The CDIID conducted all hearings and trials related to complaints against junior police officers. An appeals process was available and used often. After the CDIID imposed disciplinary measures on an SLP officer, the officer was also subject to trial in civilian court if criminal action was involved. During the year the CDIID received 1,791 complaints countrywide, resulting in 485 officers being dismissed, demoted, suspended, or officially warned and 593 officers being sent to "corrective training." Of the remainder, 229 cases were dismissed for lack of evidence or validity, 160 were resolved through dispute resolution, and 324 remained at various stages of investigation or review. Complaints most frequently lodged against police were for corruption, unfair treatment,

lack of professionalism, and assault. Cases of officer dismissal most commonly involved criminal cases, such as 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 U.N. technical advisor and U.N. Civilian Police advisors. As a result of training programs during the year and the introduction in 2010 of community policing conducted by the UK, the Commonwealth, and the JSDP, police professional conduct improved. The UK committed 19.4 million pounds sterling (\$30.2 million) to establish the "Access to Security and Justice Program," to run from 2011 to 2014. This new program began in September, replacing JSDP, which ended in August.

Arrest Procedures and Treatment While in Detention.—The law requires warrants for searches and arrests; however, arrest without warrant was common. According to the U.N. Integrated Office in Sierra Leone'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.

Once arrested, a detainee must be told the reason for arrest within 24 hours and be charged in court within 72 hours for suspected misdemeanors or within 10 days for suspected felonies. According to NGOs and prisoners, 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 rights of access to family and to consult with an attorney in a timely manner. However, due to a lack of money, only an estimated 5 to 10 percent of inmates had access to legal representation, which was often delayed. Lawyers generally were allowed unrestricted access to detainees. Although the law provides for attorneys at public expense if defendants cannot afford their own, the government had instituted legal aid in Freetown only and had been able to serve only a few clients due to problems with establishing eligibility. Fewer than 10 state counsels served the entire country, and they were often overburdened, poorly paid, and available only for more serious criminal cases. In order to assist, several local NGOs, including Timap For Justice, Access To Justice Law Center, and AdvocAid, provided training to paralegals and established paralegal offices in 32 locations in eight districts through the Open Society Justice Initiative. Many indigent detainees did not receive legal advice prior to trial. Only defendants in the military justice system had automatic access to attorneys, whose fees were paid by the Ministry of Defense. For civilians, fewer than 10 attorneys provided legal aid outside of Freetown.

Authorities permitted regular family visits, although frequency and duration of the visits varied from prison to prison. According to NGOs, family members often paid bribes to be permitted to visit.

There were provisions for bail and a functioning bail system; however, authorities applied the system inconsistently and sometimes demanded excessive bail.

Arbitrary Arrest.—In December officials from the Sierra Leonean Transnational Organized Crime Unit confiscated a 40-foot container at the Port of Freetown suspected of containing South American cocaine. At least 11 people, including Sierra Leonean and foreign nationals, were arrested and held without charge. By year's end three were charged with crimes unrelated to the container seizure, while the others were released without explanation as to why they had been held. Observers reported all the arrests were made with little intelligence or evidence to support them and that they were likely the result of political pressure on the SLP by senior officials to appear as though they were responding quickly and forcefully.

Pretrial Detention.—Lengthy pretrial detention was a problem. Prison Watch reported that due to a severe shortage of legal professionals, 57 percent of prisoners were waiting to be either charged or tried or their trials were not completed. Pretrial and remand detainees spent an average of three to five years in pretrial detention before courts examined their cases or filed formal charges. According to the NGO 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 less substandard areas of a prison.

Amnesty.—During the year President Koroma granted 153 pardons, up from 96 the previous year.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary. However, the judiciary was at times believed to have acted under

government influence, particularly in the dismissal or acquittal of some corruption cases.

In addition to the formal civil court system, 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 few lawyers, access to justice remained limited for most citizens.

The RSLAF has its own military justice system, although soldiers can also be tried in civilian courts for some crimes. The decision of which justice system to use, sometimes ad hoc, 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 and cases involving senior officers. Such cases are tried before a civilian judge and board; the latter determines guilt or innocence, and the former the sentencing recommendation. The court-martial heard an average of four cases per year. The RSLAF had only two military lawyers.

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 ranking officer, while the civilian Supreme Court hears appeals in a court-martial. However, the redress system was fraught with corruption.

Traditional justice systems also functioned, especially in rural areas. Paramount chiefs maintained their own police and courts to enforce uncoded local laws. Chieftaincy police and courts exercised authority to arrest, try, and incarcerate individuals and sometimes abused that power. However, growing numbers of paralegals were sent into rural areas to provide access to justice and training for chieftom officials.

On October 22, a 19-year-old man accused of stealing cacao pods in Kono District died while in the custody of the local chieftom police. Although the official investigation was not concluded by the end of the year, according to Prison Watch the man may have died of injuries sustained during a severe beating by other villagers and subsequent neglect in the chieftom police holding cell. He may have been beaten further or otherwise tortured while in custody. A Native Administration Court must sign a "committal order" before a person can be detained in a chieftom police cell; no such order existed in this case.

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.

Trial Procedures.—The law provides for a fair trial; however, in practice, the lack of judicial officers and facilities regularly resulted in repeated long delays. Some cases were reportedly 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. Police officers, many of whom had little or no formal legal training, prosecuted a majority of cases on the magistrate level. Although the law provides defendants with the right to appeal, delays in the appeals process were excessive, sometimes lasting more than two years.

Human rights NGOs noted wide disparities in sentencing patterns from district to district. Sentences imposed were often disproportional to the offense. Many prisoners served excessively long sentences for noncapital offenses, such as sacrilege (50 years), larceny (25 years), and burglary (45 years). Many attributed the harsh sentencing to the defendant's inability to pay a fine or bribe.

Traditional justice systems continued to supplement 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 give arrests for civil complaints the appearance of legitimacy. Local chieftains at times exceeded their mandates and administered harsh punishments.

Although the government has passed several laws on gender equality, they were inconsistently enforced, 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.

The trial of former Liberian president Charles Taylor for crimes against humanity, war crimes, and other serious violations of international law committed during the civil war continued throughout the year before the Special Court for Sierra Leone (SCSL) in The Hague. Five people, including members of Charles Taylor's defense team, were indicted by the SCSL on contempt of court charges for threatening prosecution witnesses and coercing them into recanting their testimony.

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 judgments, and awards were 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 laws 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.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press, and the government generally respected these rights in practice. An independent press, a generally effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Seventy-four newspapers were registered with the Independent Media Commission (IMC), as well as 64 radio stations and five television stations covering a wide spectrum of interests and editorial opinion. Not all media outlets were in operation. During the year the IMC registered eight new newspapers. Most registered newspapers were independent, although several were associated with political parties. While sometimes subject to official pressure and restrictions, newspapers openly and routinely criticized the government and its officials as well as opposition parties. However, reporting was often politicized and inaccurate, in large part because of poor journalistic skills, insufficient resources, and a lack of professional ethics.

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. The APC and the Sierra Leone People's Party (SLPP) radio stations that were shut down in the wake of the March 2009 riots remained closed. In June the High Court dismissed an appeal lodged by the SLPP to be permitted to reopen its radio station.

International media could operate freely but were required to register with the Ministry of Information and Communications and the IMC to obtain a license. During the year there were no cases of local or international media being denied registration.

Violence and Harassment.—Journalists generally were not subject to arrest or imprisonment, but some reported being intimidated or attacked.

On September 4, several journalists were stopped by plain-clothes police associated with the Presidential Guards at State House as they attempted to enter the National Stadium near the end of a soccer match, despite the journalists' claims they had valid press identity cards. A fight broke out, and one journalist was injured. Although the incident remained under investigation, there were reports the journalists inadvertently walked in on the State House guards dividing up proceeds of possibly illegal ticket sales.

Censorship or Content Restrictions.—Journalists practiced self-censorship, and there was interference in reporting of some content.

The IMC monitored all media organizations and generally demonstrated independence from government influence.

In April the IMC fined the Awareness Times newspaper one million leones (\$222) for having violated the media code of practice in publishing a series of articles criticizing President Koroma that were deemed to be “indecent and vulgar” because they discussed in salacious detail the color of the president’s underwear.

In December 2010 the Human Rights Commission-Sierra Leone (HRC-SL) and the Sierra Leone Association of Journalists (SLAJ) condemned the arrests of journalists requested by the minister of lands and minister of agriculture, forestry, and food security in two instances. The minister of information and communications pledged in 2010 to investigate the incidents and to “take necessary actions.” However, no further action was reported.

Libel Laws/National Security.—The law criminalizes 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. Despite the IMC and SLAJ lobbying for decriminalization of libel, by year’s end the government had not amended Part 5 of the 1965 Public Order Act, which criminalizes libel.

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

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 freedoms of assembly and association, and the government generally respected the right of freedom of association; however, there were some restrictions on freedom of assembly.

Freedom of Assembly.—Both the APC and the SLPP continued to implement the Joint Communique after the 2009 riots between supporters of the two parties. The Shear-Moses commission of inquiry on the riots submitted its report to the government in 2009, in which it was critical of the ruling party and recommended disciplinary action, including dismissal from office, for several senior government officials. However, by year’s end the government, in violation of the law, had not yet publicly released the report and took no action on those recommendations.

On other occasions police forcibly dispersed demonstrators, most significantly during the riot in Bo in September during a “Thank The Nation” rally held by SLPP presidential nominee Julius Maada Bio. A panel convened after the violence concluded that APC supporters initiated the incident by throwing rocks at and injuring Maada Bio, whereupon SLPP supporters retaliated by throwing rocks and setting APC party buildings on fire. Police initially fired tear gas and live ammunition into the air, but as the crowd grew in both size and unruliness, they fired into the crowd, killing one and injuring nine. No police had been arrested for this incident by year’s end.

In the wake of the Bo incident, the SLP issued an open-ended ban on all political processions, rallies, and public meetings. Despite unofficial assurances that the ban would be limited, it remained in effect during the September State Opening of Parliament during which, in accordance with tradition, supporters of the political parties parade through the streets of Freetown escorting their parliamentarians to the House of Parliament. The SLPP parliamentarians boycotted the ceremony in protest. The government lifted the ban on December 12.

c. Freedom of Religion.—See the Department of State’s International Religious Freedom Report at <http://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 in practice. However, there were reports police officers operating security roadblocks outside of the capital often extorted money from motorists.

The government cooperated with the Office of the U.N. 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.—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 crossing points.

Protection of Refugees.—Access to Asylum.—The laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to 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.

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.

Access to Basic Services.—There were no reports of discrimination against refugees in public services including elementary education, public health care, public housing, law enforcement, courts and judicial procedures, and legal assistance.

At year's end Sierra Leone was host to 8,150 refugees, the great majority from Liberia. The Liberians' prima facie refugee status was set to expire June 30, 2012, upon implementation of the cessation clause by the government of Sierra Leone as recommended by the UNHCR. For Liberians claiming continued need for international protection, the government indicated it planned to provide individual refugee status determination.

Durable Solutions.—The government offered to assist Liberian refugees requesting repatriation; by year's end, according to the UNHCR, 73 refugees had applied for asylum. The UNHCR acknowledged the government's efforts, through the National Commission for Social Action, to integrate refugees who are unwilling or unable to return to Liberia in accordance with the Refugees Protection Act of 2007.

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.—Recent Elections.—In peaceful presidential and parliamentary elections held in 2007, the opposition APC won a majority in parliament; party leader Ernest Bai Koroma was elected president. However, there were multiple reports of harassment and intimidation of members of opposition parties and voter coercion by party bosses and traditional leaders. Domestic and international observers characterized the parliamentary elections as generally free and fair. However, the commissioner of the National Election Commission (NEC), who was appointed by the SLPP (the party in power at the time of the elections), invalidated the results from 477 polling stations during the second round of balloting in the presidential election on suspicion that ballot boxes were stuffed. The SLPP, which lost the presidency, did not contest the results but initiated a court case against the commission.

Political Parties.—The Political Party Registration Commission (PPRC), which oversees the behavior of political parties, does not have authority to sanction any political party for inappropriate behavior. It received one inter- and one intra-party complaint during the year and acted as a mediator to address the problems. The PPRC can use only moral suasion to convince persons and parties to act according to agreed-upon guidelines, such as the parties' constitutions. The PPRC provided material assistance such as vehicles, computers, office supplies, and Internet connectivity, funded by the U.N. Development Program (UNDP), to political parties to assist them with campaigning. However, a party must have met certain requirements to receive such assistance, including representation in parliament, visible political activity for at least two years, membership in the All Political Parties Women's Association and the All Political Parties Youth Association, and participation in a NEC-sponsored by-election since 2008. The newly registered United Democratic Movement protested that its ineligibility for this assistance was undemocratic. However, the terms of the assistance were determined by the UNDP and the complaint, while noted, was dismissed.

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 elections of paramount chiefs during the year. The election of paramount chiefs at times exacerbated ethnic tensions.

Participation of Women and Minorities.—Women have the right to vote, but husbands or other patriarchal figures were known to influence their decisions. Of the 124 parliamentarians, 16 were women. Women led two of the 22 ministries. There were four female judges out of seven on the High Court, and the chief justice was a woman. Three of six judges on the Court of Appeal were women.

All citizens have the right to vote; however, citizenship at birth is granted only to persons of “Negro-African descent,” thus disenfranchising the significant number of Lebanese and other non-“Negro-African” persons who were born and continued to reside in the country. Persons of these groups may apply to be naturalized; if naturalized they are eligible to vote in all national and local elections, but no naturalized citizen may run for public office.

Ethnic affiliations traditionally have strongly influenced political party membership for the two dominant ethnic groups, the Mende and Temne, each of which accounted for 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 other ethnic groups had no strong political party affiliations. During the year opposition parties accused President Koroma of filling key government positions only with persons from the North. Although the president did not respond directly to this concern, his early December cabinet shake up increased the number of ministers from the eastern and southern provinces from 20 percent to 30 percent. At year’s end ministers from the North occupied 62 percent of cabinet offices; the remaining 8 percent were held by ministers from the western peninsula.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government actively attempted to implement the law. Despite several well-publicized cases of corruption in the executive, legislative, and judicial branches, officials often engaged in corrupt practices with impunity. Police and prison staff regularly extorted or solicited bribes from detainees and prisoners. The World Bank’s most recent Worldwide Governance Indicators reflected that corruption was a severe problem.

During the year the government continued to implement its five-year national action plan to combat corruption, and ministries began including anticorruption activities in their strategic plans. The Anti-corruption Commission (ACC) conducted sensitization campaigns with the public and government ministries and enforced whistleblower protection measures.

The ACC prosecuted 11 cases during the year, with nine convictions. In November the ACC charged the mayor of Freetown with 25 counts of corruption centered primarily on his failure to remit payroll taxes and social security contributions deducted from employee salaries to the National Revenue Authority and the National Social Security Investment Trust.

The ACC was appealing several cases in which the defendants were acquitted. These included the case against the former commissioner of the national revenue authority, who was indicted in October 2010 on 57 counts of abuse of office and misuse of public funds in awarding several contracts to his wife’s company, as well as the indictment on 194 counts, in February, of the executive director of the Sierra Leone Maritime Administration. In the former case, the former commissioner was acquitted of all charges. In the latter case, the executive director was indicted on only 13 charges and fined for only five of the 13. It was reported that in all these cases, although the judges were not subject to political or government pressure, they may have been influenced by their own desire to ingratiate themselves with people perceived to have significant political influence.

By year’s end the ACC recovered approximately 2.5 billion leones (\$555,555) from public officers and private businesspersons in fines, restitutions, and settlements in corruption-related cases. Although the ACC does not proactively offer to settle cases out of court, suspects may request a settlement, and many cases were resolved in this way. Several defendants also chose to pay fines rather than face imprisonment. The ACC initiated 152 investigations during the year. The ACC has authority to prosecute cases directly without first having to refer them to the Ministry of Justice, and in practice did so. By the end of the year, 71 cases were under investigation; 11 had been prosecuted, leading to nine convictions; 39 cases were closed for lack of evidence; five were referred to other judicial branches for lack of evidence of corruption; and the remainder were still open.

As of the end of September, all government ministers and members of parliament had complied with a 2008 law requiring public officers, their spouses, and children to declare their assets and liabilities. The particulars of individual declarations were not available to the public without a court order. However, the ACC published the number of declarations received in the Sierra Leone Gazette.

The law does not provide for public access to government information; however, the government at times 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

The government, including security forces, was generally responsive to human rights concerns raised by the HRC-SL, the IMC, and other governmental and nongovernmental organizations.

A number of domestic and international human rights groups generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to the views of local and international NGOs and generally acknowledged the problems raised. They often scheduled forums in conjunction with NGOs to discuss such topics as women's rights and the rights of the disabled.

The independent National Forum for Human Rights served as an umbrella organization for human rights NGOs in the country. There were 41 active human rights NGOs registered with the NFHR. Most domestic human rights NGOs focused on human rights education. A few NGOs, including the Campaign for Good Governance, LAWCLA, Timap for Justice, and Access to Justice, monitored and reported on human rights abuses.

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U.N. and Other International Bodies.—In May the government participated in its Universal Periodic Review in the U.N. Human Rights Council in Geneva. The Working Group made 129 recommendations; the government accepted all but three that related to decriminalizing certain forms of sexual behavior.

Government Human Rights Bodies.—The Parliamentary Human Rights Committee operated without government or party interference. It 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 HRC-SL generally operated without government interference. However, government agencies were slow to support the commission or implement its recommendations, and it was also hampered by lack of funds.

The trial at the SCSL in The Hague of former Liberian president Charles Taylor for crimes against humanity and war crimes in Sierra Leone continued at year's end.

Truth and Reconciliation Commission (TRC) recommendations continued to be implemented, providing a forum for publicly airing the grievances of victims and the confessions of perpetrators during the civil war. The government took steps to implement a reparations program for victims of the conflict as recommended by the TRC. However, many NGOs continued to criticize the delayed implementation of some TRC recommendations, such as the trust fund and separating the positions of attorney general and minister of justice, which requires a constitutional amendment.

The U.N. and numerous domestic and international NGOs continued to educate 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 "Negro-African descent," but in May the government announced new procedures whereby "non-Africans" who have lived in Sierra Leone for at least eight years (two for foreigners married to Sierra Leonean citizens) may apply for naturalization. The president must approve all applications. The law otherwise prohibits discrimination based on race, tribe, sex, place of origin, political opinions, color, or creed.

The government did not effectively enforce the prohibition of discrimination based on gender as it affected women and girls, and a number of legal acts and customary laws contravene the constitutional provision.

Women.—Rape and Domestic Violence.—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 greatly underreported and indictments were rare, especially in rural areas. A reluctance to use the judicial system on the part of both victims and law enforcement, combined with women's lack of income and economic independence, helped perpetuate violence against women and impunity for offend-

ers. However, since the establishment of the Family Support Units (FSUs) and the passage of the Gender Acts in 2007, reports of rapes, especially involving child victims, steadily increased. Rapes of children under one year old were documented. Rape victims, especially when pregnancy occurred, were encouraged to marry their attackers, although some NGOs reported this practice appeared to be waning.

From January to June, the FSU recorded 95 cases of sexual assault (assault with intent to ravish, indecent assault, rape, and sexual harassment). Data on convictions in the year was incomplete and unreliable, but perpetrators in only a very few of the reported cases were charged. Rape cases frequently were settled out of court or did not make it to trial because of inefficiencies and corruption 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. Such victims were required to obtain a medical report for the filing of charges, examinations, reports, and court appearances. Most government doctors charged 10,000 to 70,000 leones (\$2.50 to \$17.80), fees that were prohibitively expensive for most victims. The International Rescue Committee 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.

Domestic violence is an offense under the 2007 Domestic Violence Act, punishable by a fine of up to five million leones (\$1,250) and up to two years in prison. However, violent acts against women, especially wife beating and spousal rape, were common and often surrounded by a culture of silence. Police were unlikely to intervene in domestic disputes except in cases involving serious injury or death. The SLP used mediation as its primary tool for handling domestic violence. Between January and June, the FSUs reported 999 cases of domestic violence. Of the 787 reported cases in the northern, southern, and eastern regions of the country, 133 perpetrators were charged but only seven were convicted. Of the 787 cases, 340 remained under investigation at year's end. Data on convictions in the 212 cases in the western region (including Freetown) was unavailable. The FSU does not maintain statistics on conviction rates, but NGOs indicated few perpetrators were convicted, due to poorly trained prosecutors and out-of-court settlements. In addition NGOs observed in many cases that women withdrew rape or other violence complaints due to social stigma, fear of retaliation, or acceptance of payment in lieu of pressing charges to alleviate their extreme poverty. The lack of convictions resulted in a high degree of impunity for rape and other violence. Awareness of the law resulted in an increase in reported cases in urban areas; however, most human rights organizations noted domestic violence continued to be most prevalent and underreported in the northern provinces.

According to the UNICEF, the majority of women felt that wife-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.

Female Genital Mutilation (FGM).—See section 6, Children.

Sexual Harassment.—The law does not specifically prohibit sexual harassment in the workplace, and harassment was widespread.

Reproductive Rights.—The Ministry of Health and Sanitation reported that between January and November, there were 262,437 clients for family planning services, including long-term and permanent treatments, such as intrauterine devices (IUDs), tubal ligation, implants, and injectables, as well as oral contraceptives and male and female condoms. Women and men generally were free to decide responsibly the timing, number, and spacing of their children. NGOs reported that 70 percent of women of reproductive age participated in family planning decisions, including contraception. Most couples who practiced family planning made independent decisions, while some reported that other influences and pressures, such as family and religion, were determinant factors in family-planning decisions. 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 made efforts to meet the demand for oral contraceptives. However, outreach teams rarely served rural women and families. Many parents refused contraceptives for their sexually active teenage children because of a misunderstanding that contraceptives would prevent pregnancy later in life.

Between January and November, approximately 47 percent of women gave birth in hospitals and "peripheral health units," grassroots health posts located primarily in rural areas. Health professionals assisted at 45 percent of births. However, few hospitals offered full obstetric and postpartum services. Most women did not have access to transportation to make regular doctor's visits or lived in locations with few services. Women also rarely had equal access to family finances, and male partners did not always see pre- and post-natal care as a priority.

According to U.N. estimates, there were 970 deaths per 100,000 live births, and a woman's lifetime risk of maternal death was one in 21. With support from the international donor community, the government continued to implement the free healthcare initiative launched in April 2010, and the number of women seeking prenatal care and giving birth in medical facilities increased. However, the program continued to be plagued with problems delivering drugs and other supplies to rural areas. Pilfering of pharmaceutical supplies for resale within Sierra Leone or smuggling across the border to Guinea was widespread.

Women were diagnosed more frequently than men with sexually transmitted infections, including 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.

Discrimination.—The law gives either spouse the right to acquire property and guarantees that gifts, payments, or dowries upon marriage are nonrefundable, allowing women in unhappy marriages to divorce without being forced to return dowries.

The Devolution of Estates Act 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. However, the law defined "property" as mutually owned land; because land outside of Freetown is generally communal or family property, it was difficult to prove that a couple owned the land together and that the widow thus had a right to it.

The Ministry of Social Welfare, Gender, and Children's Affairs continued to implement of the Sierra Leone National Gender Strategic Plan, a four-year (2010 to 2013) strategic framework drafted in conjunction with the U.N. Population Fund (UNFPA) and the U.N. Development Fund for Women (UNIFEM). By year's end several "sensitization programs" had been conducted around the country, particularly in the areas of fighting sexual and gender-based violence and teaching rural women about their rights under the Devolution of Estates Act.

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 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 of formal laws or could choose to ignore them. 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. 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, have a statutory right to own property in their own names. However, many women in the provinces, which are governed by customary laws that vary from chiefdom to chiefdom, do not.

In the Temne ethnic group, women could not become paramount chiefs, subordinate chiefs, or chiefdom authorities; however, in the Mende ethnic group, 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 with 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, equal 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, most international and domestic NGOs complained that the ministry was not provided 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 gender inequality and other women's issues, and they encouraged women to enter politics as candidates for mayoral positions and local councils.

Children.—Birth Registration.—Citizenship derived by birth is restricted to children of parents of "Negro-African descent." Children not meeting the criteria must be registered in their parents' countries of origin.

Birth registration was not universal due to inadequate staffing and resources. The chief registrar also noted that a lack of registration materials (such as paper forms) also hindered new registrations. However, lack of registration did not affect access to public services, nor did it result in statelessness.

Education.—Education is universal and compulsory through age 15, which includes six years of primary school and three years of junior secondary school. Although no tuition is charged, 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. The law allows girls to return to school after giving birth, but many communities did not respect that right.

Child Abuse.—Sexual violence against children was a widespread and growing problem; however, the government took few steps to address the issue. FSU personnel 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 accepted 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 slightly improved their ability to prevent and respond to cases, the conviction numbers remained very low. From January to June, the FSU reported 411 cases of child abuse, which included abuse of young girls, unlawful carnal knowledge (a general term for child rape), child neglect, and child cruelty. Although perpetrators in many of these cases were charged and convicted, a large number were withdrawn or resolved through informal negotiation.

Child rights laws also provide 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 were 70 child welfare committees across the country, but they were not fully functioning.

Child Marriage.—Although the law prohibits marriage of girls under the age of 18, including forced marriage, forced child marriage continued to be a problem. UNICEF estimated in 2008 that 56 percent of women had been married before age 18.

Harmful Traditional Practices.—Female Genital Mutilation is performed predominantly by women's secret societies. In secret societies, "sowies," the women who perform genital cutting, continued to advocate for the practice. According to UNICEF approximately 90 percent of girls had undergone FGM.

The 2007 Child Rights Act does not explicitly address FGM. However, the Ministry of Social Welfare, Gender, and Children's Affairs interprets FGM to be covered within the section of the law that prohibits subjecting anyone 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.

Police occasionally detained or arrested practitioners on accusations of forced mutilation or manslaughter. For example, on December 19, SLP officers arrested two male suspects involved in the December 16 initiation ceremony of 10 young women in Kenema District; one 19-year-old woman died as a result of severe injuries during the cutting. However, human rights workers reported that police generally remained hesitant to interfere in cultural practices. There have never been any prosecutions for FGM.

FGM ceremonies ("bondo") are led by sowies, who are exclusively women, generally at the behest of mothers who themselves underwent the procedure when young and want their daughters initiated into a women's secret society. Although

most *sowies* have other employment, performing FGM is a major source of income for many of them, so they object to FGM eradication programs on both cultural and economic grounds. At the community level, eradication efforts focused on providing opportunities to *sowies* to obtain other income, as well as “sensitizing” parents not to subject their daughters to the procedure. Simultaneously, the U.N. and local NGOs worked with traditional leaders and local chiefs on a range of interventions, including establishing “*sowie* associations” aimed at convincing *sowies* to increase the minimum age of initiations to 18 years or to eliminate FGM from initiation ceremonies, as well as efforts to persuade local chiefs to impose bylaws outlawing FGM for children, and include FGM eradication in district development plans. The U.N. also held or funded workshops for local social workers and traditional leaders on prevention measures, as well as health care and psychosocial support for victims, particularly girls who had run away from home to escape the cutting. However, groups of *sowies* continued to threaten health and social workers advocating for an end to FGM, particularly in Moyamba District in January and February.

NGOs reported a decline in the practice of FGM, likely due to increased awareness and interventions. FGM was practiced on girls as young as two years old, and many NGOs reported cases in which toddlers underwent FGM because their very young age made it cheaper for parents.

Sexual Exploitation of Children.—Forced child prostitution continued to be a problem. A UNICEF analysis of Freetown and Bo indicated that more than half of the street children were forced to engage in prostitution. NGOs stated there appears to be little political will to address the problem. Statutory rape and child pornography are not addressed specifically in the law, but according to the Ministry of Social Welfare, Gender, and Children’s Issues, these crimes would be covered under the Child Rights Act of 2007, which prohibits “cruel, inhuman, and degrading treatment” of any child, defined as persons under the age of 18. There was no record of charges or convictions for child pornography having ever taken place.

Displaced Children.—Besides prostitution, many children were forced to engage in petty trading and other economic activities to survive and were vulnerable to trafficking and other exploitative practices.

Institutionalized Children.—According to a 2009 UNICEF report, there were 54 residential homes for approximately 1,800 orphans. The quality of care at the facilities varied, but most of those that failed to meet UNICEF minimum standards were shut down. Each facility provided at least one meal a day, some health care, and some type of education.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The country’s Jewish population is generally considered to be miniscule. There is no indigenous Jewish population, only a very small number of temporary residents such as employees of foreign diplomatic missions or NGOs. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—In March Parliament passed the Persons With Disabilities Act of 2011, which prohibits discrimination against persons with disabilities in employment and provision of state services. It further calls for free health care and education for the disabled, equal access to government buildings, housing, and public transportation, and provision of rehabilitation services; however, at year’s end only three rehabilitation centers existed. At year’s end NGOs supporting persons with disabilities claimed the government had made no headway on implementing the act’s provisions. Given the high rate of general unemployment, work opportunities for persons with disabilities were few, and begging by them was commonplace. Children with disabilities were also less likely to attend school than other children.

There is considerable stigma associated with and discrimination against persons with mental health issues. The Sierra Leone Psychiatric Hospital in Kissy, the only inpatient psychiatric institution, had beds for 400 patients but housed only an estimated 100 patients due to staff and resource constraints, as the hospital was poorly funded by the government and received only small donations from private charities. Patients were generally released to their families or communities as soon as possible and received follow-up counseling on a regular basis. The hospital estimated that 100,000 people suffered severe depression, generally due to socioeconomic problems. Approximately 50,000 people suffered drug and alcohol-induced psychosis, or psychoses caused by diseases like malaria. There were an estimated 100,000 severe drug abusers using alcohol, marijuana derivatives, or cocaine. In addition the hospital estimated there were 25,000 mentally retarded persons and 25,000 people suf-

fering from epilepsy. The vast majorities of these people remained untreated and received no public services. The hospital lacked sufficient beds, and patients easily destroyed mattresses. Patients were not provided sufficient food. Patient restraints were primitive and dehumanizing. The hospital did not have running water and only sporadic electricity due to lack of funds. Basic medications were available, but many drugs targeted at specific problems were lacking. Hospital staff was poorly paid; in September nurses, caterers, and cleaners threatened to strike until their salaries were augmented and they were provided with uniforms and raincoats.

In September, in an effort to expand mental health services to areas outside Freetown, the Ministry of Health and Sanitation, in collaboration with the World Health Organization, certified 25 mental health workers in Bo.

The Ministry of Health and Sanitation is responsible for providing free primary healthcare services to persons 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 persons 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 has a mandate to provide policy oversight for issues affecting persons with disabilities but had limited capacity to do so.

Some of the many individuals maimed in the civil war, including those who had their limbs amputated, 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.

National/Racial/Ethnic Minorities.—The ethnically diverse population consisted of 18 ethnic groups of African origin, and many spoke distinct languages and were concentrated outside urban areas. In addition there were significant ethnic 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 are 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, 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 remains an important factor in the government, the armed forces, and business. Complaints of ethnic discrimination in government appointments, contract assignment, and military promotions were common under the former SLPP and current APC governments.

Residents of non-African descent faced some institutionalized discrimination, particularly in the areas of citizenship and nationality. The 1973 Citizenship Act, as amended in 2006, restricts citizenship by birth only to persons of "Negro-African descent," effectively denying citizenship to many locally born residents, most notably the six to seven thousand-strong Lebanese community. Non-"Negro-African" persons may apply for naturalization, but all applications must be approved personally by the president. No president has done so since the end of the civil war in 2002. In May the government announced new procedures whereby "non-Africans" who have lived in Sierra Leone for at least eight years (two for foreigners married to Sierra Leonean citizens) may apply for naturalization. The president must still approve all applications personally.

A small percentage of the Lebanese population was naturalized during a previous period of government leniency, and they enjoy the full rights of citizenship, such as suffrage, access to health care and education, and the right to purchase freehold land. However, naturalized citizens not of "Negro-African" descent cannot transmit citizenship to their children born in the country; these children must apply for naturalization if they want to become citizens. While not entitled to the rights of citizens, nonnaturalized persons born in the country are entitled to a Sierra Leonean passport, and many Lebanese Sierra Leoneans travel on one without difficulty.

The Lebanese community reported no cases of overt discrimination based on race or nationality, although community leaders stressed that, even though many Lebanese families have resided in the country since the 1880s, they still feel alienated from the indigenous population.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The constitution does not offer protection from discrimination based on gender identity or sexual orientation. A law from 1861 prohibits male homosexual acts ("buggery" and "crimes against nature"); 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 attempting such an assault. However, the law was not enforced in practice. During Sierra Leone’s Universal Periodic Review in May in the UNHRC, the attorney general and minister of justice told the Working Group that all persons in the country will be protected regardless of their sexual orientation. However, the government subsequently rejected three of 129 Working Group recommendations, two calling for decriminalizing all sexual activity between consenting adults and one calling for legislation to prohibit discrimination based on sexual orientation and gender identity.

Despite the lack of enforcement of the 1861 law, police continued to harass, detain, and beat persons perceived to be of the gay, bisexual, lesbian and transgender (LGBT) community. For example, on July 9, a group called police to complain that neighbors were throwing stones and shouting homophobic epithets at them, but the police arrested eight victims instead because they were perceived to be gay. They were held overnight and released without charge.

Men dressed as women were singled out for detention, harassment, and public humiliation but were not formally charged with any crime or misdemeanor.

A few organizations, including DignitySL and the local chapter of Why Cant We Get Married.com, worked to support LGBT persons, but they maintained very low profiles. Gay pride parades and other public displays of solidarity could not safely take place.

Social discrimination based on sexual orientation occurred in nearly every facet of life for known gays and lesbians, and many chose to have heterosexual relationships and family units to shield them. In the areas of employment and education, sexual orientation was the basis for abusive treatment, which led individuals to leave their jobs or courses of study. It was difficult for gay men and lesbians to receive the health services due to fear that their confidentiality rights would be ignored if they were honest about their ailments; many chose not to be tested or treated for sexually transmitted infections. Secure housing was also a problem for LGBT persons. Their families frequently shunned gay children, leading some to turn to prostitution to survive. Adults could lose their leases if their sexual orientation became public. Lesbian girls and women were also victims of “planned rapes” that were initiated by family members in an effort to change their sexual orientation.

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.

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 continue to suffer the rejection and stigma.

Vigilante violence was common in urban areas, particularly for suspected thieves and unsettled debts. Police frequently were not present or chose not to intervene in vigilante attacks.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows workers in both the public and private sectors to join unions of their choice without prior authorization; however, it prohibits civil service employees, police, and members of the armed services from joining unions. The law allows workers to organize but does not prohibit antiunion discrimination against union members or prohibit employer interference in the establishment of unions. 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 when a strike is lawful.

The law provides for collective bargaining. Collective bargaining must take place in trade group negotiating councils, each of which had an equal number of employer and worker representatives.

While the government generally protected the right of workers in the private sector to form or join unions, its enforcement of applicable laws was untested. According to the Ministry of Labor, approximately 35 to 40 percent of workers in the formal economy were unionized, including mainly agricultural, mine, and health workers. However, by year’s end the government still had not granted a bargaining certificate to the Civil Servants’ Union, whose application had been on file since 1986. All unions are independent of political parties and the government. However, in

some cases, such as the Sierra Leone Teachers' Union, the union and the government had a close working relationship, and the Sierra Leone Labour Congress enjoyed a cordial relationship with the government.

In some private industries employers were known to intimidate workers to prevent them from joining a union. There were no reports of violence, threats, or other abuses targeting union leaders and members by government or employers during the year.

The government generally protected the right to collectively bargain in practice. 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 majority of industrial actions were taken against the government, primarily to protest unpaid salaries and reduced benefit packages. The government generally did not interfere with peaceful demonstrations and attempted to negotiate with workers and labor unions in good faith. However, tensions complicated negotiations.

In February employees of the Sierra Leone Ports Authority continually threatened to stage violent protests against the government preceding the March 1 privatization of the Port of Freetown. Workers were concerned that Bollore, the French company that was awarded the government contract to operate the port, would lay off dockworkers but not pay them the full end-of-service benefit stipulated by the terms of employment in the Sierra Leone Gazette. Tense negotiations were held between the Sierra Leone Labour Congress, representing the Dock Workers Union and the Maritime & Waterfront Union; the government, represented by the Ministry of Labor & Employment and the Sierra Leone Ports Authority; and Bollore. All parties agreed the end-of-service benefit would be paid in installments over a period of five years, but the workers were not appeased. On February 25, the minister of labor and employment attempted to convince the workers at the port to accept the severance package, but the angry crowd threw stones, water, and garbage at him and threatened continued violence. On March 1, the first day of the port's privatization, the President's office warned workers not to riot, as they would be "met with the full force of the law." On March 25, workers staged another protest during which the SLP reportedly fired live ammunition and tear gas canisters, resulting in several injuries. By early April the situation had been resolved, and laid-off workers received their end-of-service benefits and redundancy payments.

Simultaneously, early in the year the Sierra Leone Teachers' Union (SLTU) had been in long negotiations with the government over an increase in teacher salaries. In February a group of teachers who believed the SLTU was not being aggressive enough embarked on a wildcat strike and refused to return to their schools. Shortly thereafter the SLTU and the government agreed to a pay reform package to take effect on March 1, although the SLTU claimed the agreement was reached independently of the wildcat strike. During the intra-SLTU conflict, several irregularities in SLTU operations came to light, including illegal deduction of union dues from teacher salaries without prior agreement, misuse of funds, actions not in the interest of teachers, and generally nontransparent behavior. The Ministry of Labor & Employment requested an investigation by the Anti-Corruption Commission into the SLTU, which many perceived to be government interference in a labor union. At year's end results of the investigation were pending. Meanwhile, in September teachers in Freetown, unhappy with the new pay package, refused to return to their schools for the new school year, delaying the start of classes by nearly a month.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits most forms of forced and compulsory labor, including by children. Under a provision of the Chiefdom Councils Act, pending repeal or amendment since 1964, individual chiefs may impose forced labor as punishment and have done so in the past, although there were no reports of it 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.

The government did not effectively enforce the law, and the practice of forced labor occurred. Forced child labor occurred primarily in artisanal diamond mining operations. Children, primarily boys, shoveled and carried sand and gravel to washing sites and often washed the sand and gravel. Younger children carried water and food to the miners and performed other errands. Many girls, particularly teens, were forced into prostitution. Work sites were often dangerous, with frequent collapses of pit walls, and basic sanitation was nonexistent, with children regularly contracting gastrointestinal infections.

In remote villages children were forced to carry heavy loads as porters, resulting in stunted growth and development. Children were also exploited in sand mining, fishing, hawking, and granite quarrying. 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 where they were involved in street vending, stealing, and begging.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law limits child labor, allowing light work at age 13, full-time nonhazardous work at age 15, and hazardous work at age 18. The law states that children under 13 should not be employed in any capacity. Provided they have finished schooling, children age 15 may be apprenticed and employed full time in nonhazardous work. The law also proscribes work by any child under 18 between 8 p.m. and 6 a.m. While the law does not stipulate specific conditions of work, such as health and safety standards, it prohibits children under the age of 18 to be engaged in hazardous work, that is, work that poses a danger to the health, safety, and "morals" of a person, including: going to sea, mining and quarrying; portage of heavy loads; chemicals manufacturing; work in places where machines are used; and work in places, such as bars, hotels, and places of entertainment, where a child may be exposed to "immoral behavior."

The Child Labor Unit of the Ministry of Labor is responsible for enforcing child labor laws and monitoring compliance. 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. The Freetown City Council contributed nonfinancial support to programs that provided free schooling and other services to at-risk youth.

During the year the ministry continued to implement the "Tackling Child Labor Through Education (TACKLE)" project with funding from the ILO's International Program for Elimination of Child Labor and the EU. In addition, the ministry, in conjunction with Statistics Sierra Leone and with ILO funding, conducted a nationwide cross-sector survey on child labor between May and August, but the results had not been released by year's end. Mitigation efforts had mixed results. UNICEF officials were reluctant to advocate against children working for school fees too strongly, since without those fees the children would not be able to attend school. In addition, local civil society organizations (CSOs) reported that attempts to mitigate this problem were often met with resistance, a sense that outsiders were trying to impose alien, "Western" values on traditional African society. Thus, child labor persisted with the full knowledge and endorsement of the children's families.

Ministry officials admitted that the unit was "not too functional" due to lack of funding. The Ministry of Labor employed 20 labor inspectors to ensure employee health and welfare and 15 factory inspectors to ensure factories met minimum technical standards for safety. All inspectors focused primarily on Freetown and covered all issues of labor and occupational safety and health in addition to child labor. At year's end the ministry had not set up branch offices to decentralize monitoring efforts, particularly in remote areas where the most egregious violations occurred. There were no reports that authorities conducted any child labor inspections during the year. Primarily used in the informal economy, child labor was often hidden from inspectors and other authorities. The government was unable to produce any statistics on arrests or prosecutions for violating child labor regulations.

Child labor remained widespread. Almost half of children ages 14 and 15 were engaged in some form of child labor. The rate varied from 27 percent in urban areas to 57 percent in rural areas. Children were subjected to a variety of exploitative labor, including petty trading, carrying heavy loads, breaking rocks, harvesting sand, begging, deep-sea fishing, agriculture, domestic work, the sex trade, scavenging for scrap metal and other recyclables, and other age-inappropriate forms of exploitative labor under often hazardous conditions. Larger companies enforced strict rules against child labor, but it remained a pressing issue in small-scale informal artisanal diamond and gold mining.

In many cases children worked alongside parents or relatives and abandoned educational or vocational training. In rural areas children worked seasonally on family subsistence farms. Children also routinely assisted in family businesses and worked as petty vendors. There also were reports that adults asked orphanages for children to work as household help. Many girls engaged in prostitution as a means of support, particularly those displaced from their homes and with few resources. Because the adult unemployment rate remained high, few children were involved in the industrial sector or elsewhere in the formal economy.

Tradition requires children to fulfill their traditional roles, which include working to help generate income for the family or village even if it means missing school. In subsistence farming families, many children did not attend school, in order to work as field laborers. UNICEF indicated many children, particularly in the towns, worked part time to earn money necessary to pay school fees. The Campaign for

Just Mining stated this was equally true in the sand and stone quarries in the Western Area surrounding Freetown. While these children attended school, they were effectively denied the time and energy to study and complete homework during their off-hours.

The paramount chiefs played varying roles in addressing child labor. CSOs pointed out that many were part of the problem. UNICEF mentioned that although many paramount chiefs enacted bylaws to strengthen existing national laws, for example, to prohibit children from being forced to carry heavy loads, no bylaws were passed specifically targeting child labor in the mining sector. In the mining areas, chiefs deferred child labor issues to the national government, since until 2009 all land used for mining was considered state property. Many mining companies worked directly with the Ministry of Mineral Resources without going through chiefs, so the chiefs did not see social problems associated with mining as their responsibility.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. 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. The Ministry of Labor is responsible for enforcing the minimum wage.

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 is responsible for setting and enforcing safety and health (OSH) standards. Initially a union could make a formal complaint about a hazardous working condition; if the complaint was rejected, the union could issue a 21-day strike notice.

The law protects both foreign and domestic workers.

According to government and NGO sources, laws and standards continue to be violated primarily due to lack of enforcement, rather than the deterrent effect, or lack thereof, of the penalties. Workers in the mining and road construction industries complained to their private employers about safety concerns, and companies took action before the government needed to intervene.

Minimum wage compliance was particularly 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.

The law provides for paid overtime. The law also requires employers to provide protective clothing and safety devices to employees whose work involves "risk of personal safety or potential health hazard." Although compliance with the law was inconsistent, no formal complaint about a hazardous working condition was reported during the year. Workers who removed themselves from dangerous work situations without making a formal complaint risked being fired.

Violations of wage, overtime, and occupational safety and health standards were most frequent within the unorganized artisanal diamond mining industry. Violations also commonly affected others, including street vendors and market stall workers, rock crushers, and day laborers, many of whom migrated to Freetown to seek employment but, out of desperation, were vulnerable to exploitation in order to earn enough for a day's meal. There were numerous complaints of unpaid wages and lack of attention to injuries sustained while on the job, but victims often did not know where to turn for recourse, or their complaints went unresolved.

SOMALIA

EXECUTIVE SUMMARY

Somalia is fragmented into regions led in whole or in part by different entities, including: the Transitional Federal Government (TFG) in Mogadishu, the self-declared Republic of Somaliland in the Northwest, Puntland in the Northeast, and Galmudug in the central region. The TFG was formed in 2004 with a five-year mandate to establish permanent, representative governmental institutions and organize national elections. In 2009 a 550-member Transitional Federal Parliament (TFP), established under the internationally backed Djibouti Peace Process, extended the TFG's mandate until August 2011 and elected Sheikh Sharif Sheikh Ahmed as TFG president. On February 3, the TFP unilaterally extended its mandate by a further three years.

On June 9, following a six-month stalemate between the TFP and the TFG (collectively referred to as the Transitional Federal Institutions, or TFIs) over ending the

transitional period, both the president and the parliamentary speaker, Sharif Hassan Sheikh Aden, signed the Kampala Accord. That accord extended the transition period to August 20, 2012, and stated that elections for president and parliamentary speaker should take place prior to that date. On September 6, the TFIs as well as regional and political stakeholders endorsed a Roadmap for Ending the Transition that includes the key essential tasks to be completed before August 2012. On December 13, members of the TFP passed a vote of no confidence against parliamentary speaker Sharif Hassan. The TFG, African Union, Intergovernmental Authority on Development, and Speaker Sharif Hassan himself all deemed the no-confidence vote to be a violation of the Kampala Accord and questioned whether the vote followed proper parliamentary procedure. At year's end Sharif Hassan remained in the speakership position.

Conflict-related abuses, including killings, displacement, and restriction of humanitarian assistance continued to severely impact civilians. According to the U.N., there were 1.36 million internally displaced persons (IDPs) in the country and 955,000 persons had taken refuge in other countries, primarily due to conflict, famine, and drought. Approximately 300,000 Somali refugees arrived in Kenya, Ethiopia, Djibouti, and Yemen during the year. The rule of law was largely nonexistent. Al-Shabaab controlled most of the south and central regions, where it committed human rights abuses including killings, torture, restriction of humanitarian assistance, and extortion. On August 6, al-Shabaab withdrew from most areas of Mogadishu, but in the following months it continued attacks in the city.

In Mogadishu, Puntland, and Somaliland, severe human rights abuses included killings by security forces, militias, al-Shabaab, and unknown gunmen; restrictions on freedom of the press, including violence against journalists; and discrimination and violence against women and girls, including rape and female genital mutilation.

Other major human rights abuses included harsh and life-threatening prison conditions; arbitrary arrest and detention; denial of a fair trial; restrictions on freedom of assembly and association; corruption; restrictions on the right of citizens to peacefully change their government; child abuse; recruitment of child soldiers; trafficking in persons; abuse of and discrimination against clan and religious minorities; restrictions on workers' rights; forced labor; and child labor. Al-Shabaab committed human rights abuses including extrajudicial killings; disappearances; cruel and unusual punishment; rape; restrictions on civil liberties and freedom of movement; restrictions on nongovernmental organizations (NGOs) and humanitarian assistance; and use of child soldiers. Militias, including those affiliated with the TFG, also committed abuses. Pirates abducted and killed persons.

TFG, Somaliland, and Puntland authorities generally did not take steps to prosecute or punish officials who committed abuses, and impunity was the norm.

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

a. Arbitrary or Unlawful Deprivation of Life.—The TFG and allied militias, Somaliland and Puntland forces, al-Shabaab, and pirates committed arbitrary killings. Conflict continued to kill civilians and humanitarian workers were also killed (see section 1.g.).

TFG forces, affiliated militias, and persons in TFG uniform killed civilians, including a journalist (see section 2.a.), demonstrators (see section 2.b.), IDPs, and others.

For example, on February 15, members of former Mogadishu mayor Mohamed "Dheere's" TFG-allied militia killed four people and injured 12 others when they fired on a peace festival organized by the Benadir (Mogadishu) regional administration. On February 16, after pressure from the international community, TFG and African Union Mission in Somalia (AMISOM) forces arrested Dheere and four members of his militia suspected of being linked to the attack. On March 27, a court released Dheere due to lack of evidence. The four other suspects remained in detention without charge at year's end.

TFG forces killed persons during food distribution. For example, on August 5, in Mogadishu, TFG-affiliated forces looted a food distribution site at the Badbaado IDP camp, killing IDPs waiting in line for their food rations. After the incident the TFG established a special task force to offer protection for IDPs and humanitarian aid workers; however, the task force did not function effectively.

Defendants in many TFG military trials, which sometimes included civilian defendants, were not afforded legal representation or the opportunity to appeal (see also section 1.e.). Those sentenced to death were sometimes executed within hours of the court's verdict. The TFG stated that these severe sentences and immediate execution upon conviction were necessary to send a "strong message" in a culture of impunity. On March 16, a TFG military court ordered the execution of two soldiers found guilty of killing fellow soldiers. The two were executed 10 days later.

On October 30, police in Somaliland fired on civilians while trying to forcibly evict more than 50 households near the Hargeisa General Hospital, killing a Hargeisa University student and injuring three others. The residents had been living in vacated government buildings for more than 20 years and had previously demanded that Somaliland authorities settle them on alternate land or adequately compensate them for the money that they had spent on renovations.

The Puntland administration's use of force to respond to insecurity led to several deaths. On September 1-2, fighting broke out in the Garsoor neighborhood of North Galkacyo between Puntland police and the dominant local subclan after police attempted to arrest suspected al-Shabaab members. The fighting killed several persons in North Galkacyo and in neighboring South Galkacyo, Galmuduug, where Puntland forces entered without authorization from Galmuduug.

Al-Shabaab committed arbitrary and politically motivated killings, including of Puntland officials. On September 20, in Galkacyo, unidentified gunmen shot and killed parliamentarian Abdiweli Musa Shire "Dhuuke" while he was driving to his house.

Al-Shabaab attacks on local humanitarian workers, NGO employees, and foreign peacekeepers resulted in deaths during the year (see section 1.g.).

Al-Shabaab forces killed prominent peace activists, community leaders, clan elders, and their family members for their roles in attempted peace building. It frequently issued death threats against or killed persons it suspected of working for or having links to the TFG.

Al-Shabaab in the Juba, Bay, and Bakol regions arrested and beheaded several persons accused of spying. For example, on April 13, al-Shabaab ordered relatives of Hared Ali Durdur to collect his beheaded corpse from a Kismayo hospital two weeks after kidnapping him from his house. Al-Shabaab claimed Durdur had made telephone contact with TFG troops in Doble, Gedo region.

On August 14, al-Shabaab militants executed nine public transport workers—six drivers and three conductors—in the Afgoye corridor outside Mogadishu after they failed to comply with extortion demands.

Pirates also killed persons during the year. For example, on February 22, pirates operating in the Gulf of Aden killed four American hostages they had kidnapped on February 4.

During the year AMISOM forces killed a journalist, and unknown assailants also killed other journalists (see section 1.g. and 2.a.).

Fighting between clans, typically over water and land resources in Puntland, resulted in the killing or displacement of hundreds of persons. Authorities investigated very few cases, and there were no reports that any investigations resulted in formal action by local justice authorities. There were also frequent clan-based armed clashes in Galkacyo, Puntland, and surrounding nomadic villages, despite local efforts to mitigate clan conflict. Intermittent clashes over resources were also reported in the Mudug and Bari regions of Puntland and in the Galgaduud region.

Land mines throughout the country caused civilian deaths (see section 1.g.).

b. Disappearance.—There were no confirmed reports that TFG, Puntland, or Somaliland authorities committed politically motivated or other disappearances during the year.

Al-Shabaab abducted persons during the year, including businesspersons who resisted its extortion demands. For example, on August 25, al-Shabaab militia abducted a Somali businessman at the Elesha Biyaha IDP camp on the outskirts of Mogadishu after he resisted extortion demands. His whereabouts were unknown at year's end.

The abduction of humanitarian and NGO workers, including by al-Shabaab, was a problem (see sections 1.g. and 5). NGO workers were kidnapped during the year.

The number of piracy-related kidnappings in the Gulf of Aden and the Indian Ocean declined from previous years as a result of international action and Puntland's antipiracy efforts. The International Contact Group on Piracy off the Coast of Somalia indicated that pirates were holding approximately 19 vessels and 268 persons at year's end.

Unlike in previous years, there were no reports that clans employed abduction as a tactic in their disputes.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Transitional Federal Charter (TFC) provides for the right to physical security. The Puntland constitution provides for the right to physical security and protection of personal dignity. The Somaliland constitution similarly prohibits physical punishment and any other injury to the person.

There were reports that TFG forces and allied militias committed sexual violence, including rape, against women in and around Mogadishu IDP camps. Militias also

reportedly raped women who were on their way to refugee camps in neighboring Kenya. In response the TFG prime minister announced on October 25 that he would form a task force on gender-based violence in the Prime Minister's office. Subsequently, he appointed a gender-based violence focal point. The focal point was not operational at year's end.

Somaliland authorities beat journalists (see also section 2.a.). For example, on September 10, Somaliland police physically assaulted Saleban Abdi Ali, a reporter for the newspaper Waheen, and detained him for several hours as he tried to attend a press conference called by the Somaliland interior minister.

On December 28, Puntland presidential security guards reportedly beat journalists attempting to cover a visit by the TFG president to Bosaaso.

There were several cases throughout the year of al-Shabaab abusing and imposing harsh punishment on persons in areas under its control. For example, on April 12, at the Jowhar stadium, hooded al-Shabaab members amputated the right hands and left legs of three men alleged to have committed highway robbery. Al-Shabaab often forced members of the public to watch these types of punishment. Its interpretation of sharia (Islamic law) resulted in uneven, and in most cases, draconian sentencing (see section 1.e.). Canings, beatings, and other abuses were used to punish persons for activities such as participating in prohibited recreational activities and dressing in a way deemed improper. Al-Shabaab also employed intimidation, beating, and torture to extract confessions.

There were widespread press reports throughout the year of al-Shabaab combatants committing rape and forced marriages.

Female genital mutilation (FGM) was widespread (see section 6).

Prison and Detention Center Conditions.—Prison and detention center conditions remained harsh and life threatening in all regions. Overcrowding; poor sanitation; lack of health care; and inadequate food, water, ventilation, and lighting were some of the harsh conditions that persisted in prisons and detention centers throughout the country. For example, in July a Puntland prison held some 500 inmates in a facility with a capacity of 200. Tuberculosis and pneumonia were widespread. Detainees' families and clans were generally expected to pay the costs associated with detention. In many areas prisoners depended on family members and relief agencies for food. Information on the prevalence of death in prison and pretrial detention centers was not available.

TFG prison officials reported that there were an estimated 400 prisoners in Mogadishu central prison. In mid-November the Justice Ministry director general told media that there were approximately 2,000 prisoners and detainees in Somaliland. Data on the number of prisoners and detainees in Puntland was unavailable.

In prisons and detention centers, juveniles frequently were held with adults. Female prisoners were separated from males. Pretrial detainees were often not separated from convicted prisoners, particularly in the south and central regions. The incarceration of juveniles at the request of families who wanted their children disciplined continued to be a problem.

Prisoners and detainees had access to visitors and were permitted religious observance. The TFG denied the European Union and U.N. access to its national security detention center in Mogadishu. Puntland and Somaliland authorities permitted prison monitoring by independent nongovernmental observers. There were no known visits by the International Committee of the Red Cross (ICRC) to prisons in the country during the year; however, in Somaliland a prisons conditions management committee organized by the U.N. Development Program and composed of medical doctors, government officials, and civil society representatives continued to visit prisons. Prisons did not have ombudsmen and did not take steps to improve record-keeping.

In Somaliland authorities investigated credible allegations of inhumane conditions. During an annual assessment of prison conditions conducted between July 13 and July 27, the House of Representatives' Judicial, Justice, and Human Rights Committee, with U.N. support, visited prisons/detention centers in four of the six Somaliland regions. In its report to parliament, the committee detailed congestion; inadequate water, food, and sanitation; and the lack of facilities to hold women and children.

In Puntland a 2010 U.N. independent expert report referred to "terrible detention conditions of the central prison of Garowe, in particular keeping prisoners in shackles."

Al-Shabaab operated dilapidated detention centers in areas under its control in the south and central regions. No statistics were available, but observers estimated that thousands were incarcerated in inhumane conditions for relatively minor "of-

fenses” such as smoking, listening to music, watching or playing soccer, or not wearing the hijab.

d. Arbitrary Arrest or Detention.—The TFG’s national security forces, TFG allied militias, Somaliland and Puntland authorities, al-Shabaab, and various clan militias across the country continued to engage in arbitrary arrest and detention, including of journalists (see section 2.a.).

Local and international human rights organizations reported that the TFG made fewer arrests than in previous years and usually released detainees quickly.

Security forces in Puntland arbitrarily arrested people immediately after security incidents. Most of those arbitrarily arrested were journalists and Somalis from the south and central regions.

For example, on August 11, Puntland forces intercepted a convoy transporting Somaliland officials in the Sool region and arrested 19 people. One of the Somaliland officials was killed in the altercation and several others sustained injuries. Puntland authorities released eight of those arrested after determining that they were not Somaliland officials. On August 24, a Puntland court sentenced eight of the officials to prison terms ranging from five to 10 years for “destabilizing Puntland.” On November 24, Puntland’s president pardoned the eight officials.

Al-Shabaab militias across the south and central regions arbitrarily arrested persons for failing to pay levies it imposed upon them or support their actions against the TFG. For example, on May 17, al-Shabaab arrested 10 traditional elders in Kismayo for refusing to mobilize support against TFG forces. Al-Shabaab arrested 20 elders in El-buur on October 17 for collaborating with Ahlu Sunnah Wal Jama’a (ASWJ) on a planned offensive against al-Shabaab. Residents of the town demonstrated against the arrests, prompting al-Shabaab to release the elders after one week in detention.

Role of the Police and Security Apparatus.—Police forces in Somalia fall under a mix of regional administrations and the TFG. In Mogadishu two separate police forces operated, one under the control of the TFG and the other under the Benadir Regional Administration. The TFG police are designated as the national police force and fall under the Ministry of Interior. The overall TFG police commandant is appointed by the TFG president. At year’s end the TFG police did not have a presence outside of Mogadishu. Somaliland and Puntland both maintain police forces in their areas of control. Their respective police forces fall under their interior ministries.

Police were generally ineffective in the south and central regions, since much of the area remained under al-Shabaab’s control. They were underpaid and corrupt. With the possible exception of a few UN-trained police known as the Somali Police Unit, members of the TFG police forces in Mogadishu often directly participated in politically based conflict and owed their positions largely to clan and familial links rather than to government authorities. As in previous years, there were some media reports that TFG troops engaged in indiscriminate firing on civilians, arbitrary arrests and detention, extortion, looting, and harassment.

On October 29, the Somaliland House of Representatives passed the National Security and Public Order Law establishing national, regional, and district security committees chaired by the president, regional governors, and district commissioners, respectively, with the ministers of interior and defense and chiefs of security agencies as members. Unlike the former National Security Committee, abolished in July 2010, these committees do not have extrajudicial powers to arrest and sentence citizens; the new law prohibits the security committees from bypassing the formal judicial system.

In the south and central regions, Puntland, and Somaliland, abuse by police and militia members was rarely investigated, and a culture of impunity remained a problem. Police generally failed to prevent or respond to societal violence.

Arrest Procedures and Treatment While in Detention.—Previously codified law required warrants based on sufficient evidence issued by authorized officials for the apprehension of suspects; prompt notification to arrestees of charges and judicial determinations; prompt access to lawyers and family members; and other legal protections. However, adherence to these procedural safeguards was rare. There was no functioning bail system or equivalent. TFG security forces and corrupt judicial officers, politicians, and clan elders reportedly used their influence to have detainees released.

Arbitrary Arrest.—TFG, Somaliland, and Puntland authorities arbitrarily arrested and detained numerous persons, including persons accused of terrorism and of supporting al-Shabaab. They frequently used allegations of al-Shabaab affiliation to justify arbitrary arrests.

Authorities in Somaliland at times arrested clansmen of persons accused of murder. For example, the minister of interior ordered the arrest of nine clan members

in relation to a December 5 incident in which three men were killed in Gebilay. They remained in detention at year's end.

e. Denial of Fair Public Trial.—The TFC provides for an independent judiciary, but the judicial system remained largely nonfunctioning in the south and central regions. The TFC calls for a high commission of justice, a supreme court, a court of appeal, and courts of first instance. Some regions established local courts that depended on the dominant local clan and associated factions for their authority. The judiciary in most areas relied on some combination of traditional and customary law, sharia, and the penal code of the pre-1991 Siad Barre government.

Sharia was enforced in al-Shabaab-controlled areas.

The Somaliland constitution provides for an independent judiciary, but the judiciary was not independent in practice. Functional courts existed, although there was a serious shortage of trained judges and legal documentation upon which to build judicial precedence. Untrained police and other unqualified persons reportedly served as judges. The Judicial, Justice, and Human Rights Committee of the House of Representatives reported widespread interference in the judicial process by government officials. International NGOs reported that local officials often interfered in legal matters and that the public order law was often invoked to detain and incarcerate persons without trial.

On September 5, Somaliland police arrested Waheen reporter Ahmed Muse Mohamed "Sagaro" in the Togdheer region without a warrant. On September 7, a judge ordered him held in pretrial detention for a week. Sagaro was released on September 12, with the interior minister and chief public prosecutor as "guarantors" responsible for his future actions.

The Puntland interim constitution provides for an independent judiciary; however, there were reports that the administration intervened and influenced cases involving journalists. It also provides for a Supreme Court, courts of appeal, and courts of first instance. Despite these courts having some functionality, they lacked the capacity to provide equal protection under the law.

In many cases al-Shabaab relied on individuals with questionable knowledge of Islamic jurisprudence to administer its courts. Al-Shabaab's interpretation of sharia resulted in hasty, uneven, and in most cases, draconian sentencing. For example, on August 22, in the Dayniile District of Mogadishu, al-Shabaab executed by firing squad three men for espionage. Al-Shabaab also beheaded 12 youths in the Huriwaa and Dayniile districts of Mogadishu between the second and last week of August. No reason for the beheading was given; it was suspected that al-Shabaab believed the youths to be TFG spies. There were reports of al-Shabaab amputating the limbs of persons suspected of minor theft and stoning persons to death for suspected adultery.

Traditional clan elders mediated conflicts throughout the country. Clans frequently used traditional justice, which was swift. Traditional judgments sometimes held entire clans or subclans responsible for alleged violations by individuals.

Trial Procedures.—The TFC provides for the right of every person to legal proceedings in a competent court. It also states that every person enjoys the presumption of innocence, the right to be present at trial and consult with an attorney at any time, and adequate time and facilities to prepare a defense. It also provides for 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, as well as rights pertaining to witnesses, evidence, and appeal. Most of these rights were not respected in practice in those areas that applied traditional and customary practices or sharia.

Although the public welcomed the establishment of a TFG military court in 2009 for its ability to address indiscipline and violations against civilians, concerns arose in 2011 over lack of due process and hasty sentences without fair trials handed down to both security personnel and civilians. Defendants in these military courts rarely had legal representation or the right to appeal. Those sentenced to execution were sometimes executed within hours of the court's verdict (see also section 1.a.). On August 8, a military court sentenced three soldiers to death by hanging within hours of their arrest, for stealing mobile phones from Mogadishu's Bakara Market. An August 13 state of emergency decree gave military courts jurisdiction over crimes, including those committed by civilians, in parts of Mogadishu from which al-Shabaab retreated.

In December the military court's prosecutor general issued a press statement cautioning security personnel against holding detainees without presenting them for trial within 48 hours.

In Somaliland defendants generally enjoyed 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 could question witnesses and present witnesses and evidence and have the right to appeal. Somaliland provided free legal representation for defendants who faced serious criminal charges and were unable to hire a private attorney.

In Puntland, clan elders resolved the majority of cases using traditional methods known as “Xeer.” Those with no clan representation in Puntland were subject to the administration’s more formalized judicial system. In this system, as outlined in Puntland’s interim constitution, defendants should have the 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 could question witnesses, present witnesses and evidence, and have the right of appeal. However, there were alleged instances of political and executive interference in the determination of high profile political and security cases (see section 2.a.).

There was no functioning formal judicial system in al-Shabaab-controlled areas. In sharia courts defendants were not given the right to defend themselves, produce witnesses, or be represented by an attorney.

Political Prisoners and Detainees.—TFG, Somaliland, and Puntland authorities arrested journalists during the year (see section 2.a.). Puntland authorities detained Somaliland officials (see section 1.d.).

Civil Judicial Procedures and Remedies.—The inability of the judiciary to handle civil cases involving such matters as defaulted loans or other contract disputes encouraged clans to address these cases. There were no lawsuits seeking damages for, or cessation of human rights violations in any region.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The TFG provides for the sanctity of private property and privacy. The Puntland interim constitution and the Somaliland constitution also recognize the right to private property. There were reports that TFG, Puntland, and Somaliland authorities infringed on these rights, as did al-Shabaab.

On June 3, al-Shabaab entered the home of a family in Jowhar, Middle Shabelle, and confiscated television and satellite equipment it suspected of being used to watch the TFG-owned Somali National Television channel. In July al-Shabaab issued a formal edict forbidding Jowhar residents to watch Somali television channels, and there were numerous reports of al-Shabaab entering people’s homes to enforce the ban. On August 10, al-Shabaab summoned all owners of satellite dishes and gave them three days to reposition their satellite to an eastward orientation, from which they could not receive Somali television channels, or have their dishes confiscated.

On several occasions al-Shabaab forcibly evicted people from their homes in order to house al-Shabaab leaders. For example, on May 31, al-Shabaab militia forcibly evicted homeowners in the Howlwadag neighborhood of Jowhar, including a prominent traditional elder.

Al-Shabaab forces withdrew from most of Mogadishu on August 6, abandoning homes and land it had previously confiscated from Mogadishu residents or which had been evacuated during clashes between Ethiopian forces and extremists in 2007. People slowly began returning to their homes afterwards, causing some disputes over land ownership. There was no mechanism to address such disputes.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Killings.—Fighting during the year involving the TFG, its allied forces, and AMISOM against al-Shabaab resulted in the death and injury of thousands of civilians throughout Somalia and caused the displacement of many others. The NGO Elman Peace and Human Rights reported 1,400 civilian deaths in the first six months of the year in Mogadishu alone. UNICEF reported on November 15 that the conflict killed 100 children and injured 300 during the year. According to Human Rights Watch, al-Shabaab used schools as firing positions, with the students inside. Before August 6, al-Shabaab conducted almost daily attacks against the TFG and AMISOM in Mogadishu; there were numerous reports of civilian deaths from these attacks and from TFG and AMISOM responses. International human rights observers accused all parties to the conflict of indiscriminate attacks, deployment of forces in densely populated areas, and failure to take steps to minimize civilian harm. According to a World Health Organization (WHO) assessment, the three main hospitals in Mogadishu treated 7,799 weapon-related injuries between January 1 and December 18.

For example, on April 12, al-Shabaab mortar attacks killed two civilians and wounded more than 30 others when several artillery rounds intended for the TFP building landed in a nearby settlement. On June 9, a remote-controlled device killed nine TFG police and several civilians in Mogadishu’s Hamar Jajab District. On June 16, clashes between ASWJ militia and al-Shabaab in Mogadishu’s Howlwadag Dis-

trict killed an estimated 10 civilians and injured 22. On June 21, a roadside bomb planted by al-Shabaab targeting AMISOM and TFG troops killed four civilians, including two women, in the Hodan District of Mogadishu.

Artillery fire exchanges between AMISOM and al-Shabaab resulted in the death of more than a hundred civilians in Mogadishu's Bakara Market between January and June. Improved fire control and discipline by TFG and AMISOM forces in the second half of the year resulted in fewer deaths.

After withdrawing from Mogadishu on August 6, al-Shabaab increased asymmetric attacks. On October 4, a vehicle-borne improvised explosive device exploded in a compound housing several TFG ministries. The explosion killed more than 100 people, including several university students who were waiting in line to receive examination results for Turkish government scholarships. Al-Shabaab claimed responsibility for the attack.

On September 2, in Mogadishu, AMISOM troops killed Malaysian journalist Noramfaizul Mohd and wounded another after firing on the vehicle in which they were traveling. The journalists were accompanying a Malaysian charity that was conducting a humanitarian assessment. Following an inquiry into the incident, AMISOM issued an apology and recommended that the Burundian soldiers involved in the incident be tried under Burundian judicial processes. The Government of Burundi denied that its peacekeepers were involved in the shooting and requested an independent investigation through the African Union. At year's end the soldiers in question had not been tried, detained, or returned to Burundi and were still serving as peacekeepers in Mogadishu.

The October Kenyan offensive across the Kenyan/Somalia border toward Afmadow resulted in the flight of significant numbers of civilians from communities in the path of Kenyan forces. UNICEF reported that disruptions caused by the fighting between Kenyan forces and al-Shabaab resulted in the death of 24 children and the injury of another 60 during October.

On October 30, a Kenyan military airstrike in the town of Jilib, Middle Juba, reportedly hit an IDP camp. According to Doctors Without Borders, its clinic received five dead and 45 wounded, mostly women and children, from the incident. The Kenyan military spokesperson dismissed reports of civilian casualties and instead claimed the aerial bombs had hit al-Shabaab targets who used the IDPs as human shields.

Fewer cases involving land mines and unexploded ordnance were reported than in previous years. On July 16, on the outskirts of Hudur, Bakol region, two children were killed and another wounded when ordnance they were playing with exploded.

Militias fought among themselves in Mogadishu, particularly over the sharing of looted aid and extortion payments. For example, on August 30, armed clashes among TFG forces along Maka-al-Mukarama road killed 15 people, including six civilians. The clashes occurred after some TFG troops attempted to stop others from looting humanitarian food aid.

At least five aid workers were killed during the year. For example, on December 23, in Matabaan, Hiran, a gunman killed three Somali aid workers, including two World Food Program employees after the workers uncovered fraud at an IDP camp. The ASWJ arrested the gunman who was still in their custody at year's end pending the conclusion of an investigation.

Abductions.—Humanitarian workers were abducted during the year; at year's end several humanitarians remained captive.

On December 14, al-Shabaab kidnapped three ICRC national staff members on the outskirts of Mogadishu. They had been summoned to a meeting with al-Shabaab in the Daynille district. Upon arrival, they were seized and held in a shipping container. They were released on December 15.

Physical Abuse, Punishment, and Torture.—There were reports of TFG forces and allied militias committing sexual violence, including rape, against women in and around Mogadishu IDP camps (see also section 1.a., 2.d., and 6, Women). Irregular or clan militias also reportedly raped women who were traversing routes to refugee camps in neighboring Kenya.

There were many cases throughout the year of abuses, including harsh "punishment," by al-Shabaab in areas under its control (see sections 1.a., 1.b., and 1.e).

On September 4, the bodies of two beheaded men dumped in the al-Shabaab-controlled district of Huriwaa in Mogadishu were found. Deep cuts reportedly visible on their bodies indicated that they were physically abused before they were beheaded.

Child Soldiers.—Reports continued of children being in the TFG's national security forces and allied militias. In the absence of established birth registration systems, it was often difficult to determine the exact age of recruits of national security

forces. In Mogadishu military “camps” were not clearly defined, and soldiers lived and fought in close proximity to their families. Families—including soldiers’ children—were sometimes present in the “camps.”

According to a Human Rights Watch report, the TFG reportedly interrogated children who had been associated with al-Shabaab and escaped or were captured, detaining an unknown number of them in TFG camps and detention facilities.

In January the then prime minister appointed a TFG focal point to address child soldiering. During her seven-month tenure, the focal point did little to address this issue, citing a lack of resources. On July 15, the army chief of staff issued an instruction to all Somali National Army commanders directing them to ensure children were not among their forces. Toward year’s end the TFG appointed two new focal points to address the issue. In addition, in December the army chief of staff appointed a child protection point of contact to work with the international community on developing and implementing a child soldier action plan.

TFG recruits trained by international partners in Bihanga, Uganda, were subjected to multiple levels of vetting, including interviews and medical screening. There were 960 recruits in the cohort that arrived in February, of whom 29 were rejected as too immature for training. The November cohort contained 650 recruits, none of whom were determined to be immature.

U.N. Mine Action Somalia implemented a biometric database which was designed to improve registration of TFG soldiers. This process was based on payroll lists and involved a screening interview but not a physical exam.

There were credible reports that children were included in Somalia’s numerous clan and other militias. Pro-TFG militias, including ASWJ, frequently fought alongside or intermingled with Somali National Army troops and even wore similar uniforms.

In May UNICEF and the U.N. special representative of the secretary-general for children and armed conflict reported an increase in the recruitment of children, some as young as eight, in conflict areas in Somalia, largely in al-Shabaab-controlled areas. According to the U.N., al-Shabaab recruited children as young as eight from schools and madrassahs. The children were often used to plant roadside bombs and other explosive devices. In Kismayo, Baidoa, and Merka, al-Shabaab forced boys 15 and older to fight as “Mujahideen” or be executed.

Human Rights Watch also reported forcible recruitment of children by al-Shabaab, with al-Shabaab often recruiting the children from schools or while they traveled to or from school. According to information from the NGO, children in al-Shabaab training camps underwent grueling physical training, weapons training, physical punishment, religious training, and had to witness the punishment and execution of other children. Al-Shabaab used children in combat, including by placing them in front of other fighters to serve as human shields, and also used them as suicide bombers. In addition, al-Shabaab used children in support roles such as carrying ammunition, water, and food; removing wounded and killed militants; gathering intelligence; and serving as guards.

On March 18, the TFG minister of information reported that top al-Shabaab leader Hassan Dahir Aweys admitted during a Friday mosque sermon that al-Shabaab was using children in the fight against the TFG. On January 12, the TFG reported it had reunited more than 20 minors with their families after they defected from al-Shabaab.

Other Conflict-related Abuses.—A July 18 report of the U.N. Monitoring Group on Somalia and Eritrea described the security context and humanitarian operational environment facing aid agencies as being “among the most prohibitive in the world.” Approximately 55 security incidents related to humanitarian personnel or assets occurred from January to August.

TFG forces and aligned militia looted and collaborated in the diversion of humanitarian aid from intended beneficiaries in Mogadishu. On August 21, in the Wajir District of Mogadishu, a TFG-allied militia attacked a distribution site and looted food aid. Other TFG forces intercepted the militia and recovered the food. On July 13, in the Hodan District of Mogadishu, TFG forces and members of the public looted food aid from a warehouse. On November 1, the TFG spokesperson announced the TFG had fired the district commissioners of Hamar Jajab (Mogadishu) and Karan (Mogadishu) because of missing and looted aid and assaults on women collecting food.

Most international aid organizations evacuated their staff or halted food distribution and other aid-related activities in al-Shabaab controlled areas in prior years due to continued killings, extortion, threats, and harassment. An Inter-Agency Standing Committee on Somalia report released in October 2010 noted that “between October 2008 and September 2010, 18 humanitarian organizations stopped activities due to their direct expulsion by armed groups or as a consequence of inter-

ference in their programs.” Al-Shabaab harassed and attacked remaining aid workers and NGO staff and looted aid meant for the drought and famine response. For example, on February 2, al-Shabaab imposed a 10 percent “tax” on the salaries of local NGO staff in Merka, claiming the revenue would be used to support drought victims.

Harassment hampered aid delivery, particularly in the south and central regions. International aid agencies increasingly relied on Somali staff and implementing partners to deliver relief assistance there.

For example, on July 6, in response to the worsening drought, al-Shabaab spokesperson Ali Mohamoud Raghe “Ali Dheere” announced that al-Shabaab would allow “Muslims and non-Muslims to help the drought-affected people if they did not have other interests.” On July 22, al-Shabaab amended its announcement and stated only organizations not previously banned were allowed to come back. In November al-Shabaab banned 16 aid organizations and agencies, including the Office of the U.N. High Commissioner for Refugees (UNHCR), UNICEF, WHO, U.N. Population Fund, U.N. Office for Project Services, Food Security and Nutrition Analysis Unit, Norwegian Refugee Council, Danish Refugee Council, Concern, Norwegian Church Aid, Cooperazione Internazionale, Swedish African Welfare Alliance, German Agency for Technical Cooperation, Action Contre la Faim, and Solidarity and Saacid. Simultaneously al-Shabaab shut down WHO offices in Hudur, Bu’aale, Wajid, and Belet Weyne; UNICEF, WHO, and NGO offices in Baidoa; WHO and NGO offices in Hiraan; and NGO offices in Merka.

On December 15, the ICRC temporarily suspended the delivery of food assistance originating from Mogadishu to areas under al-Shabaab control. The suspension was in response to local al-Shabaab commanders stopping trucks carrying food assistance and demanding to check the cargo under the guise of inspecting the quality of the food, although in actuality attempting to extort money. At year’s end al-Shabaab in Jowhar, Middle Shabelle continued to hold several ICRC trucks loaded with food aid.

As a result of al-Shabaab’s humanitarian access restrictions, taxation on livestock, and failed water redistribution schemes, many residents of al-Shabaab-controlled areas fled from their homes to refugee camps in Kenya and Ethiopia and to IDP camps in Puntland, Somaliland, and TFG-controlled areas of Mogadishu. Al-Shabaab restricted such movements, often forcing those trying to flee its territories into al-Shabaab IDP camps. Al-Shabaab also attempted to block persons from fleeing the country. Those who left al-Shabaab areas typically carried very few possessions, thereby reducing the likelihood that al-Shabaab militia would identify them as fleeing. On October 15, al-Shabaab in Lower Shabelle Region announced the closure of the Ala-Yasir IDP Camp in the Afgoye District. Al-Shabaab reportedly urged IDPs there to return to their places of origin in Lower Shabelle, Bay, and Bakool regions in order to cultivate abandoned fields during the Deyr rainy season. U.N. partners suggested that an estimated 4,000 IDPs, mainly women and children, may have been forced to return to their places of origin between October 13 and 18.

In Somaliland humanitarian access was generally good. However, attacks on humanitarian staff and assets were reported in parts of Buhoodle, Togdheer Region, which was the scene of clashes between Somaliland forces and Sool, Sanaag, and Cayn militia. On March 29, armed militia looted food aid after attacking a truck traveling to Sanaag Region.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The TFC and the Somaliland constitution provide for freedom of speech and of the press. The Puntland interim constitution provides for press freedom “as long as journalists respect the law.” Nevertheless, journalists were subjected to violence, harassment, arrest, and detention in all regions. The National Union of Somali Journalists reported that four journalists were killed, seven were wounded, and 19 were arrested during the year. It also reported on violent attacks against media houses, as well as the use of defamation laws against journalists.

Freedom of Speech.—Individuals in TFG controlled areas were generally not restricted from criticizing the government. However, the speaker of the TFP prohibited the parliament from convening its four month fall session due to fear that members would want to discuss and possibly make changes to the Roadmap for Ending the Transition. In Somaliland and Puntland, individuals generally enjoyed the ability to criticize their governments publicly and privately without reprisal.

Freedom of Press.—Print media consisted largely of short, photocopied dailies published in the larger cities. Several of these publications published criticism of political leaders and other prominent persons. In Somaliland there were seven independent daily newspapers and one published by the government. There were two

English-language weekly newspapers. There were three independent television stations and one government-owned station.

Most citizens obtained news from foreign radio broadcasts, primarily the BBC's Somali Service and the Voice of America's Somali Service, which transmitted Somali-language programs daily. There were reportedly eight FM radio stations and one shortwave 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 areas of the country. As in previous years, Somaliland authorities continued to prohibit the establishment of independent FM stations. The only FM station in Somaliland was government-owned. There were at least six independent radio stations in Puntland. Al-Shabaab continued to operate an FM radio station in Kismayo.

On October 30, Puntland's president announced he was suspending Universal TV and Somali Channel TV for being obstacles to security. Puntland authorities lifted the ban on Universal TV on December 3, but Somali Channel TV remained closed at year's end.

ASWJ and al-Shabaab closed broadcasting stations during the year. On June 2, ASWJ raided Dhusamareeb Radio, reportedly in reaction to the station's reporting on a rift in ASWJ leadership. ASWJ allowed Dhusamareeb Radio back on the air shortly after the incident. On June 22, al-Shabaab militia raided Voice of Hiraan, arrested its staff, and forced the station off the air for five days.

Violence and Harassment.—Four journalists were killed in Mogadishu during the year (see also section 1.g.). For example, on December 18, an unknown gunman dressed in a TFG military uniform shot and killed prominent freelance journalist Abdisalan Sheikh Hassan "Xiis" in Mogadishu. On December 13, Hassan had filmed the proceedings of a controversial parliamentary vote to remove Parliamentary Speaker Sharif Hassan from office. After his footage was broadcast on Somali television, he began receiving death threats. The TFG issued a press statement promising to investigate the killing. The TFG had made no arrests by the year's end.

Journalists and media organizations in Mogadishu reported harassment by the TFG, including detention without charge and assaults on persons and property. On March 27, TFG security forces arrested Shabelle Radio manager Abdirashid Omar Qasse and news director Abdi Mohamed Ismail "Oud" in connection with the station's March 22 report that TFG President Sheikh Sharif had yet to visit areas of Mogadishu cleared of al-Shabaab during a recent offensive. The TFG claimed it arrested the journalists for "broadcasting news that misrepresented the situation in Mogadishu and was detrimental to national security." Authorities released the journalists on March 30 after they reportedly apologized to the deputy minister of information.

Somaliland police arrested and beat journalists (see also sections 1.b. and 1.e.). For example, on September 19, they beat and briefly detained Mustafe Sheik Omar Ghedi, editor of Saxafi newspaper, for taking pictures of citizens resisting forceful eviction in the Goljano neighborhood of Hargeisa. On October 27, according to the National Union of Somali Journalists, Somaliland police in Hargeisa beat Mohamed Abdi Kahin "Boosh," who worked for Ramaasnews online news and the private station Royal TV, for taking pictures of protests.

Puntland continued its harassment of journalists, typically blaming arrests on the need to protect the region's security interests (see also section 1.a.). For example, on November 15, Puntland security forces raided, without warrants, the private residences of Somali Channel TV cameraman Mahad Abdi Ali in Garowe and reporter Saido-Kin Ahmad Jama. They took Mahad Abdi Ali to the Garowe central police station for questioning. Saido-Kin Ahmad Jama, who learned of the raid beforehand, was in hiding at the time of the raid. The two had apparently covered a subclan conference in Taleh, Sool Region, after Puntland authorities banned the station from operating. Authorities released Mahad Abdi Ali on November 16 on bail paid by the Media Association of Puntland.

Journalists were also attacked and injured in Puntland. For example, on August 26, a grenade attack on the privately owned Radio Daljir injured a security guard and damaged the station. On October 18, unknown assailants threw a hand grenade at the Radio Galkacyo station.

In November 2010 Puntland's president pardoned Abdifatah Jama Mire, the director of Horseed Media. Puntland forces arrested him in August 2010 for broadcasting an interview with a Muslim extremist leader.

Al-Shabaab and other extremists continued to harass journalists. Journalists reported that al-Shabaab threatened to kill them if they did not report positively on antigovernment attacks.

There were no arrests made in connection with previous killings or the attempted killing of journalists.

Censorship or Content Restrictions.—Journalists engaged in rigorous self-censorship to avoid reprisals from governments and al-Shabaab. Al-Shabaab banned journalists from reporting news that undermined “Islamic law” as it interpreted it and also told persons in areas it controlled that they were forbidden to listen to international media such as the BBC and Voice of America.

Libel Laws/National Security.—Both the TFG and Puntland administration cited national security concerns to justify their suppression of criticism. For example, during a July 2 press conference, Puntland’s president threatened journalists with arrest if they broadcast reports the administration considered harmful to Puntland’s security.

Authorities in Somaliland prosecuted journalists for libel. For example, on January 23, a court in Hargeisa sentenced Waheen editor Mohamud Abdi Jama to three years of incarceration and a fine for libel in regards to a story involving a state electricity company manager hiring persons from his own clan.

Somaliland senior officials and ministers used their positions to harass journalists who reported on official corruption. For example, in December 2010, then chief of cabinet Hersi Ali (who was the minister of the presidency at year’s end) accused the Hargeisa Star and its chief editor Hassan Mohamed Yusuf of publishing false reports of excessive expenditures regarding a London trip by Somaliland president. Somaliland authorities summoned and briefly detained Hassan Yusuf; Hersi Ali later withdrew the charges against the newspaper and its editor in January.

Nongovernmental Impact.—Al-Shabaab inhibited freedom of expression, including of the press.

Internet Freedom.—The TFG and Somaliland authorities did not restrict access to the Internet; however, extremists in Mogadishu reportedly closely monitored Internet use and were believed to be the authors of anonymous e-mail threats to local journalists.

There was one case of Puntland security forces arresting an online journalist. On June 28, Puntland security forces arrested Faysal Mohamed Hassan “Boston” of Hiiraan Online for reporting that two men found beheaded on the outskirts of Bossaso were Puntland security force members. A Puntland court sentenced him on July 2 to one year in prison for “publishing false information.” Puntland’s president granted him and 90 other inmates amnesty on July 31 as part of Puntland’s 13th-anniversary celebration.

Academic Freedom and Cultural Events.—Academics practiced self-censorship. The Puntland administration required that individuals obtain government permits in order to conduct academic research. During the year there were no reported direct attacks on schoolchildren, teachers, or schools.

With the exception of al-Shabaab-controlled areas, there were no official restrictions on attending cultural events, playing music, or going to the cinema. The security situation effectively restricted access to and organization of cultural events in the south and central regions. One cultural event, organized by the Benadir administration in Mogadishu, was interrupted when a militia of the former Mogadishu mayor shot into the crowd, killing and wounding several people (see section 1.a.). In al-Shabaab-controlled areas, activities such as football and singing were banned.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The TFG and the Somaliland constitution provide for freedom of assembly. The Puntland interim constitution limits the right to assembly, including by prohibiting that which is considered to be against Islamic principles, or a risk to the public health, national security and stability, and moral dignity. General insecurity effectively limited this right in many areas.

The TFG restricted public gatherings and killed protestors during the year. On June 10, following the signing of the Kampala Accord, TFG forces fired to disperse a demonstration against President Sheikh Sharif and the Speaker of Parliament in Mogadishu, killing three persons.

On April 14, the Benadir regional administration banned public meetings and gatherings in Mogadishu that did not have its prior consent, citing security concerns. At the same time, the TFG reportedly paid demonstrators to participate in protests against a UN-sponsored consultative meeting on Somalia that was to be held in Nairobi, Kenya. On April 15, Benadir regional administration forces forcibly halted preparations for a rally in support of the Nairobi U.N. consultative meeting.

Al-Shabaab did not allow gatherings of any kind without prior consent.

Freedom of Association.—The TFG provides for freedom of association, and there were no reports that the TFG restricted this freedom. Persons in the south and central regions outside of al-Shabaab areas could freely join civil society organizations focusing on a wide range of issues. Civil society organizations were generally well

respected by Somalis for their ability to deliver social services in the absence of functional government ministries.

The Somaliland constitution provides for freedom of association, and this right was generally respected in practice. However, Somaliland authorities prevented civil society from participating in meetings related to the TFG or which it perceived as undermining Somaliland's sovereignty.

The Puntland interim constitution prohibits associations that are secretly organized on a military model, based on tribal denominations, or contrary "to the national interest." Some Puntland civil society members stated that oversight of and interference in their activities increased during the year. The Puntland administration prohibited civil society organizations from participating in activities related to the federal draft constitution process, including consultations with the drafting body and civic education activities.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The TFC guarantees the right of citizens to travel freely within the country. The Puntland interim constitution allows the law to restrict access to locations. The Somaliland constitution allows citizens and residents to move to any place of their choice and to leave and return to the country at will, subject to the law. In practice freedom of movement was restricted in some parts of the country.

In-country Movement.—Ad hoc checkpoints operated by armed militias, clan factions, TFG-allied groups, and al-Shabaab inhibited movement and exposed citizens to looting, extortion, and harassment. There were reports of illegal checkpoints in Mogadishu run by warlords after al-Shabaab's August 6 withdrawal created a temporary power vacuum.

Foreign Travel.—Few citizens had the means to obtain passports. Given widespread passport fraud, many foreign governments did not recognize the Somali passport as a valid travel document.

Internally Displaced Persons (IDPs).—The humanitarian situation significantly deteriorated from the previous year. The UNHCR estimated that there were 1.36 million IDPs across the country. Conflict, drought, and famine during the year resulted in continued displacement and large-scale new displacements. The U.N. declared famine in six areas in the south and central regions; three regions were subsequently downgraded by year's end. By year's end more than 955,000 Somali refugees had fled to other countries in the region. Many of new IDPs lived without basic services, settling primarily in the Afgooye corridor between Mogadishu and Afgooye, Lower Shabelle region. Famine conditions in the south and central regions led to an increase in IDPs in Puntland, Galmudug, and Somaliland regions during the year.

Laws and policies were in place to protect IDPs in accordance with the U.N. Guiding Principles on Internal Displacement. Authorities in the TFG, Somaliland, and Puntland provided some protection and assistance to IDPs, although the response in TFG areas was largely ineffective as a consequence of limitations on resources and capacity and poor coordination.

The July 18 report of the U.N. Monitoring Group on Somalia and Eritrea described the security context and humanitarian operational environment aid agencies faced in Somalia as "among the most prohibitive in the world" (see section 1.g.). TFG forces and aligned militia looted and collaborated in the diversion of humanitarian aid from intended beneficiaries in Mogadishu. Most international aid organizations evacuated their staff or halted food distribution and other aid-related activities in al-Shabaab-controlled areas due to continued killings, extortion, threats, and harassment. In November al-Shabaab banned 16 aid organizations and agencies. Al-Shabaab restricted movement, often forcing those trying to flee its territories to enter al-Shabaab IDP camps. On October 30, a Kenyan military airstrike in the town of Jilib, Middle Juba, reportedly hit an IDP camp. According to Doctors Without Borders, its clinic received five dead and 45 wounded, mostly women and children, from the incident (see section 1.g.).

Gender-based violence, including sexual assault of female IDPs, in Mogadishu was a problem, often with TFG-allied militias who were responsible for securing the camps as the alleged perpetrators (see also sections 1.a., 1.g., and 6, Women). For example, on August 21, TFG forces reportedly raped a woman in Badbaadho camp. Researchers of an international human rights organization noted there was significant evidence that the militia of the district commissioner in charge of Badbaadho was responsible for sexual violence there. The U.N. attributed the increase in such violence to the large number of unregistered, unpaid, and untrained forces charged with protecting the camps. Local NGOs reported that public washrooms in the IDP

camps were the most common places for sexual assaults. Perpetrators of such acts were generally not held accountable.

The Benadir administration acknowledged the rise of sexual violence in Mogadishu's camps and attributed the insecurity to a lack of perimeter fences around the IDP shelters, the result of a shortage of funds. On October 25, in response to pressure from the international community, the TFG prime minister announced that he would form a task force on gender-based violence in the prime minister's office. Subsequently he appointed an official to serve as focal point for the issue, but the new structure had not become functional by year's end.

There were widespread reports that armed bandits robbed and sexually assaulted women traveling within Somalia in the direction of refugee camps in Ethiopia and Kenya. Several women reported that al-Shabaab members had committed the violence as part of its war strategy to prevent a high influx of women reaching refugee and IDP settlements and the consequent desertion of al-Shabaab-controlled areas.

Puntland authorities sporadically engaged in forced return of individuals from the south and central regions, particularly those from Bay and Bakool. Puntland authorities arrested an estimated 400 young men from the south and central regions whom it suspected of being al-Shabaab members or of being economic migrants rather than IDPs fleeing drought. According to the U.N. Office of the High Commissioner for Human Rights, more than 1,500 IDPs from the south and central regions of the country were in detention in Puntland in 2011.

Al-Shabaab intercepted Somalis attempting to reach IDP camps in TFG-controlled areas in Mogadishu and refugee camps in Ethiopia and Kenya and forced them into al-Shabaab camps. Al-Shabaab also forced persons in al-Shabaab-controlled camps to move to the countryside, reportedly to raise cash crops for al-Shabaab.

Protection of Refugees.—The UNHCR reported that 2,113 refugees and 5,850 registered asylum seekers resided in Somalia. Most of them were persons from the Oromiya and Ogadeni regions of Ethiopia who arrived in the country between 1996 and 2000.

Access to Asylum.—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, and in practice the authorities granted refugee status or asylum. Somaliland ended all registration of asylum seekers in 2008. According to the UNHCR, an unknown number of Ethiopians and others wanted to claim asylum in Somaliland.

Nonrefoulement.—On September 4, the Somaliland deputy minister of interior issued an ultimatum demanding that foreigners residing in Somaliland illegally leave the area within 30 days. The deputy minister subsequently indicated that the directive would not affect conflict-displaced people from the south and central regions. The directive was seen to be aimed at Oromo from Ethiopia. International aid agencies estimated the number of unregistered Ethiopian immigrants in Somaliland potentially affected by the expulsion threat to be between 15,000 and 18,000. In anticipation of being forcibly removed, many refugees moved to border towns in Ethiopia.

On December 28, Somaliland authorities returned 15 registered refugees and five registered asylum seekers to Ethiopia in what Human Rights Watch termed a violation of the fundamental international prohibition against "refoulement." Police arrested the group on December 22 during a meeting between refugee leaders and Somaliland officials at the Interior Ministry in Hargeisa. They were discussing the situation of approximately 1,000 Ethiopians camped on premises known as the Social Welfare Centre, run by an international NGO for refugees and migrants in Hargeisa.

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

The TFIs largely failed to make progress during the year on key tasks necessary for a transition to a popularly elected federal government structure. Much of the south and central regions remained under the control of al-Shabaab. The Somaliland constitution provides citizens the right to change their government peacefully, and persons exercised this right in practice. The constitution of Puntland also provides citizens the right to change their government peacefully; however, this did not occur in practice as there has not been a direct election of representatives in Puntland.

Elections and Political Participation.—Recent Elections.—The TFC originally operated under a five-year mandate scheduled to expire in 2009; however, the TFP,

under the Djibouti peace process, extended the initial mandate by another two years until 2011. Elections for president and parliamentary speaker, which should have occurred by August 2011, did not take place. On February 3, the TFP amended several articles of the TFC and unilaterally extended its mandate by three years to August 2014, despite calls from civil society and regional/political entities for parliamentary reform and elections.

On June 9, regional leaders backed the “Kampala Accord,” an agreement between the president and parliamentary speaker that included postponing elections to August 2012, the appointment of a new prime minister and cabinet, and holding a consultative meeting on ending the transition. On June 28, Abdiweli Mohamed Ali replaced Mohamed A. Mohamed “Farmajo” as prime minister, and on July 23, parliament endorsed a new cabinet. TFI, Puntland, Galmudug, and ASWJ representatives gathered in Mogadishu for a “High-Level Consultative Meeting” where they endorsed a Roadmap for Ending the Transition on September 6. The roadmap contained key transitional tasks to be completed by August 2012 and an accompanying implementation and monitoring structure.

On December 13, members of the TFP passed a motion of “no-confidence” against Parliamentary Speaker Sharif Hassan. However, the TFG, Sharif Hassan, the African Union, and the Intergovernmental Authority on Development deemed the vote a violation of the Kampala Accord, which stated that the “government and parliament will refrain from threats of impeachment of president, speaker, and deputies, as well as dismissal of parliament.” They also questioned whether the vote was taken in accordance with proper parliamentary procedure. The parliamentarians argued, however, that the TFC, which the Kampala Accord enshrines as the pre-eminent law in Somalia, allowed them to remove the speaker. Sharif Hassan remained the speaker at year’s end.

Al-Shabaab prohibited citizens in areas it controlled from participating in the federal government structure or changing their al-Shabaab administrators. Some al-Shabaab administrations, however, consulted local traditional elders on specific issues and allowed pre-existing district committees to remain in place.

Somaliland has a bicameral parliament with proportional clan representation and an elected president and vice president.

Somaliland presidential elections in June 2010 were described by international and domestic observers as generally free and fair. Somaliland laws prevented citizens in its region from participating in the TFIs, the federal draft constitution process, or consultative meetings on ending the political transition in Somalia. In November Somaliland’s House of Representatives amended the 2001 presidential and local elections law, changing the minimum age requirement to participate in local elections from 35 to 25. On December 13, Somaliland’s president signed the amended law.

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. In 2009 the council elected Abdirahman Mohamed Mohamud “Farole” as Puntland’s president. Parliamentary representatives were seated by their respective clan elders in the six administrative regions, and the same 66 representatives announced in 2008 remained in office at year’s end.

Political Parties.—There were no official political parties in the south and central regions.

In January Somaliland’s National Electoral Commission, representatives from the three registered political parties, civil society, and prominent individuals began a series of discussions on whether to open registration of new political parties. On August 20, the Somaliland president signed the Regulation of Political Associations and Parties Law. On September 4, he submitted the names of seven nominees for the Committee for the Registration of Political Associations and the Approval of National Parties to the House of Representatives, which approved the nominees. With a five-year mandate, the committee’s tasks include registering new political associations to take part, along with the existing three parties, in local district council elections scheduled for April 2012.

Puntland’s interim constitution limits the number of political parties to three and establishes conditions pertaining to their political programs, finances, and constitution with which they must comply. On July 12, the Puntland Parliament approved nine appointees to the Transitional Puntland Electoral Commission. The commission’s mandate includes registering political parties to take part in preliminary district council elections in 2013.

Participation of Women and Minorities.—The transition roadmap agreed to on September 6 specifically calls for women's participation on implementing bodies. The roadmap states that the committee to support the preparation of a draft constitution, the interim electoral commission, and the interim anticorruption commission should each have at least four female participants. The roadmap requires both the committee to undertake preparations for the adoption of the draft constitution and the committee charged with preparing recommendations and modalities for establishing a new federal parliament to have five female members. At year's end the committee to support the preparation of a draft constitution had been formed, and female inclusion adhered to the guidelines. The committee for establishing a new federal parliament did not adhere to the requirements.

The Djibouti Peace Process mandated that 12 percent of the 550 seats in the TFP be filled by women; however, the number of female parliamentarians was 37, or 6.7 percent. There were 60 members of minority ethnic groups in the TFP. There was one woman and one ethnic minority member in the TFG cabinet under Prime Minister Mohamed and one woman and two minorities under Prime Minister Abdiweli. Civil society and minority groups continued to call for the abolition of the "4.5 system" under which minority clans were allocated a fixed and low number of parliamentary seats.

Somaliland had two women in its 82-member House of Representatives and one woman in the 82-member Guurti (House of Elders). Women were traditionally locked out of the Guurti (Somaliland's Upper House of Representatives). Positions left vacant by members of the Guurti, mostly by death, are filled by next of kin through inheritance. The cabinet included two women and no minorities. On September 7, the Somaliland president appointed a nine-person commission made up of cabinet members and parliamentarians and charged it with recommending ways to strengthen women and minorities' political participation. The committee had not released its report by year's end. The Somaliland Human Rights Commission elected a woman as its chairperson.

In Puntland there have never been any women on the Council of Elders. Traditional clan elders, who are exclusively male, select members of parliament leaving little opportunity for women to be selected. However, two women served in the 66-member parliament during the year. Each of Puntland's five regions was to nominate one female parliamentarian, but only two regions complied. The 18-person cabinet included one woman. It did not include members of minority groups. The nine-member Puntland Electoral Commission included one woman. The Puntland president appointed a woman as the Human Rights Defender.

Section 4. Official Corruption and Government Transparency

It was not known if the law provides for criminal penalties for official corruption. Officials engaged in corrupt practices with impunity. There was no regulatory or penal framework in any region to combat or punish official corruption. There existed no financial disclosure laws or laws providing for public access to government information.

Corruption was endemic within the TFIs. The July 18 Report of the U.N. Monitoring Group on Somalia and Eritrea cited corruption in the TFG to be among the "principal impediments to security and stabilization in southern Somalia." The International Crisis Group reported on February 21 a significant increase in the level of corruption, stating that "a cabal within the regime presides over a corruption syndicate that is massive, sophisticated, and extends well beyond Somalia's borders."

The TFG established a Public Finance Management Unit in the prime minister's Office in 2010 and appointed Abdirazak Fartaag as its head. Its May 2011 report detailed discrepancies between TFG financial statements in 2009 and 2010 and the actual internal and external revenue received. The report claimed the TFG had received more than \$75.6 million in revenue, mainly bilateral donations from Arab states and Sudan, but could account for only \$9.4 million. After potential but unrealized revenue from the ports, Mogadishu airport, khat trade, and telecommunications sector were included, the TFG was missing approximately \$300 million, according to the report. The TFG called the report fictitious and in his inaugural speech to the cabinet in July TFG, President Sheikh Sharif publically challenged those accusing him of corruption.

In response to the management unit's report more than 120 parliamentarians signed a motion, presented to the deputy speaker on July 25, calling for the establishment of an ad hoc investigatory committee to look into the conduct of President Sheikh Sharif, former prime ministers Mohamed Abdullahi Mohamed Farmajo and Omar Abdirashid Sharmarke, and former finance ministers Hussein Abdi Halane and Sharif Hassan (the TFP speaker during the year). According to parliamentary

procedures, the motion received enough votes to be presented to the wider parliament for debate. At year's end this debate had not occurred because the speaker blocked parliament from holding official meetings during the August-December parliamentary session due to concern that members would want to discuss and possibly make changes to the transition roadmap to stall progress.

The September 6 transition roadmap also called upon the TFG to complete tasks to increase transparency and accountability. The TFG was to: 1) enhance mechanisms for greater coordination and information sharing between Somali and international development and humanitarian agencies by September 19; 2) enact legislation and implement measures to fight corruption and abuse of public offices by October 19; 3) appoint "competent members" of an interim independent anticorruption commission by November 19; and 4) appoint a "competent" task force to prepare a report of all TFG revenue by December 19. To improve public finance management, the TFG was to formulate and approve a National Fiscal Budget for 2011-12 by December 31, review and update a Civil Service Code by January 2012, and initiate the process to develop a National Development and Recovery Strategy by February 2012. However, by year's end the TFG did not take significant action toward completion of these tasks.

A number of TFG ministers were named in a March 2010 U.N. monitoring report as engaging in visa-related scams. In response the TFG pledged to investigate; however, by year's end there was no indication that this had occurred.

During the year the TFG militia and allied forces continued to extort money from taxi, bus, and truck drivers, at times resulting in death.

There were no specific corruption allegations made against the Somaliland administration.

Al-Shabaab extorted increasingly high and unpredictable zakat and sadaqa taxes in the regions it controlled. It also diverted and stole humanitarian food aid.

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

A number of local and international human rights groups operated in areas outside of al-Shabaab-controlled territory, investigating and publishing their findings on human rights cases. However, security considerations constrained their ability to operate freely in the south and central regions. International and local NGOs generally worked without major restrictions in Puntland and Somaliland.

During the year attacks and incidents of harassment of humanitarian, religious, civil society, and NGO workers resulted in deaths. For example, on October 30, unidentified assailants in Galkacyo, Puntland, killed Abdikadir Yasin Jama, head of Mudug region's Puntland Development and Research Center. No one was arrested for Jama's killing by year's end. Abdikadir Yasin was the second center staff member killed during the year. On April 6, unknown assailants in Garowe killed the center's finance and administration manager, Mohamed Yasin Isse "Ilka'asse."

The Mogadishu-based Dr. Ismael Jumale Human Rights Center (DIJHRC), Elman Peace and Human Rights Center (EPHRC), Peace and Human Rights Network, Isha Baidoa Human Rights Organization in the Bay and Bakol regions, Coalition of Grassroots Women's Organization (COGWO), and other local human rights groups were active during the year. 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 continued to advocate for media freedom throughout the country. The Mogadishu-based Center for Research and Dialogue, the Puntland Development and Research Centre, and several women's NGOs and civil society organizations also played a role in promoting intraclan dialogue in Puntland and parts of the south and central regions.

The TFG was sometimes cooperative and responsive to their views. The TFG took concrete measures to combat child soldiering after continuing reports from human rights organizations that child soldiers were in its forces (see section 1.g.). However, in matters related to official corruption the TFG frequently dismissed the findings of international and local NGOs. The TFG, in response to an Amnesty International report on TFG military courts, defended swift sentencing without access to legal representation of both security force members and civilians as necessary in the security environment and needed to challenge the culture of impunity.

The Puntland administration repeatedly dismissed accusations it did not respect media freedom. The administration attributed its arrests of journalists to the journalists being irresponsible in their coverage of topics that threatened national security.

U.N. and Other International Bodies.—The TFG participated in a review of its human rights record through the U.N. universal periodic review process during the

year. The TFG fully accepted 151 recommendations from the process and partially accepted the remaining four.

Government Human Rights Bodies.—To tackle abuses and strengthen human rights in their regions, both Somaliland and Puntland developed their independent human rights bodies during the year. Members of the Somaliland Human Rights Commission's (established by a parliamentary act in 2009 and signed into law in December 2010) were approved by parliament in June. Although an interim chairperson was elected in July, limited resources as well as inexperienced commissioners prevented the commission from being effective during the year. In June the Puntland president appointed a woman to be the region's human rights defender. However, the position had no accompanying legislation, leaving the appointee's mandate unclear. At year's end the Puntland parliament had not approved her nomination.

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

The TFC provides equal protection and benefit in regards to race, birth, language, religion, sex, or political affiliation but does not prohibit other forms of discrimination. The Somaliland constitution provides for equal rights and obligations regardless of color, clan, birth, language, gender, language, property, status, and opinion and prohibits discrimination on grounds of ethnicity, clan affiliation, birth, and residence. The Puntland interim constitution states that all citizens are equal before the law and prohibits discrimination based on color, religion, citizenship, origin, financial status, opinion, political attitude, language, and ethnicity. It calls for women's independence and socioeconomic and political rights that are not contrary to sharia. However, antidiscrimination provisions were not effectively enforced in any of the regions.

Women.—Rape and Domestic Violence.—Laws prohibiting rape exist in Puntland, Somaliland, and TFG-controlled areas; however, they were almost never enforced. There are no laws against spousal rape. The UNHCR and UNICEF 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. TFG forces and militia members engaged in rape (see also sections 1.a., 1.g., and 2.d.). 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. The TFG, Puntland, and Somaliland prosecuted rape cases during the year. However, for the most part, formal structures were rarely used to address rape, particularly in TFG-controlled areas of the south and central regions. Victims suffered from subsequent discrimination based on the attribution of "impurity." Women and girls in IDP camps were especially vulnerable to sexual violence. In Somaliland gang rape continued to be a problem in urban areas, primarily perpetrated by youth gangs and male students. Many of these cases occurred in poorer neighborhoods and among immigrants, refugee returnees, and displaced rural populations living in urban areas. In December the director of the Sexual Assault Referral Centre reported that the incidents of rape of women under the age of 20 were on the increase in Hargeisa. The center, which had its offices inside the compound of Hargeisa general hospital, reported recording 10 rape cases on average per month. Many cases were not reported.

Domestic violence against women remained a serious problem. There were no laws specifically addressing domestic violence; however, both sharia and customary law address the resolution of family disputes. Sexual violence in the home was reportedly a serious problem, linked to general gender discrimination. Women suffered disproportionately as a result of conflict.

In his August 29 report on the situation of human rights in Somalia, the U.N. independent expert cited increased sexual violence against women and noted that domestic violence, sexual violence, and harmful traditional practices such as FGM were common in all regions.

Female Genital Mutilation.—See Section 6, Children.

Sexual Harassment.—There were no laws pertaining to, data on, or government programs to address sexual harassment in any of the three regions. However, it was thought to be very widespread in all regions.

Reproductive Rights.—In the country's overwhelmingly patriarchal culture, decisions regarding reproduction were often determined by a woman's husband. Women had very limited ability to decide freely and responsibly the number, spacing, and timing of their children. Women had very limited information about and little, if any, access to contraception. With inadequate health care, women rarely had skilled attendants during childbirth or essential obstetric and postpartum care. According to UNICEF, maternal mortality was extremely high (1,200 per 100,000 live births)

due to complications during labor that often involved anemia, FGM, and/or a lack of medical care.

Discrimination.—Women did not have the same rights as men and were systematically subordinated. Polygamy was permitted. By law girls and women could inherit only half the amount of property to which their brothers were entitled. Similarly, according to sharia and the local tradition of blood compensation, anyone found guilty of the death of a woman paid to the victim's family only half the amount required for a male.

Women formed a negligible part of those employed in both the formal public and private sectors because of girls' low education level. However, women were not discriminated against in owning or managing businesses, except in al-Shabaab-controlled areas. Al-Shabaab claimed women's participation in economic activities was anti-Islamic. There were no government programs in any region to combat economic discrimination against women.

Children.—Birth Registration.—Under the TFC, citizenship is derived from birth in Somalia or from one's father or from being in Somalia at the time of the TFC's signing in 2004. In the absence of a functioning central authority, births were not registered in Puntland or in the south and central regions. Under the Somaliland constitution, citizenship is derived from being a descendant of a person residing in Somaliland on June 26, 1960 or earlier. Birth registration occurred 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.

Education.—Primary education was not compulsory, free, or universal. 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. In many areas children did not have access to schools other than madrassas.

In al-Shabaab controlled areas, "jihad" was included in the curriculum of elementary schools. In at least one case al-Shabaab offered AK-47 rifles as prizes for academic achievement. 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.

Child Abuse.—Child abuse and rape of children were serious problems, although no statistics on its prevalence were available. There were no known efforts by regional governments to combat this practice. Children remained among the chief victims of continuing societal violence.

Harmful Traditional Practices.—FGM was widespread throughout the country. As many as 98 percent of women and girls had undergone FGM; the majority were subjected to infibulation, the most severe form of FGM. In Somaliland FGM is illegal, but the law was not enforced. International and local NGOs ran education awareness programs on the dangers of FGM, but there were no reliable statistics to measure the success of these programs. On December 13, Puntland's president signed a bill into law that outlawed female circumcision with the exception of "Sunna circumcision," which consists of the removal of the prepuce (retractable fold of skin) and/or the tip of the clitoris.

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.

Child Marriage.—Child marriage was prevalent. The minimum legal age for marriage was 15. However, in rural areas parents often married off their daughters as young as 12. In areas under al-Shabaab control, al-Shabaab arranged marriages between their soldiers and young girls and used the lure of marriage as a recruitment tool.

Sexual Exploitation of Children.—Child prostitution was illegal in all regions. In al-Shabaab areas the penalty was flogging or even death by stoning. There is no formal statutory rape law or minimum age for consensual sex. Child pornography is not expressly prohibited. Sexual exploitation of children occurred. For example, girls may have been subject to forced prostitution in Garowe, and girls were also reportedly placed in pirates' homes to be exploited in sexual servitude.

Child Soldiers.—The use of child soldiers was a problem (see section 1.g.).

Displaced Children.—There was a large population of IDPs and children who live and work on the street (see section 2.d.).

Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

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

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—Neither the TFC, nor the Somaliland constitution, nor the Puntland interim constitution specifically addresses discrimination on the basis of intellectual or physical disabilities, although they discuss support and/or protection for persons with disabilities more broadly. Under the TFC the state is responsible for the welfare of persons with disabilities, along with orphans, widows, war heroes, and the elderly. According to the Somaliland constitution, 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 persons with mental disabilities. The Puntland interim constitution safeguards and advocates for the rights of orphans, persons with disabilities, and whoever needs the protection of the law. There are no laws to ensure building access for disabled persons.

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 and reported numerous cases of discrimination. 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. 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, Faqayaqub, and Gabooye. Inter-marriage between minority groups and mainstream clans was restricted by custom. Minority groups, often lacking armed militias, 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.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws criminalizing homosexual acts. Sexual orientation was considered a taboo topic, and there was 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 parents also suffered discrimination, which hindered prevention efforts and access to services.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The TFC grants workers the right to form and belong to unions and to strike. The Puntland interim constitution and the Somaliland constitution also protect workers' freedom of association, although the former limits the right to strike and the latter does not specifically mention the right to strike. The Somaliland constitution permits collective bargaining; collective bargaining is not addressed in the TFC or Puntland interim constitution. The TFC, Puntland interim constitution, and Somaliland constitution do not address antiunion discrimination or the reinstatement of workers fired for union activity, although the TFC states that "no worker shall be discriminated."

The TFG, Somaliland, and Puntland authorities generally respected the right to belong to unions, although one instance was reported in which Somaliland police arrested a union leader. There were no reported strikes during the year. Collective bargaining was not usually employed. Worker organizations were independent of government and political parties.

On December 7, Somaliland forces arrested and briefly detained Hassan Mohamed Yusuf, chairman of the Somaliland Journalist Association. Members of the Association linked Yusuf's arrest and the defamation charges subsequently filed to the organization's condemnation of the Somaliland attorney general's decision to suspend temporarily the registration of new private media houses.

There were no reports of antiunion discrimination by employers in practice. However, union members were targets of violence, threats, and arbitrary arrest and detention by authorities and al-Shabaab in all regions of Somalia.

b. Prohibition of Forced or Compulsory Labor.—The pre-1991 penal code and the TFC prohibit all forms of forced and compulsory labor. However, TFG authorities lacked the capacity to enforce these laws, and forced labor occurred. Children and individuals from minority clans were reportedly used as porters in the khat trade as well as in farming and animal herding. The use of child soldiers was a problem (see section 1.g.). Al-Shabaab also forced persons in al-Shabaab-controlled camps to move to the countryside, reportedly to raise cash crops for al-Shabaab.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—It was unclear whether there was a minimum age for employment. The pre-1991 labor code prohibits child labor, provides a legal minimum age of 15 for most employment, prescribes different minimum ages for certain hazardous activities, and prohibits those under 18 from night work in the industrial, commercial, and agricultural sectors apart from that which engages family members only. However, the 2004 TFC states that the government shall establish by law the minimum age. The Somaliland Private Sector Act states that children younger than 18, if employed, must be given easy tasks which are not damaging to their health or mind.

Child labor was widespread. Recruitment and use of child soldiers was a problem (see section 1.g.). Young persons were commonly 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 even higher.

The TFG Ministries of Labor, and Social Affairs, Gender and Family Affairs are responsible for enforcing child labor laws. In Somaliland and Puntland, respectively, the Ministry of Family and Social Development and the Ministry of Labor, Youth, and Sports are responsible for such enforcement. In practice, however, none of these ministries enforced child labor laws.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—There was no national minimum wage. During the year high inflation, continued insecurity, and other factors significantly decreased the standard of living in all areas of the country.

Although the TFC and the Somaliland constitution both include provisions for acceptable working conditions, there was no organized effort to monitor working conditions.

In Somaliland a standard workweek is 48 hours over five or six days. For intermittent work, the maximum amount an employee can work is 10 hours a day for six days a week. Employees are entitled to one day of rest a week (usually Friday) and one month of paid annual leave in addition to 12 public holidays. Employees are entitled to 25 percent of their remuneration when they work two overtime hours per day, which cannot exceed 48 hours of overtime per month. There was no information on the existence or status of foreign or migrant workers in the country.

In practice wages and working conditions were established largely on the basis of ad hoc arrangements based on supply, demand, and the influence of a worker's clan.

SOUTH AFRICA

EXECUTIVE SUMMARY

South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the president and the parliament. In 2009 the country held a largely free and fair election in which the ruling African National Congress (ANC) won 65.9 percent of the vote and 264 of 400 seats in the National Assembly, which

then elected ANC President Jacob Zuma as the country's president. Security forces reported to civilian authorities.

Principal human rights problems included police use of lethal and excessive force, including torture, against suspects and detainees, which resulted in deaths and injuries; vigilante and mob violence; and prison overcrowding and abuse of prisoners, including beatings and rape by prison guards.

Other human rights problems included arbitrary arrest; lengthy delays in trials and prolonged pretrial detention; forcible dispersal of demonstrations; pervasive violence against women and children; 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.

The government investigated and prosecuted officials who committed abuses, but there were numerous reports of impunity.

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 and excessive force, including torture, toward suspects and detainees resulted in numerous deaths and injuries. Investigations into some of the killings committed during the year were ongoing, and some perpetrators had been punished by year's end.

The country had a high crime rate, and criminals often were better armed than police. In 2009 then deputy police minister Fikile Mbalula called for changes to the Criminal Procedures Code to clarify and extend rules governing police use of deadly force in pursuing suspects. Media and civil society groups criticized the change as a police "shoot to kill" policy; President Zuma denied the charge and attributed the use of excessive force to a lack of training and resources.

On July 11, ANC eThekweni regional leader Sbu Sibiya was shot dead outside his home after returning from work. The South African Police Service (SAPS) was not able to determine a clear motive and did not rule out a political motivation. On September 9, police arrested Xolani Zulu in connection with the murder of Sibiya. SAPS officers killed another suspect, Zamani Sikhane, while they attempted to apprehend him. On December 13, Zulu was released on bail. The trial was ongoing at year's end.

According to the governmental Independent Complaints Directorate (ICD), a constitutionally mandated body significantly strengthened since 2010 through increased budget and staff, there were 257 deaths in police custody (not including prisons) and 540 deaths as a result of other police action from April 2010 through March 2011. The total of 797 reported deaths was a 7 percent decrease from the 860 reported deaths for the same period in 2010. According to the ICD, of the 257 deaths in police custody, 48 were considered deaths from unnatural causes, and police officials were implicated in eight of those cases.

In November 2010 Riaan Velloen died while in detention at Florida police station in Johannesburg after being arrested for driving while intoxicated. Friends and family accused the police of beating him to death. According to a May news report by ICD investigators, the SAPS members allegedly responsible for the murder were sent for corrective counseling after being found guilty in a departmental hearing. According to the ICD, the case was later closed.

In July 2010 Pretoria police officers shot and killed unarmed sound engineer Nkosinathi Ntuli after he allegedly drove headlong into oncoming traffic, narrowly avoiding crashing into several police officers and other motorists. Ntuli allegedly drove away from where he had been stopped and dared police to shoot him, after which police fired six shots at his vehicle. Captain Rosina Mabena, Sergeant Lillian Tlhapi, Sergeant Jaco Ngobeni, and warrant officer Enoch Makgamatha were accused of murder and attempted murder and denied bail. After a successful appeal to the North Gauteng High Court, and after agreeing to relinquish their passports, the four were each granted bail of 3,000 rand (\$371). The trial was ongoing.

On February 22, the ICD, exercising its police oversight authority, arrested warrant officer Abel Baloyi of SAPS Mokopane on charges of assault with intent to cause grievous bodily harm, common assault, and corruption. In October 2010 Baloyi allegedly assaulted a foreign national working at a small store after taking merchandise without paying. The victim was then arrested on false charges. When the victim filed a complaint, Baloyi and a colleague allegedly coerced him into withdrawing the charges. The ICD took over the investigation, and as a result Baloyi was charged. After his arrest, Baloyi allegedly threatened key witnesses with violence and deportation. On March 28, Baloyi appeared before Mokopane Magistrates' Court for a bail application. The trial was ongoing at year's end.

The trial of police officer Shadrack Malaka, who was charged with killing a three-year-old child in 2009, was postponed to April 2011; Malaka was released on bail of 1,000 rand (\$124). The trial was ongoing at the end of the year.

The 14 police officers from the Bellville South Directorate of the Directorate of Priority Crime Investigation (DPCI), who allegedly beat and whipped to death Sidwell Mkwambi in 2009, were neither suspended nor arrested during the year. Although the ICD passed a recommendation to the director of public prosecutions (DPP) in 2009 stating its investigation produced enough evidence to establish a murder case against the officers, the case was still under consideration by the DPP.

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 tortured, beat, raped, and otherwise abused suspects. According to the 2011 Amnesty International report, corroborated cases of torture included the use of electric shock and suffocation. Police also assaulted detainees with batons, fists, and boot-clad feet. Police torture and physical abuse allegedly occurred during house searches, arrest, interrogation, and detention, and sometimes resulted in death.

During the year the ICD reported a 5 percent increase in the number of reported assaults with the intent to cause grievous bodily harm committed by police; there were 966 cases compared to 920 reported in 2010. The report noted an increase in the number of allegations of torture cases from five to 41. Suspects in several cases were interrogated and assaulted while held, without any record being made of their arrest. Officers convicted of this charge were given sentences ranging from verbal and written warnings to fines and dismissal from service. The report stipulated that 501 recommendations for prosecution were made to the DPP and that 59 SAPS members received convictions for a range of crimes.

The ICD also reported 46 complaints of rape committed by police compared with 24 complaints in 2010.

On January 25, SAPS and Metro Police members arrested Nigerian-born Chinenye Jehu Onuegbu at his home. Onuegbu was not immediately charged and was transported to the Midrand police station. Onuegbu claims that during his two-day incarceration there, he was subjected to torture by five SAPS officers dressed in plain clothes; electrodes were attached to his ears and he received electric shocks several times. On January 27, Onuegbu was charged with theft but was able to obtain bail. Onuegbu sued Minister of Police Nathi Mthethwa; his lawsuit was ongoing.

In May 2010 Zipho Richard Ndlovu claimed he was detained by two police officers at his workplace and taken to the Midrand police station, where he was tortured for allegedly participating in a robbery. Ndlovu claimed the two officers trussed him with a plank under his knees, put a bag over his head, and attached electrodes to his earlobes. Ndlovu sued the police for torture. His case was reported to the ICD and was ongoing.

Incidents of police harassment of foreigners continued, particularly during coordinated police raids in areas where foreign nationals resided. In a 2010 report to the Portfolio Committee on Police, the Consortium for Refugees and Migrants in South Africa asserted that police confiscated the legal documentation of foreign nationals, threatened them with arrest on spurious charges, and forced them to pay bribes to be released.

Some state hospitals routinely refused emergency treatment to indigent foreigners, despite regulations requiring that hospitals provide such treatment. On August 4, a judge in the North Gauteng High Court ordered the Steve Biko Hospital, located in the capital city of Pretoria, to renew treatment for an undocumented four-year-old Zimbabwean girl with brain cancer. The hospital had ceased to treat the girl, and representatives told her father that they would not begin again unless he presented legal immigration papers or paid a 30,000 rand (\$3,713) fee.

Prison and Detention Center Conditions.—The majority of the 249 operational prisons did not meet international standards and did not always meet the country's minimum legal requirements. The Judicial Inspectorate of Correctional Services (JICS) received 2,276 complaints of assaults on prisoners by correctional officers for April 2010 through March 2011, including physical and sexual abuse by both prison officials and prisoners. Some detainees awaiting trial reportedly contracted HIV/AIDS through rape. According to the JICS report, there were 879 prison deaths during the reporting period. Of these, 831 were from natural causes, including HIV/AIDS; the remaining deaths were the result of suicides, assaults, or accidents.

For example, on August 27, Christopher Lockyer was arrested by SAPS officers of the Douglasdale Police Station for allegedly being drunk in public. An hour after his arrest, Lockyer was found hanging in a holding cell at the police station. Closed

circuit television footage showed that Lockyer had hung himself. SAPS members attempted to resuscitate Lockyer without success. This was the second suicide reported in the Douglasdale Police Station within two months. The ICD opened an investigation into the matter. There were no further developments at year's end.

On July 12, six prison officials using an electrified riot allegedly tortured Jonas Makhufola. The incident came to light after an audio recording was released to the media. There were reports the incident is not isolated but that "the practice had been going on for some time."

The JICS reported there were 160,545 prisoners in facilities designed to hold 118,154. In a report to the parliament in October 2010, inspecting judge Deon van Zyl reported that 18 prisons were critically overcrowded, some by as much as 254 percent, such as King William's Town Prison, while others held less than their capacity, such as Barkley West, which was at 22 percent of capacity. Of the 160,545 prisoners, 3,750 were female and 1 percent were below the age of 18. Due to severe overcrowding, many prisoners had less than 13 square feet in which to eat, sleep, and spend 23 hours a day. The nominal allotment of floor space per prisoner was approximately 36 square feet for communal space and 60 square feet for single cells, although this standard was seldom met.

Prisoners were provided with potable water; however, the JICS reported occasional fresh water shortages in the Thohoyandou, Kutama Sinthumule, and Makhado facilities. The JICS reported that all water shortage problems had been addressed and corrected by April.

The government took measures to reduce overcrowding by transferring prisoners to facilities that were not at capacity. The JICS reported the prisoner transfer program resulted in a reduction in the total number of prisons rated as "critically overcrowded" (occupied at more than 200 percent capacity). During the year there were 18 critically overcrowded prisons, down from 45 in 2005.

The JICS reported that the Department of Correctional Services (DCS) improved the quality of its investigations and reporting on the circumstances surrounding the deaths of inmates. The department now requires that reporting forms be fully and properly filled out by medical officers. The JICS stated that these requirements raise the quality of initial reporting done by prison wardens, and lessen the likelihood that a death caused by neglect will be reported as "natural."

Conditions for female prisoners were not reported to be worse than those for male prisoners.

The 2010-11 DCS annual report indicated 19.1 percent of sentenced prisoners who were tested were HIV-positive. There were 21 health centers within prisons dispensing antiretroviral (ARV) therapy to 9 percent of correctional facilities during the year. Correctional facilities without such centers were supposed to utilize public clinics for ARV therapy; however, this seldom occurred. There were no HIV screening programs on intake or discharge of prisoners, but the DCS conducted HIV prevention programs in prisons, including a condom distribution program and awareness sessions. During the year nongovernmental organizations (NGOs) such as The Aurum Institute and New Start supported correctional centers with HIV treatment and prevention services such as HIV testing and ARV therapy. The DCS annual report noted that 6,422 HIV awareness sessions were held in prisons throughout the country during the year. The JICS reported that the number of complaints filed by inmates regarding health care has gone up 255 percent in recent years. In 2007 there were 11,227 complaints, and in 2010 there were 39,868.

All detainees in police cells were provided with felt mattresses and blankets, and most cells had toilets and basins, but there were seldom chairs, and cells often had inadequate light and ventilation.

In its 2010 report *Monitoring Immigration Detention in South Africa*, the local NGO Lawyers for Human Rights (LHR) indicated the main abuses perpetrated in the Lindela Repatriation Centre, the largest detention facility for undocumented immigrants, included physical and verbal abuse, corruption and bribery, insufficient food, lack of reading and writing materials, lack of access to recreational facilities or telephones, lack of access to and poor quality of medical care, indefinite detention without judicial review, and detention of asylum seekers.

Juvenile detainees were held in separate detention facilities; however, children up to three years old were sometimes held with their mothers. In 2010 the DCS launched the Imbeleko program to provide a home-like environment for children below the age of two and to place children above that age in facilities with sustainable family structures. Pretrial detainees generally were held with convicted prisoners. In 2010 the government took measures mandated in the Child Justice Act of 2008 to lower the number of children held in detention. These measures included diverting incarcerated children to secure care facilities, and increasing access to adequate legal representation. Between May and October 2010, the government re-

duced the number of children being held in detention from 1,155 to 922. Civil society organizations asserted the government needed to better capture accurate statistics on child rights issues so they could be properly addressed.

Prisoners and detainees had reasonable access to visitors and were permitted religious observances. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions.

The DCS did not have an ombudsman to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate inhumane overcrowding; addressing the status and circumstances of confinement of juvenile offenders; or improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners did not serve beyond maximum sentences for charged offenses.

The JICS, an independent office under the inspecting judge, appoints an independent visitor for each correctional center to monitor prison conditions. In 2010 the independent visitors collectively recorded 8,346 visits to the 249 prisons, during which time they conducted private consultations with 78,883 inmates. Visits were recorded in official registers kept at all correctional centers and were verified on a monthly basis. Independent visitors submitted monthly reports to the inspecting judge, listing the number and duration of visits, the number of inmates interviewed, and the number and nature of inmate complaints received.

The government permitted some independent monitoring of prison conditions, including visits by human rights organizations to some facilities. Human rights organizations were allowed to visit prisoners if they had a registered attorney acting as legal representative for the prisoner; organizations could also request permission to visit prisons to conduct specific research. The government permitted International Committee of the Red Cross visits, but none were conducted during the year.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, security forces arbitrarily arrested Zimbabwean and Somali migrants and trafficking victims during the year.

On November 16, SAPS police officers arrested three Somali shopkeepers in Ivory Park, Gauteng. The shopkeepers reported that they presented their residency permits, but police refused to acknowledge them and told them they were charged with not possessing proper documentation. The shopkeepers claimed they were beaten while in custody and were forced to sign a declaration that they were selling fraudulent merchandise. The merchandise in their shop was then seized, and reportedly included more than 200,000 rand (\$24,752) of mobile phone airtime credits. The shopkeepers were later released without being formally charged, and most of their merchandise was returned.

Role of the Police and Security Apparatus.—The South African Police Service (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. The Directorate for Priority Crime Investigation, also known as “the Hawks,” coordinates efforts against organized crime and official corruption. Despite continued efforts to professionalize, SAPS remained understaffed, ill equipped, and poorly trained. Law enforcement activities remained focused on wealthy residential and business areas.

From September 2010 through August 2011, the ICD received 5,869 complaints against the police, including allegations of killings, assaults, and other misconduct, compared with 6,377 complaints in the previous reporting period. The ICD noted 59 convictions of police officers for criminal conduct in the latest reporting period. The ICD made 501 recommendations to the DPP on criminal matters and 2,261 recommendations to SAPS management with regard to misconduct offenses, such as unauthorized use of a state vehicle, leaking information, or dereliction of duty.

SAPS provided annual training in corruption prevention, human rights, and ethics; it also provided officers with access to social workers, psychologists, and chaplains.

Arrest Procedures and Treatment While in Detention.—The law requires arrest warrants based on sufficient evidence and issued by a magistrate or judge and requires that all detainees be informed promptly of the reasons for their detention, 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. The government often did not respect 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.

Human rights groups, judges, and judicial scholars continued to express concern about the Criminal Procedure Second Amendment Act, which mandates minimum jail sentences, allows pretrial detention of children, and prohibits bail in certain cases.

Arbitrary Arrest.—There were cases of arbitrary arrest during the year.

LHR reported that security forces continued to arbitrarily arrest Zimbabwean migrants, even those with documentation. LHR and other NGOs also reported that victims of human trafficking were arbitrarily arrested if not in possession of appropriate documents detailing their immigration status.

In 2009, 40 local tavern owners in Durban ransacked and demolished the offices of Abahlali base Mjondolo (AbM), an organization that advocates for the rights of those who live in informal settlements; the AbM had been fighting the KwaZulu-Natal provincial government's attempts at forcibly removing inhabitants and demolishing the Kennedy Road informal settlement. Over two days the mob, allegedly composed of ANC cronies, also demolished the homes of several AbM members, reportedly in the presence of local police. Two persons were killed. Police subsequently arrested 13 AbM members, 12 of whom were charged with a range of crimes, including property destruction, public violence, and murder; one of the 13 was released without charge. None of the 40 tavern owners who demolished the AbM offices and homes were arrested. Critics charged that the government arrested the AbM members to prevent them from returning to the Kennedy Road settlement. The "Kennedy 12" were all acquitted of all charges on July 18 in the Durban Regional Court.

Pretrial Detention.—Lengthy pretrial detention was a problem, and pretrial detainees constituted approximately 30 percent of the total prison population, or 47,880 inmates. The JICS report indicated that approximately 48 percent (23,032) of all remand detainees were held for a period exceeding three months. In 2010 the DCS signed a bail protocol with the ministers of police and justice to allow inmates who committed petty crimes and could not afford bail to be diverted through alternative programs.

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, more than one million of the estimated two million criminal cases reported annually were never resolved. According to the group, a number of problems contributed to the 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. The government operated 63 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 legal counsel provided and funded by the state when "substantial injustice would otherwise result"; however, this right was limited due to a general lack of information regarding rights to legal representation and the government's inability to pay for such services. 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 law provides for an automatic review of all prison sentences longer than three months.

Political Prisoners and Detainees.—The Inkatha Freedom Party (IFP) claimed 384 of its members had been imprisoned since 1994 for political reasons, although inter-

national human rights organizations did not list such persons as political prisoners or detainees. In 2010 President Zuma announced he had considered and rejected 230 of the 384 IFP applications for pardon. The presidency was considering the remaining pardon requests on a case-by-case basis.

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. There also was access to the courts to bring lawsuits seeking damages for, or cessation of, a human rights violation. The African Court on Human and Peoples' Rights, in partnership with the government, conducted a sensitization visit on October 25 to raise public awareness and encourage appeals to or other contact with the court.

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 cell phones, the Internet, and e mail, for criminal investigations. However, opposition parties and many civil society groups opposed such laws. In 2009 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 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 also can 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 enabled 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 farm workers generally were unaware of their right to legal counsel during eviction proceedings.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of 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.

Freedom of Speech.—Individuals, organizations, and sectors of civil society were generally able to criticize the government openly without fear of reprisal.

Freedom of Press.—The independent media were active and expressed a wide variety of views without restriction.

The Film and Publications Board reviews written and graphic materials published in, or imported into, the country. The board has 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 government efforts to extend the board's authority to newspapers and broadcast media.

Although journalists were generally able to criticize the government openly without fear of reprisal, many journalists expressed concern in reports, columns, editorials, and public forums that the government increased its efforts during the year to control the media.

The South African Broadcasting Corporation (SABC), a government-funded television and radio network, appointed individuals to key positions as a reward for their political allegiance.

According to the South African Advertising Research Foundation, print media reached 48 percent of the population. Despite the number and diversity of publications, the concentration of media ownership in the hands of a few large media groups drew criticism from the government and some political parties, who complained that print media did not always adequately cover their points of view. The majority of citizens received news through radio broadcasts from the 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 programs in the country's 11 official languages, with its signal received by an estimated 92 percent of citizens.

Low power, nonprofit community radio stations continued to play an important role in informing the mostly rural public, although they often had difficulty producing adequate content and maintaining quality staff. Government broadcast regulators regularly issued new community radio licenses and withdrew others for non-compliance with the terms of issuance.

Violence and Harassment.—Mzilikazi Wa-Afrika, a prominent investigative reporter, claimed that police harassed him on multiple occasions starting in August 2010 when he was arrested and charged with fraud and defeating the ends of justice for possessing an allegedly fraudulent resignation letter from the Mpumalanga Province premier. The charges were dismissed after two days for lack of evidence and he was released. Journalists and civil society organizations alleged the arrest was designed by SAPS to intimidate, since the arrest occurred shortly after Wa-Afrika published details of irregularities in the signing of a lease for a new, 500 million rand (\$61.9 million) police headquarters. In July he submitted a sworn statement that in December 2010 he had been pulled out of his car by two men wearing police uniforms, who then pointed a gun at his head before pushing him to the ground and driving away. In October Faith Radebe, the inspector general of intelligence, confirmed that the government was intercepting Wa-Afrika's telephone calls, as well as those of journalist Stephen Hofstatter, for reasons "pertaining to the allegations of crime, and not for the reason that he is a journalist."

Censorship or Content Restrictions.—Government and political officials often criticized the media for lack of professionalism and reacted sharply to media criticism, often accusing black journalists of disloyalty and white journalists of racism. Some journalists believed the government's sensitivity to criticism resulted in media self-censorship.

Libel Laws/National Security.—Journalists and civil society organizations expressed great concern that proposed legislation could greatly restrict freedom of the press through the use of national security laws targeting access to and possession of information.

Internet Freedom.—There were no government restrictions on access to the Internet; however, the law authorizes state monitoring of telecommunications systems, including the Internet and e mail, for criminal investigation. In 2009 the Regulation of Interception of Communications and Provision of Communication-Related Information Act came into effect, requiring all service providers to register on secure databases the identities, physical addresses, and telephone numbers of new and existing customers. Despite the law, there were no 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.

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 illegal, violent demonstrations in Gauteng, North West, Western Cape, Mpumalanga, and KwaZulu-Natal provinces. Police used batons and rubber bullets to control the demonstrations and quell the violence; several injuries were reported. For example, on April 13, residents of Mqheleng Township near Ficksburg in the Free State demonstrated to protest poor service delivery. Police used rubber bullets and a water cannon to disperse the protesters. During the protest, SAPS officers shot Congress of the People member Andries Tatane at close range with a rubber bullet when Tatane scuffled with them during the protest. He died minutes later. On April 17, six members of SAPS were arrested; two were charged with murder and four with assault. Two other SAPS members were later charged. The ICD conducted an investigation and recommended the case to the DPP. The trial was postponed twice and at year's end was scheduled for April 2012 in the Ficksburg Regional Court.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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 in practice. The government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian

organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. However, refugee advocacy groups criticized the government's processes for asylum and refugee status determination, citing large backlogs of cases along with its susceptibility to corruption and abuse.

Protection of Refugees.—Access to Asylum.—The law provides for the granting of asylum and refugee status, and the government has established a system for providing protection to refugees. In practice the government generally provided protection against the expulsion or return of those recognized as 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 policy allows for freedom of movement of refugees and asylum seekers with guarantees for the right to work, study, and access social services. Many NGOs criticized the government's commitment to these rights and actual implementation as inadequate.

Nonrefoulement.—Observers reported there was a large increase in the number of asylum seekers who were refused access to South African territory during the reporting period. They reported that the government was now refusing asylum seekers who could not show positive identification and may also be denying asylum seekers who passed through a "safe third country." Advocates worried these practices could result in refoulement if they were not coordinated with other countries, or may lead to an increase in illegal border crossings.

In October the Department of Home Affairs ended a moratorium on deportations of undocumented Zimbabwean nationals, which began in 2009. The International Organization for Migration (IOM) reported that during October and November the South African government deported approximately 5,000 of the estimated one to three million Zimbabweans living in South Africa. Press reports alleged that Zimbabweans with legal residency status had been arrested and deported along with undocumented migrants. Refugee and migrant advocacy groups criticized the government for beginning the deportations before it had finished issuing residency permits to Zimbabweans who had complied with a government program to register previously undocumented migrants, and stated that this increased the risk of legal residents being deported.

Refugee Abuse.—Refugee advocacy organizations charged that police and immigration officials abused refugees and asylum seekers and forcefully repatriated some asylum seekers, particularly Zimbabweans.

In October the government resumed deportations of Zimbabweans found to be in the country without legal documentation, with at least 5,000 returned by year's end. Some Zimbabweans possessing legal documentation were reportedly included with those returned.

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 adopted anticorruption programs and punished officials or contracted security officers found to be accepting bribes.

Societal attacks on refugees and migrants occurred during the year.

On October 13, a group of rioters in Atteridgeville, North West Province, gathered near a Somali shop with its owner inside and began to throw rocks at it. In response, the shop owner fired a gun and killed a bystander. Following the shooting, a larger riot formed and looted nine other Somali-owned shops in the area. The police arrested two of the rioters for theft and charged the shop owner with murder. The cases were ongoing at year's end.

Access to Basic Services.—Although the law provides for access to basic services, education for refugee children, and access to police and courts, NGOs such as Human Rights Watch (HRW) found that asylum seekers, migrants, and refugees faced discrimination at health-care facilities and by law enforcement representatives.

The government cooperated with the UNHCR and IOM to address issues relating to the discrimination and exclusion of migrants and refugees from the health-care system. The issue was most acute at health-care facilities with scarce financial and human resources.

The South African National AIDS Council (SANAC) is working to include refugee and migrant health issues into the National Strategic Plan for HIV and AIDS. For example, the Musina Municipality in Limpopo Province is working with the IOM to respond to emerging health challenges faced by Zimbabwean migrants.

Temporary Protection.—The government also offered temporary protection to some individuals who may not have qualified 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, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation.—Recent Elections.—In 2009 the country held a largely free and fair national election in which the ruling ANC won 65.9 percent of the vote and 264 of 400 seats in the National Assembly, the dominant lower chamber of parliament. The parliament then elected ANC President Jacob Zuma as the country's next president. The leading opposition party, the Democratic Alliance (DA), won 67 parliamentary seats, the Congress of the People (COPE) won 30, and the IFP won 18. The remaining 39 seats in the 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, the DA 10, and COPE seven. 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.

Electoral violence occurred. In KwaZulu-Natal Province, for example, there were 162 violent incidents in the six weeks prior to the elections, including 25 cases of intimidation, four killings, four attempted killings, one case of arson, and one case of intimidation with a firearm. Other reported cases of election-related violence included 62 in the Northern Cape and 30 in Limpopo. There also were reports of electoral irregularities, including attempted vote rigging.

Participation of Women and Minorities.—Women held 14 of 34 ministerial positions, including the ministerial portfolios of foreign affairs and defense, and 14 of 28 deputy ministerial positions. There were 184 women in the National Assembly and 15 women among the 54 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 126 members of minorities (non-African citizens) in the National Assembly. There were 17 minority members among the 54 permanent members of the NCOP. The cabinet included 17 members of minority groups.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government continued efforts to curb corruption; however, the World Bank's most recent Worldwide Governance Indicators reflected that corruption remained a problem. In August 2010 President Zuma announced the start of an investigation by the Special Investigating Unit (SIU) of five ministries, two provincial departments, and the South African Social Security Agency. The investigation was ongoing at year's end.

In 2010 the Department of Public Works signed a controversial 500 million rand (\$61.9 million) lease agreement to house the new South African Police Services Headquarters. Allegations of improper procurement procedure involving police commissioner Bheki Cele and Minister of Public Works Gwen Mahlangu-Nkabinde arose and prompted the public protector to report the incident. The initial report of the probe indicated that both Cele and Mahlangu-Nkabinde were responsible for irregularities with the lease agreement. On March 3, SAPS members allegedly looking for evidence related to the controversial lease agreement raided the Cape Town offices of the public protector. Senior SAPS officials condemned the raid and claimed that they did not sanction it. On October 24, President Jacob Zuma replaced Mahlangu-Nkabinde. The public protector accused her of wrongdoing for her role in a lease deal. President Zuma also announced the creation of a board of inquiry to investigate the allegations and suspended Commissioner Cele pending the outcome of the inquiry.

On October 24, the president replaced Minister of Cooperative Governance Sicele Shiceka. The Office of the Public Protector accused Shiceka of spending more than 500,000 rand (\$61,880) on unsanctioned luxury travel, including visits to a girlfriend imprisoned in Switzerland for drug smuggling.

In August 2010 Minister of Human Settlements Tokyo Sexwale announced his department had recovered 44 million rand (\$5.4 million) and arrested 1,910 government officials who were illegally benefitting from housing subsidies. In November 2010 President Zuma signed a proclamation authorizing an SIU investigation into alleged financial irregularities in all 24 municipalities in North West Province; the investigation was ongoing at year's end.

Corruption remained a problem within prisons, although most correctional officials were either suspended or fired following an investigation. According to the

2010-11 DCS annual report, the department conducted 4,074 disciplinary hearings for various offences and dismissed 88 staff members. According to the 2010-11 JICS report, there were 2,646 complaints of corruption during its annual reporting period. At least 10 agencies, including the SIU, the Public Service Commission, the Office of the Public Prosecutor, and the Office of the Auditor General were involved in anticorruption activities.

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. In 2009 the government announced 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.

SIU investigations into the Department of Public Works were ongoing. The SIU was investigating 41 tenders with a total value of three billion rand (\$371 million).

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.

Public officials were subject to financial disclosure laws, and most officials complied, although not always in a timely manner.

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 a formal appeal. If this also fails, the requester may appeal a decision to the High Court, a lengthy and expensive process. The Open Democracy Advice Center continued to report that many requests for information were answered outside the period provided for in the legislation or went unanswered.

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 South African Human Rights Commission (SAHRC), which was created by the government but operates independently, is 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. The SAHRC enjoyed support from the government without interference, and the government reacted positively to SAHRC reports. During the year the SAHRC issued reports on child rights and the effects of mining on surrounding communities, as well as a public guide on using the Access to Information Bill.

U.N. and Other International Bodies.—The government cooperated with international governmental organizations and permitted visits by U.N. representatives and other organizations.

Government Human Rights Bodies.—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 exemplified in gender-based violence and employment inequities often resulted in the denial of these rights in practice.

Women.—Rape and Domestic Violence.—Rape, including spousal rape, is illegal but remained a serious and pervasive problem. Minimum sentencing for rape convictions is 10 years in prison for the first offense, 15 years for the second, and 20 for the third. Under certain circumstances—such as multiple rapes, gang rapes, or the rape of a minor or a person with disabilities—conviction results in a minimum sentence of life imprisonment (25 years), unless substantial and compelling circumstances exist to justify a lesser sentence. Perpetrators with previous rape convictions and perpetrators aware of being HIV-positive at the time of the rape also face a minimum sentence of life imprisonment, unless substantial and compelling circumstances exist to justify a lesser sentence. According to the 2010 11 SAPS annual report, there were 56,272 reported cases of rape and indecent assault during the year and a total of 66,196 reported sexual offense cases; many of the victims were

elderly women. The true incidence of rape was thought to be much higher. According to a 2008 study by SAPS and the Centre for the Study of Violence and Reconciliation, only 4.1 percent of reported rape cases resulted in conviction.

In most cases attackers were friends or family members of the victim, which contributed to a reluctance to press charges. A poor security climate and societal attitudes condoning sexual violence against women contributed to the problem. Studies by the Medical Research Council (MRC) estimated that only 4 to 11 percent of rape victims reported the crime to SAPS. A 2009 Medical Research Council (MRC) report found that more than 25 percent of men interviewed in KwaZulu-Natal and Eastern Cape provinces admitted to committing at least one rape, and more than half of those persons admitted to raping more than one person. In a 2011 study conducted in Gauteng province by the MRC and Gender Links, 37.4 percent of men admitted to having committed one or more rapes.

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.

The government operated six dedicated sexual offenses courts throughout the country that included designated facilities such as waiting rooms, court preparation rooms, and closed caption television rooms for victims. 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. Critics also charged that support for dedicated sexual offenses courts had eroded and that some of the previously dedicated courts were hearing other types of cases. As a result, sexual offense cases took longer to resolve, and conviction rates—which were previously the highest in the country—had decreased. However, the National Prosecuting Authority's Sexual Offenses and Community Affairs Unit (SOCA) reported that the dedicated sexual offenses courts functioned at a 38 percent higher conviction rate in comparison to non-specialized courts during the year.

SOCA operated 45 Thuthuzela Care Centers (TCC) that specialized in rape care and streamlined a network of existing investigative, prosecutorial, medical, and psychological services in the hospitals where they were located.

Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking by former partners. The law 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. Penalties for domestic violence include fines and sentences of between two and five years' imprisonment.

According to NGOs, an estimated one in four women was in an abusive relationship, but few reported it. A 2009 report released by the Medical Research Council found that more than two-fifths of men interviewed in KwaZulu-Natal and Eastern Cape provinces had been physically violent toward an intimate partner. In a 2011 report conducted by the MRC in Gauteng Province, more than 50.5 percent of men admitted to being physically violent towards women during their lifetime. TCC counselors also alleged that doctors, police officers, and judges often treated abused women poorly.

The government financed shelters for abused women, but more were needed, particularly in rural areas. The government continued to conduct domestic violence awareness campaigns. In honor of Women's Month, the government hosted numerous events focused on empowering women in business, government, health, sports, and the arts.

Sexual Harassment.—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, 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 complainant presses charges.

Reproductive Rights.—Couples and individuals have the right, and were able in practice, to decide freely 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 the Department of Health (DOH), 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. According to the U.N. Development Program, the maternal mortality ratio was 625 per 100,000 live births. To improve postnatal care, the DOH 2010-11 Annual Report indicated 72 percent of identified maternity facilities implemented the Basic Antenatal Care Program, up from 30 percent during the previous year. During the year 27 percent of women were reviewed within six postpartum days after being discharged from a health facility. Like men, women were diagnosed and treated for sexually transmitted infections, including HIV.

HRW released a report called "Stop Making Excuses" on August 8 that diagnosed shortfalls in maternity care in the country and especially in the Eastern Cape Province. Its research suggested that the country's high maternal mortality rate was due to HIV/AIDS, poor administrative and financial management, poor quality of care, and lack of accountability in the health care system. The report documented alleged cases of neglectful and abusive behavior towards maternity patients by health-care workers, including cases where neglect caused the death of a patient.

HIV/AIDS accounted for 43.7 percent of maternal mortality and 35 percent of deaths of children under age five. During the year the government extended eligibility for antiretroviral (ARV) treatment to all infants less than 12 months old, pregnant women, and persons coinfected with TB, not previously covered, at all government clinics and hospitals. To reduce maternal and infant mortality rates and HIV transmission from mother to newborn to less than 5 percent, the government provided enhanced ARV regimens and postnatal prophylaxis to pregnant women and early treatment for at-risk or HIV-infected infants. During the reporting period, transmission rates fell from 8.5 percent to 3 percent.

Discrimination.—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.

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 (DTI) provided incentive grants to promote the development of small- and medium-size businesses and microenterprises for women, young persons, and persons with disabilities. DTI also operated the Isivande Women's Fund to improve women's access to formal finance in the absence of personal savings and in the face of gender-biased institutions.

According to the annual census covering 2010 conducted by the Businesswomen's Association, the number of women in top leadership positions remained essentially constant. Women held only 21.6 percent of executive-level and 15.8 percent of director-level positions. The Commission for Employment Equity released statistics showing that 63 percent of top managers in private companies were white men, while black women comprised only 3 percent, and Coloured (a heterogeneous, mixed race ethnicity recognized by the government) and Indian women made up only 1 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 Commission for Gender Equality and the Ministry for Women, Children and Persons with Disabilities, and numerous NGOs monitored and promoted women's rights.

Children.—Birth Registration.—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 unregistered foreign nationals. This resulted in lack of access for children to public services such as education, health care, and financial grants.

Education.—The law 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. The law provides for access to education for disadvantaged children (who traditionally are black children) through a uniform system for the organization, governance, and funding of schools. However, public education was fee based and the government did not fully subsidize education. Even when children qualified for fee

exemptions, parents who were poor had difficulty paying for uniforms, books, and supplies. Some children who were enrolled did not attend school. Those not enrolled tended to be children with special needs.

Child Abuse.—There continued to be reports of rape, sexual abuse, sexual harassment, and assaults at school of girls 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.

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 crime continued to impede the delivery of needed services to young victims. According to the 2010-11 SAPS report, 54,225 children were victims of social contact crimes (where the perpetrator and victim were known to each other) or violent crimes between April 2010 and March 2011. Of that total, 906 were killed, 28,128 were sexually assaulted, and 11,018 were assaulted with intention to do grievous bodily harm. Observers believed 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, 25 percent of girls and 20 percent of boys were at risk of being raped before age 16. According to a 2009 report released by Solidarity, the largest independent trade union, 45 percent of all rapes were perpetrated against children, and more than 88 percent of child rapes were never reported to the police.

Child Marriage.—The traditional practice of “ukuthwala,” the forced marriage of girls as young as 12 to adult men, continued in remote villages in the Western Cape, Eastern Cape, and KwaZulu-Natal provinces.

Harmful Traditional Practices.—Ritual circumcision of males, including children, often by medically unqualified practitioners, was still a prevalent initiation tradition in several provinces, particularly in Eastern Cape Province. The practice sometimes resulted in death. 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, while others declared moratoriums on circumcisions in parts of Eastern Cape Province in response to numerous deaths resulting from the practice.

The government conducted a countrywide voluntary medical circumcision campaign, offering free circumcision by qualified medical personnel as an alternative to circumcision by unqualified practitioners. Nevertheless, hospitalizations and penis amputations at the hands of unmonitored practitioners were reported in Eastern Cape Province during the June initiation period, according to press reports. From 2001 through 2007, Eastern Cape Province recorded nearly 2,600 hospital admissions, 156 genital mutilations or amputations, and 232 deaths due to dehydration and infection from unsafe and unsterile procedures. In June Mtshiyelwa Mtshayina Ndoda, a 55-year-old unregistered traditional surgeon who had been arrested several times for operating an illegal initiation school, was again arrested for the offense. Neither this case, nor a pending case of operating an illegal initiation school, had been concluded by year's end.

Sexual Exploitation of Children.—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 judicial discretion to issue more lenient sentences. The country had a low conviction rate for rape and child abuse.

The law criminalizes all consensual sexual activities between minors under the age of 16, and defines sexual activities to include kissing and “petting.” Child rights

advocacy groups complained that this effectively contradicted previous legislation that required the government to provide free contraceptives to minors and could prevent pregnant teens from seeking appropriate medical attention for fear of being criminally charged. They also asserted the law could deter child victims of sexual assault from reporting attacks perpetrated by other minors because, in the event of an acquittal, the victim would technically be considered a criminal for having sex underage.

On August 12, Director of Public Prosecutions Menzi Simelane authorized the prosecution of six students from the Mavalani High School in Limpopo Province on charges of consensual sexual penetration while under the age of 16 years. The students were charged in court but were diverted to social programs in place of a full trial. Five of the accused were boys and one was a pregnant girl.

Penalties for the sexual exploitation of a child include fines and imprisonment of up to 20 years. Some NGOs claimed the country was a destination for child sex tourism. The South African Department of Tourism, Department of Social Development, and Department of Trade and Industry, as well as 50 other tourism industry organizations were signatories to the Tourism Child Protection Code of Conduct, an international agreement endorsed by the U.N. World Tourism Organization designed to provide "increased protection to children from sexual exploitation in travel and tourism." The law prohibits child pornography and provides for penalties including fines and imprisonment of up to 10 years. The Film and Publication Board maintained a Web site and a toll-free hotline during the year to enable the public to report incidents of child pornography.

The high incidence of HIV/AIDS resulted in a large number of child-headed households. A 2009 survey by the Children's Institute at the University of Cape Town estimated that there were 122,000 children living in 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, medical, and legal assistance for children in prostitution and a hotline for victims of child abuse.

AIDS activists alleged that children 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 perpetrators under questioning usually admitted they knew this claim was false.

International Child Abductions.—The country is a party to the 1980 Hague Convention on Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community was estimated to number 75,000 to 80,000 people. There were no reports of serious attacks on Jewish persons or property, and the Jewish Council of Deputies NGO reported a 40 percent drop in the number of anti-Semitic attacks compared to the previous year. There were, however, reports of verbal abuse, hate mail, and distribution of anti-Semitic literature.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination on the basis of physical, sensory, intellectual, and mental disability; however, government and private sector discrimination existed. The law mandates access to buildings for persons with disabilities, but such regulations were rarely enforced, and public awareness of them remained minimal.

There were more than 100,000 students with disabilities in mainstream schools, and the Department of Basic Education allocated part of its budget for assistive devices, material resources, and assistive technology. In a 2010 speech, Minister of Basic Education Angie Motshekga stated eight schools had been converted to full-service, inclusive schools, and 20 more identified for future conversion. The U.N. Educational, Scientific and Cultural Organization reported during the year that children with disabilities between the ages of seven and 15 were 20 percent less likely to attend school than children without disabilities.

The law prohibits harassment of persons with disabilities and, in conjunction with the Employment Equity Act, 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 only an estimated 0.8 percent of the workforce. The Ministry for Women, Children, and Persons with Disabilities launched a Web site linking persons with disabilities with civil service job information, but the government did not meet its target of 2 percent of government positions occupied by persons with disabilities.

The law does not allow persons identified by the courts as mentally disabled to vote. The Mental Health Information Center of South Africa noted that 20 percent of the population suffered from a mental illness that significantly impairs living.

The Ministry for Women, Children, and Persons with Disabilities is charged with protecting the rights of persons with disabilities, enhancing their development opportunities, and monitoring government departments to ensure that disability issues are addressed in policies, hiring practices, building plans, and other matters. All provincial and local governments also have offices charged with protecting the rights of persons with disabilities, and there are representatives advocating for persons with disabilities at the Commission for Gender Equality and the SAHRC. NGOs also advocated for the rights of persons with specific disabilities such as blindness.

At year's end there were 16 persons with disabilities with seats in the upper and lower houses of parliament.

National/Racial/Ethnic Minorities.—Random xenophobic attacks on foreign African migrants and ethnic minorities occurred and sometimes resulted in death, injury, and displacement. Citizens who blamed immigrants for job and housing losses and increasing levels of crime generally perpetrated such attacks. The government sometimes responded quickly and decisively to xenophobic incidents, sending police and soldiers into affected communities to quell violence and restore order. However, civil society organizations criticized the government for failing to address the root causes of the violence, for not facilitating opportunities for conflict resolution in affected communities, and for failing to deter such attacks by vigorous investigation and prosecution of participants.

For example, in July 2010 citizens attacked foreign-owned spaza shops (small retail enterprises) and looted homes in Mbekweni, Paarl East, Wellington, and Nyanga in Western Cape Province. Approximately 70 foreign nationals sought refuge at the Mbekweni police station in Paarl, 22 at the Wellington police station, and about 100 at a campsite outside Wellington. In response, the government deployed police and SANDF troops to townships in Western Cape Province with instructions to take harsh action to stamp out xenophobic threats. Police Minister Nathia Mthethwa and Defense Minister Lindiwe Sisulu, who flew to the province to survey the situation, determined that criminals using xenophobia to destabilize communities had orchestrated the attacks. All those who had fled their homes had returned to their communities or moved elsewhere by year's end. Police arrested seven men in the Nyanga area and charged them with public violence; there were no further developments.

In February 2010 the SAHRC released its report on the 2008 xenophobic attacks against foreign African migrants and ethnic minorities, which resulted in 62 deaths, injuries to 670 persons, and the displacement of 80,000 migrants, most of whom had reintegrated into their communities by the end of 2009 in Western Cape, Gauteng, and KwaZulu-Natal provinces. The report made more than 100 recommendations, including the development of an early warning system, better protection of foreign nationals, and prosecution of perpetrators. Field studies by the Institute for Security Studies and the Forced Migration Studies Program (FMSP) implicated local ward politicians in orchestrating attacks to gain political influence with residents, although no related arrests were made. According to the Department of Justice and Constitutional Development, more than 1,000 suspects were identified, resulting in the referral of 597 cases to court; 109 suspects were charged and the conviction rate was 16 percent. NGOs claimed none of the arrests or prosecutions was for murder, but the FMSP reported one suspect was convicted of murder and sentenced to 15 years in prison.

The continued killings of mostly white farm owners by black assailants sustained concern among white farmers that they were being targeted for racial and political reasons. There also were reports that white employers abused and killed black farm laborers and complaints that white employers received preferential treatment from the authorities. The Agricultural Union of South Africa called for the minister of police to keep closer track of "farm violence" statistics and issued its own report on April 1, alleging there had been 16 attacks resulting in eight deaths during the period from January 1 to March 31.

On February 2, Deon van Staden, 51, and Babs Strecker, 73, were found murdered in their home in Bethanie, North West Province. They had been stabbed multiple times and beaten with a shovel. The perpetrators fled with van Staden's truck.

In April 2010 Eugene Terre'Blanche, leader of the extremist white right-wing Afrikaner Resistance Movement, was bludgeoned to death at his farm near Ventersdorp, North West Province. Two of Terre'Blanche's farm workers, Chris Mahlangu and a 15-year-old boy, later contacted police and claimed to have committed the crime. In April 2010 the two were charged with murder and the trial was ongoing at year's end.

The law requires employers with 50 or more employees to ensure that previously disadvantaged groups, legally defined as “Blacks” (including “Africans,” “Coloured,” and “Asians” and collectively constituting more than 90 percent of the population) are represented adequately at all levels of the workforce. Notwithstanding anti-discrimination legislation, however, the DOL’s 2010-11 Employment Equity Analysis reported that Blacks remained underrepresented, particularly at the professional and managerial levels. According to the report, Blacks held only 13.4 percent of top management positions, 17.6 percent of senior management positions and approximately 31 percent of all professional positions. However, the report also indicated that Black representation in the skilled labor sector had increased to 51 percent from 39.2 percent in 2006. Black women remained by far the most disadvantaged group in number and quality of management or skilled jobs.

Indigenous People.—The NGO Working Group of Indigenous Minorities in Southern Africa estimated there were 6,000 indigenous San in the country, some of whom worked as farmers or as farm laborers. 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 formal participation in government and the economy 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. There were no reports of official mistreatment or discrimination. However, in its annual Social Attitudes Survey released in 2008, the Human Sciences Research Council found widespread public intolerance of same-sex sexual activity, with 80 percent of respondents believing sex between two persons of the same gender to be “wrong” and “un-African.”

Rights groups reported that the LGBT community was subject to societal abuses including hate crimes, gender-based violence targeting lesbians, and killings. The Triangle Project, the country’s largest lesbian and gay rights organization, reported it received each week in Cape Town on average 10 new cases of lesbians being targeted for “corrective” rape, in which men raped lesbians to punish them for being lesbian and to attempt to change their sexual orientation.

A December HRW report highlighted violence and discrimination faced by lesbians and transgender men. The report documented cases of “secondary victimization” of lesbian victims, including cases where police harassed, ridiculed, and assaulted victims of homophobic violence when they reported crimes.

Noxolo Nogwaza, a 24-year-old lesbian activist, was raped and murdered on April 24 in Kwa-Thema township after an altercation at a bar. Her body was discovered in an alley after she was killed with a large rock. Evidence also indicated she had been repeatedly raped and stabbed with glass shards. A police investigation continued and no suspects had been identified by year’s end.

Four of the nine men originally accused of the 2006 murder in Cape Town of Zoliswa Nkonyana, a lesbian, were convicted on October 7. Sentencing was pending at year’s end.

In May the government formed a task force led by the Department of Justice and Constitutional Development to consult with human rights advocates and LGBT rights activists on how to build the government’s capacity to respond to homophobic violence. The task team includes representatives from several government departments as well as civil society organizations. The task force established a number of goals, including awareness training for law enforcement and victim service providers, statistical tracking, and possible new legislation.

Other Societal Violence or Discrimination.—According to anecdotal reports, the social stigma associated with HIV/AIDS has declined as a result of the availability of life-saving ARV treatment. Civil society organizations such as the Treatment Action Campaign and government campaigns have contributed to the reduction of the discrimination against persons with HIV/AIDS.

The HIV/AIDS epidemic contributed to the number of households headed by children who supported themselves and often younger siblings. However, in its 2010-11 Child Gauge Report, the Children’s Institute at the University of Cape Town stated there was little evidence of rapid growth in the orphan population due to HIV/AIDS. Child-headed households accounted for 0.5 percent of all households, or approximately 95,000 households in 2009, a decrease of 23,000 since 2002.

Incidents of vigilante violence and mob killings continued, particularly in Gauteng, Eastern Cape, and KwaZulu-Natal provinces in the rural areas and townships. Unlike in previous years, police efforts to control vigilante violence did not result in killings by police.

The trial of ANC municipal councilor Vusi Khoza and Sean Thabo Jacobs, Patricia Ballantyne, and Mzokuthoba Mngonyama for their roles in a mob attack that resulted in the 2009 deaths of a Zimbabwean citizen and a Tanzanian citizen was ongoing at year's end. Khoza was charged with public violence and conspiracy to commit assault; the other three were charged with murder. After a series of delays, the trial resumed in September and was ongoing at year's end.

Xenophobic attacks on foreign African migrants remained a problem; however, attacks did not occur on the scale of previous years.

Killings and other violent crimes against white farmers and, on occasion, their families, continued in rural areas.

There were reports that persons accused of witchcraft were attacked, driven from their villages, and in some cases murdered, particularly in Limpopo, Mpumalanga, KwaZulu-Natal, and Eastern Cape provinces, where suspected witchcraft sometimes resulted in 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.

On March 21, Cynthia Lemaho (26) and Mupala Motopela (81) were stoned to death by a mob after being accused of practicing witchcraft in Bokgaga village outside Tzaneen, Limpopo. The two women were dragged from their home, stoned to death, and dragged back into the house, which was then burned. SAPS in the province responded swiftly and arrested 32 suspects, who appeared in the Naphuno Magistrate's Court on March 25. Two suspects, Leonard Mokhomole and Godfrey Senyolo were charged with murder and arson. They were scheduled to appear in court on January 31, 2012.

Ritual killings (muthi killings), especially of children, to obtain body parts believed by some to enhance traditional medicine practices, remained a problem; specific muthi killing statistics were unavailable.

For example, on February 6, the body of 74-year-old Tsatsawani Maria Maceke was found in her house. Her genitals, breasts, lips, and eyes had been removed. On February 9, SAPS were alerted to a discarded plastic bag containing body parts, which were believed to belong to Maceke. SAPS arrested five suspects, and they have been charged with murder in the Malamulele Magistrate's Court.

In January 2010 the mutilated body of 10-year-old Masego Kgomo was found in a clump of bushes near her home in Shoshanguve. Five male suspects were arrested and charged with murder and abduction; a sangoma (an African practitioner of magic, medicine, and witchcraft) named Jan Maleka also was arrested, but then released for lack of evidence. Later, one male suspect, Brian Mangwale, was put on trial for murder. On November 28, Judge Billy Mothe sentenced Mangwale to six years' imprisonment for kidnapping and life imprisonment for murder. Speaking to the crowd outside the court after sentencing was passed, the minister for women, children, and people with disabilities, Lulu Xingwana, welcomed the judge's sentencing but cautioned listeners that Mangwale's accomplices were still at large. Xingwana urged community members to work with police in order to apprehend other suspects.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—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. The law allows unions to conduct their activities without interference and provides for the right to strike; however, workers considered to be providing essential services were prohibited from striking, and employers are prohibited from locking out essential service providers. The government characterizes essential services as (a) a service, the interruption of which endangers the life, personal safety, or health of the whole or part of the population, (b) the parliamentary service, or (c) members of SAPS. The law protects collective bargaining and prohibits employers from discriminating against employees or applicants due to past, present, or potential union membership or participation in lawful union activities. The law provides for the automatic reinstatement of workers dismissed unfairly for conducting union activities. The law provides a code of good practices for dismissals, which includes procedures for determining the "substantive fairness" and "procedural fairness" of a given dismissal. The constitution includes all groups of workers, including foreign residents, illegal or legal, in its worker protections. Labor laws also extend to farm workers. The National Defense Bill states that military unions cannot affiliate with any existing union federation and do not have the right to strike.

The government effectively protected freedom of association and the right to collective bargaining, and workers routinely exercised these rights. A labor court and

labor appeals court effectively enforced the right of association. The Food and Allied Workers' Union (FAWU) alleged that in isolated instances individual employees on small farms in the Western Cape and Northwest provinces were fired for union organizing activities. No actions were brought against employers in response to these firings. Worker organizations were independent of the government and political parties. There were no known cases of government interference in union activities.

The right of workers to form and join unions was effectively enforced. No violations were reported.

Workers frequently exercised their right to strike. Although workers considered to be providing essential services were prohibited from striking, strikes occurred throughout the year involving these individuals. Disputes between workers in essential services and their employers that were not resolved through collective bargaining, independent mediation, or conciliation were referred to arbitration or the labor courts.

Strikes were sometimes marked by violence. Police in some instances used force to disperse demonstrators blocking main roads and blocking entrances to hospitals and schools. During the public-sector strike on August 19, police used rubber bullets, water cannons, and tear gas to disperse a strike by workers who were blocking entrances to public facilities.

In December three FAWU officials who intervened in an unprotected strike at a poultry farm in Stellenbosch, Western Cape, were attacked by private security guards, who sprayed them with pepper spray and kicked them in the face while they were held to the ground. The victims claimed that although they were attempting to mediate the dispute, they were attacked once the guards recognized them as union officials, and that the guards' employer did not compel the perpetrators of the attack to report to the police as instructed.

The Labor Relations Act was not consistently enforced. The Congress of South African Trade Unions (COSATU) alleged that employers frequently used temporary employment services, known locally as labor brokers, to circumvent the tenets of the Labor Relations Act protecting the rights of workers to bargain collectively. There were no lawsuits filed for antiunion discrimination during the year.

COSATU and leading agricultural NGOs complained that labor conditions on farms remained harsh, including underpayment of wages and poor living conditions. Union officials stated that unionization of farm workers remained difficult. According to HRW, the government did not enforce labor laws fully in the agricultural sector.

HRW cited cases in Western Cape where employers denied farm workers in the fruit and wine sector their constitutional right to unionize.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor. However, the government did not consistently and effectively enforce the law. There were reports of isolated cases of forced labor involving children (see section 7.c.) and women, which occurred primarily in domestic and agricultural labor. Girls were subjected to domestic servitude and prostitution, and boys were forced to work in street vending, food service, begging, criminal activities, and agriculture. Women and girls from Thailand, Cambodia, the Congo, India, Russia, Ukraine, China, Taiwan, Mozambique, and Zimbabwe are recruited for legitimate work in South Africa, then subjected to prostitution, domestic servitude, and forced labor in the service sector. Migrant men from China and Taiwan are forced to work in mobile sweatshop factories in Chinese urban enclaves in South Africa. Young men and boys from Mozambique, Malawi, and Zimbabwe voluntarily migrate to South Africa for farm work. In some cases they labor for months with little or no pay in conditions of involuntary servitude before employers have them arrested and deported as illegal migrants.

The DOL worked with the National Prosecuting Authority (NPA) Child Unit on issues related to child labor and child trafficking, and during the year attended three court cases related to child labor from the steel and iron sector in the Vaal area. Each case takes 12 months to finalize at a minimum. The process involved coordination with SAPS, the Department of Social Development, the Department of Home Affairs, and embassies where necessary.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—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 well-being; education; physical or mental health; or spiritual, moral, or social development. Underage children were allowed to work in the performing arts if their employer received Department of Labor permission and agreed to follow specific guidelines. Violation

of laws regulating child employment is punishable by a maximum prison sentence of three years or a fine of 15,000 rand (\$1,856).

The government generally enforced child labor laws in the formal sector of the economy, which was monitored by strong and well-organized unions.

Enforcement of child labor laws in the informal and agricultural sectors was ineffective. According to the DOL, during the year it increased the number of labor inspectors from approximately 650 to 986 inspectors, close to its target of 1,000 inspectors. Exact figures on inspections were unavailable. 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.

An important factor in reducing child labor was the government's 250 rand (\$31) per month Child Support Grant to primary caregivers of children under the age of 17. The age was scheduled to be increased to 18 in January 2012. There were no other government efforts to reduce child labor, and penalties were not adequate to deter child labor.

Although statistical information is lacking, child labor was reported in the informal sector and extralegal market, particularly in the agriculture sector, especially the former homeland areas, as well as in domestic work. The Children's Institute at the University of Cape Town reported periodic difficulty educating rural families about the rights of children enshrined in the law, given linguistic and cultural barriers.

NGOs alleged that 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 sell drugs and commit robberies, including armed robbery.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—There was no legally mandated national minimum wage, although the law gives the DOL authority to set wages by sector. There are wage standards for multiple economic sectors including the retail sector, farm laborers, domestic workers, and taxi (minibus) drivers. The minimum wage for farm workers was approximately 6.31 rand (\$0.78) per hour. The minimum hourly wages for domestic workers employed more than 27 hours per week ranged from 4.85 rand (\$0.60) to 7.06 rand (\$0.87).

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. 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 variances from the law by showing good cause. The rights of foreigners and immigrant workers are legally protected under the Labor Reform Act.

The government set occupational safety and health (OSH) standards through the Department of Minerals and Energy for the mining industry and through the DOL for all other industries. 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.

Employers are subject to heavy fines or imprisonment for the serious injury, illness, or death of employees due to unsafe mine conditions, and mine inspectors are allowed 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.

Depending on the province, compliance with the minimum wage rate generally ranged from 65 to 90 percent, according to 2007 DOL figures. Work hour and OSH standards were effectively enforced in the formal sector, and labor unions and labor courts focused on compliance. The number of labor inspectors was not sufficient to fully document nonconformance with safety regulations and labor laws. Labor in-

spectors on farms were inadequate. In Western Cape Province, for example, 107 government labor inspectors had responsibility for more than 6,000 farms.

While labor conditions improved on large commercial farms, they remained harsh, especially for workers on small holdings, most of whom were black. Many owners of small farms did not measure working hours accurately. Twelve-hour work days were common during harvest time, and few farmers provided overtime benefits.

Among the estimated 121,000 farm workers in the Western Cape, HRW documented widespread examples of exploitative work conditions and other human rights abuses. For example, one elderly couple was forced to live in a former out-house for years, and another was forced to live in a pigsty without electricity, water, or protection from the elements for 10 years. Workers using pesticides were not provided with adequate safety gear. Employers routinely denied requests for sick and maternity leave, in contravention of the law.

SOUTH SUDAN

EXECUTIVE SUMMARY

The Department of State's Country Reports on Human Rights Practices typically covers the period from January 1 through December 31. However, the Republic of South Sudan (hereafter referred to as South Sudan) became an independent republic on July 9, when it completed its secession from the Republic of Sudan (hereafter referred to as Sudan). The creation of the new country followed a January referendum in which 98 percent of citizens of Southern origin voted in favor of independence. International and national observers characterized the mostly orderly and peaceful balloting as consistent with international standards and representative of the genuine preferences of voters. Under a power-sharing arrangement established by the 2005 Comprehensive Peace Agreement (CPA), a simultaneous referendum on the status of the Abyei Area was also scheduled for January, but it was not held. At year's end the Abyei Area was jointly administered by Sudan and South Sudan, with its final sovereignty status unresolved pending negotiations. The CPA also called for popular consultations in the Sudanese states of Southern Kordofan and Blue Nile to determine whether constitutional, political, administrative, and economic preconditions for peace were satisfactory or needed to be renegotiated with the government of Sudan. However, this process had not concluded by the July 9 end of the CPA, was abandoned by Sudan, and resulted in armed conflict that triggered refugee flows into South Sudan. President Salva Kiir, who was elected in free and fair elections in April 2010, headed the government of South Sudan. On July 9, Independence Day, the president signed into law the transitional constitution, which provides for an executive branch headed by a president, a bicameral national legislature, and an independent judiciary.

Prior to July 9, the territory that now comprises South Sudan was the sovereign territory of Sudan. Security forces operating in South Sudan were composed of both the Sudanese Armed Forces (SAF)—the armed forces of Sudan—and the Sudan People's Liberation Army (SPLA)—the armed forces of South Sudan—which were combined in 2007 to form the Joint Integrated Units (JIUs) under the joint control of the governments of Sudan and South Sudan. After independence on July 9, the SPLA became the national defense force of South Sudan and continued to be composed of various ethnic groups. Fighting between the JIUs and rebel militia groups (RMGs) resulted in numerous killings and abductions of civilians, especially of children and women. Fighting occurred along the border between Sudan and South Sudan, where disputes continued over claimed territories, in addition to RMG and interethnic conflicts in Upper Nile, Jonglei, Unity, and Warrap states. The zones of conflict were primarily in Jonglei, Unity, Warrap, Upper Nile, and Western Equatoria states. There were instances in which elements of the security forces acted independently of civilian control.

The most serious human rights problems in the country included extrajudicial killings, torture, rape, and other inhumane treatment of civilians as a result of conflict between the SPLA and SAF, RMG attacks on SAF and SPLA security forces, government counterattacks, clashes between security forces and civilians, interethnic and intercommunal conflict, and civilian clashes related to cattle rustling. Conflict also resulted in approximately 250,000 internally displaced persons (IDPs) during the year.

Other human rights abuses included politically motivated abductions by ethnic groups; harsh prison conditions; arbitrary arrest and detention, including prolonged pretrial detention; and an inefficient and corrupt judiciary. The government re-

stricted freedoms of privacy, speech, press, assembly, and association. Displaced persons were abused and harassed. Official corruption was pervasive. The government restricted the movement of nongovernmental organizations (NGOs), and NGO workers were attacked and harassed. Violence and discrimination against women were widespread. Violence against children included child abuse, child abduction, and harmful traditional practices such as “girl compensation.” Police recruited child soldiers prior to independence in July, and RMGs recruited child soldiers throughout the year. Trafficking in persons; discrimination and violence against ethnic minorities and homosexuals; governmental incitement of tribal violence; and child labor, including forced labor, were problems.

The government seldom took steps to punish officials who committed abuses, and impunity was a major problem.

The jointly administered Abyei Area was the site of violence, widespread displacement, and human rights violations during the year.

Attacks by RMGs, including those led by Peter Gatdet Yak, David Yau Yau, George Athor, and Gatluak Gai, resulted in deaths, injuries, property destruction, and civilian displacement in Jonglei, Unity, Warrap, and Upper Nile states. (During the year Yak and Yau Yau joined the government, and Athor and Gai were killed.) The South Sudan Liberation Army (SSLA) perpetrated numerous human rights abuses, including killings and politically motivated kidnappings and disappearances. The Lord’s Resistance Army (LRA) and SSLA abducted women and children and recruited child soldiers. LRA attacks also resulted in deaths, injuries, and the displacement of approximately 7,400 persons in Western Equatoria. RMGs obstructed the delivery of humanitarian assistance.

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 or unlawful killings. The SPLA, RMGs, and ethnic groups were responsible for arbitrary killings in conflict zones during the year (see section 1.g.).

In August, in Juba, men wearing police and military uniforms reportedly killed and robbed civilians, including a priest in Jebel Kunjur. Some members of these groups were reportedly arrested, although no investigations were conducted. In response to this incident, police intensified night patrols and imposed restrictions on movements after midnight in areas in Juba witnessing increased crimes.

b. Disappearance.—RMGs and ethnic groups abducted numerous persons, including women and children, in the conflict zones of Jonglei, Unity, Warrap, Upper Nile, and Western Equatoria during the year (see section 1.g.).

On July 25, President Salva Kiir ordered the arrest of General Mariel, who was charged with involvement in the April disappearance of an engineer named John Luis Silvio. Silvio disappeared after being ordered to appear before General Mariel Nuor Jok, the former director of the Public Security and Criminal Investigation Department. Silvio had been summoned in connection with a disputed plot of land.

On July 7, prior to the July 9 independence of South Sudan, the Muslim Brotherhood accused the state government in Wau of involvement in the disappearance of Al-Shayk Foud Richard, the secretary general of the South Sudan Islamic Council in Western Bahr el Gazal. The state government denied any involvement in this case.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The transitional constitution prohibits such practices; however, government security forces tortured, beat, and harassed political opponents, journalists, and human rights workers during the year (see sections 2.a. and 5). Government forces, RMGs, and tribal factions committed torture and abuse in conflict zones (see section 1.g.).

On July 7, prior to the country’s independence, SPLA military intelligence personnel allegedly arrested, beat, and tortured eight members of the opposition Sudan People’s Liberation Movement-Democratic Change party at their party headquarters in Juba. The government, which provided no explanation for its actions, did not punish the perpetrators.

Police and SPLA personnel reportedly tortured and raped women during the year. For example, on July 22, at Juba’s Malakia police station, police officers assaulted a female detainee, according to Radio Miraya, a station operated by the U.N. Mission in South Sudan (UNMISS). The victim told Radio Miraya the officers raped her with stones and bottles, including a beer bottle that the men drove into her uterus. The victim claimed she was held for a month in connection with a business dispute between her husband and another man. Police officers reportedly were detained in connection with the case.

In late 2010, prior to the July 9 independence of South Sudan, the U.N. Office of the High Commissioner for Human Rights reported that police raped and abused

female cadets at the John Garang Unified Police Academy in Rajaf. On March 25, President Kiir appointed an independent committee to investigate the allegations; no information had been released by the committee at year's end.

Prison and Detention Center Conditions.—Prison conditions were harsh and life threatening, and prisons were overcrowded. Rumbek Prison in Lakes State, for example, was designed for 200 inmates but reportedly held more than 550. Health care and sanitation were inadequate, and basic medical supplies and equipment were lacking. Prisoners generally received one meal per day and relied on family or friends for food. Potable water was limited. During the day prisoners usually stayed outside and participated in recreational activity; at night they slept in overcrowded, open hallways lined with bunk beds. Ventilation, temperature, and lighting were inadequate.

Poor prison conditions, including malnutrition and lack of medical care, resulted in inmate deaths, although statistics were unavailable.

At year's end there were 6,027 prisoners and detainees incarcerated. The Prisons Directorate of Southern Sudan generally provided separate cells for men and women; however, juveniles sometimes were not held separately from adults, and pretrial detainees were not held separately from convicted prisoners. Children, especially infants, were often held with adult female prisoners.

Detention centers were under the control of local tribal or state authorities, and conditions were uniformly harsh and life threatening. Some were uncovered spaces where detainees were unsheltered from the sun and chained to a wall, fence, or tree. Sanitary and medical facilities were poor or nonexistent. Detention centers had limited potable water. Detainees sometimes spent days outdoors but slept inside in areas that lacked adequate ventilation, temperature, and lighting.

There were no prison ombudsmen, but prisoners were allowed to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Prison authorities investigated such allegations, although action was seldom taken. Prisoners were allowed access to visitors and permitted to take part in religious observances.

The government permitted and encouraged visits by independent human rights observers, including the UNMISS human rights officer and independent nongovernmental observers, such as Human Rights Watch.

d. Arbitrary Arrest or Detention.—The transitional constitution prohibits arbitrary arrest and detention without charge; however, the government continued to arbitrarily arrest and detain persons during the year. While not legally invested with the power to arrest or detain civilians, the SPLA arrested and detained persons.

Role of the Police and Security Apparatus.—The South Sudan Police Services (SSPS), under the Ministry of Interior, are responsible for law enforcement and maintenance of order within the country. The SPLA is responsible for providing security throughout the country and is under the Ministry of Defense and Veteran Affairs. The SSPS, many of whom were former SPLA members, were ineffective and corrupt. Illiteracy was a problem. Police reports were often incomplete, and files, if created, were often misplaced. Detentions were sometimes based on accusation rather than official investigation. Complaints of police abuse were rarely investigated, and impunity was a serious problem.

The SPLA does not have law enforcement authority, unless acting at the request of civil authorities. Nevertheless, the SPLA detained persons, including in SPLA-run detention facilities, most notably in Lakes State. During the year the SPLA's conduct of internal security and civilian disarmament was often unsystematic and failed to simultaneously disarm rival communities. Citizens charged that the SPLA's lack of discipline and political neutrality contributed to tensions between communities. There were reports that the SPLA used indiscriminate and excessive force, particularly against women.

The UNMISS police component trained SSPS personnel on a wide range of security-related subjects during the year, although training and personnel were insufficient, and lack of government resources impeded the effectiveness of the program.

Arrest Procedures and Treatment While in Detention.—Persons arrested must be brought before a public prosecutor, magistrate, or court within 24 hours; however, there were no available public prosecutors or magistrates in many regions. Police may detain individuals for 24 hours without charge; this may be extended up to one week with authorization from the public prosecutor and by up to two weeks with authorization from a magistrate. Nevertheless, detainees were not always informed of charges against them. There was a functioning bail system. Those arrested have a right to an attorney, but the country had few lawyers, and prisoners were not always informed of this right. The law allows detainees to contact their family.

Arbitrary Arrest.—Security forces arrested opposition members and journalists (see sections 1.c., 1.e., 2.a., and 3).

During the year, prior to the July 9 independence of South Sudan, the commissioner of Juba ordered the arrest of young girls and women who wore clothing considered to be revealing (see section 6).

Pretrial Detention.—Lengthy pretrial detention was a problem. Estimates of the number of pretrial detainees in prison ranged from one-third to two-thirds of the prison population. The country's lack of lawyers and judges contributed to lengthy pretrial detention. During the year the UNMISS Rule of Law, Judicial Systems, and Prison Advisory Unit started a justice sector mapping project to collect data on pretrial detainees, including those held for more than one year.

e. Denial of Fair Public Trial.—The transitional constitution provides for an independent judiciary; however, the courts were subject to pressure from the government and the SPLA on sensitive matters, such as the possible illegal sale of government land. The court system did not function in many areas due to lack of infrastructure, communications, funding, and an effective police force. In areas where courts existed, they were understaffed, and judges handled many of the court's administrative tasks. Courts lacked resources and trained personnel. According to the U.N. human rights officer in Rumbek, some judges in formal courts reportedly continued to follow Sharia principles of tribal customary law in their rulings. Judicial corruption was a problem.

In parts of the country where civil authorities and institutions did not operate, there were no effective judicial procedures beyond customary courts. The government recognized traditional courts or courts of elders, which applied customary law to most cases in remote and rural areas, including in domestic matters and criminal cases. The government continued efforts during the year to formalize and integrate tradition courts into the judicial system. According to credible reports, military units in those areas summarily tried and punished those accused of crimes, especially for offenses against civil order.

Trial Procedures.—Under the transitional constitution, defendants enjoy a presumption of innocence, public trials, the right to be present in a criminal trial without undue delay, the right to confront witnesses against them and present witnesses and evidence, and the ability to access legal aid if they are unable to defend themselves against serious charges. These rights were rarely respected due to lack of attorneys and trained court personnel. No legal aid system existed in the country. Lack of due process was widespread, and observers expressed particular concern about lack of due process in the trials of persons sentenced to death.

Persons tried in traditional courts did not always enjoy the same legal protections as those in the formal system. Defendants did not necessarily have access to counsel or the right of appeal, and discrimination against women was common. However, some customary courts, particularly those in urban areas, had fairly sophisticated procedures, and verdicts were remarkably consistent. At least one customary court judge (a Bari chief) in Juba kept records that were equal to or better than those kept in government courts.

Political Prisoners and Detainees.—The government held an undetermined number of political prisoners and detainees. Conditions of detention were harsh. The government permitted access to such persons by international humanitarian organizations. Security forces often detained without charge and abused political opponents.

For example, on March 23, prior to the country's July 9 independence, nine opposition members were arrested in connection with a document criticizing the Northern Bahr el-Ghazal governor and calling for antigovernment demonstrations in the state. At year's end the nine were reportedly being held without charge in Machar Kunyuk Prison, and no trial had been scheduled.

Civil Judicial Procedures and Remedies.—The legal system provides for an independent and impartial judiciary in civil matters; however, civil courts were neither independent nor impartial. The courts provided the only option for those seeking to bring claims to address human rights violations and damages.

Court orders were not always enforced due to the frequent lack of court documentation, such as arrest warrants.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The transitional constitution prohibits interference with private life, family, home, and correspondence, and the government generally respected these prohibitions. However, there were reports that rural detention centers held family members in lieu of accused persons who had fled to induce the accused persons to turn themselves in.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Human rights abuses occurred throughout the conflict zones of Jonglei, Unity, Warrap, Upper Nile, and Western Equatoria states. Conflict between the SPLA and SAF along the northern border areas, RMG attacks on SAF and SPLA security forces, government counterattacks, clashes between security forces and civilians, interethnic and intercommunal conflict, LRA attacks, and cattle rustling resulted in widespread civilian deaths, injuries, kidnappings, and approximately 250,000 IDPs. SAF aerial bombardments in disputed territories along the border in November and December resulted in refugee flows into South Sudan and civilian deaths and injuries.

South Sudan has a long history of cattle raiding, often resulting in territorial, ethnic, and communal conflicts over migration patterns, access to water, and land, in addition to theft. Following the decades of civil war, cattle rustling became more deadly because of the widespread use and availability of small arms. During the year interethnic fighting led to a series of violent, retributive attacks in Jonglei, Warrap and Lakes states.

The lack of political reconciliation and a cohesive national identity exacerbated the violence, as did the inability of central and state governments to provide security or resolve internal conflict.

Prior to the July 9 independence of South Sudan, following disputes over the scheduled referendum that did not occur, violence between SAF and SPLA forces in the jointly administrated Abyei Area resulted in the displacement of an estimated 110,000 persons. Most IDPs fled to Northern Bahr el Gazal, Unity, and Warrap states, where they remained at year's end. Since sovereignty over the Abyei Area remained in dispute, these persons were considered neither refugees nor IDPs, but rather "displaced persons of concern" for purposes of this report.

Killings.—The use of excessive force by government forces resulted in civilian deaths. For example, prior to the July 9 independence of South Sudan, on April 23, in Jonglei and Unity states, the SPLA attacked forces loyal to RMG leaders Peter Gadet Yak and Gabriel Tanginya, resulting in 85 civilian deaths.

Prior to the July 9 independence, fighting in May and June between SPLA and RMGs led by George Athor, Gatluak Gai, Peter Gadet Yak, David Yau Yau, and Olony resulted in hundreds of civilian deaths and injuries and widespread displacement. RMGs also distributed weapons to different ethnic groups to instigate violence among local ethnic communities involved in cattle-related disputes.

RMG attacks decreased following the president's October executive order offering amnesty to RMG members who agreed to reintegrate into the SPLA; however, RMG attacks on security forces resulted in casualties during the year. For example, on March 12, prior to the July 9 independence of South Sudan, armed persons under the command of RMG leader Olony attacked SSPS offices in Malakal. At least one U.N. official and 12 civilians were injured.

Intertribal and intercommunal clashes, particularly in Jonglei and Upper Nile states, continued throughout the year and resulted in numerous deaths. According to the U.N. Office for the Coordination of Humanitarian Affairs (OCHA), 1,698 persons were killed during the year in Jonglei State alone.

On August 18, in Jonglei, conflict over cattle raiding between members of the Murle and Lou Nuer tribes resulted in an estimated 600 deaths, the destruction of seven villages, and the abduction of nearly 200 women and children. On December 20, interethnic and intercommunal fighting in Jonglei resulted in 51 deaths.

Prior to the July 9 independence of South Sudan, LRA attacks occurring primarily in Western Equatoria but also in Western Bahr el Ghazal resulted in at least 18 deaths between January and March, according to OCHA.

Abductions.—Intertribal and intercommunal clashes, particularly in Jonglei and Upper Nile states, resulted in abductions. For example, on August 18, approximately 200 women and children were kidnapped during conflict over cattle raiding between members of the Murle and Lou Nuer tribes.

According to OCHA, the LRA abducted 49 civilians during the year. Most abductions occurred in Raga County, Western Bahr el Ghazal. For example, on September 4, LRA forces—reportedly accompanied by women and children they had abducted—attacked a village in Western Bahr el Ghazal and abducted two young men. According to the Raga County commissioner, the LRA attacked the Deim Jallabi police station, where they took three guns, and then attacked and robbed homes in the village.

Physical Abuse, Punishment, and Torture.—Government and RMG forces tortured and abused civilians during the year, often to extract information. Government and RMG forces also raped women, although victims seldom reported such incidents.

Land mines planted by RMGs resulted in deaths and injuries. For example, on April 19, prior to the July 9 independence of South Sudan, the U.N. reported that

an Adventist Development and Relief Agency truck carrying more than 56 metric tons of food detonated a land mine between Abeimnom and Mayom in Unity State. The driver and a passenger were injured.

On August 19 and 20, the detonation of two land mines in Bentiu, Unity State, resulted in at least five civilian deaths and injuries to numerous others. The government continued to cooperate with the U.N. Mine Action Group and other demining groups to remove land mines in the South.

Child Soldiers.—Government and RMG forces recruited children during the year. In April, prior to the July 9 independence of South Sudan, the SSPS in Unity State reportedly recruited persons forcibly into its ranks, including children. Some of these children ended up in the SPLA, when it subsequently tapped the SSPS for its own recruitment needs. The SPLA ordered local commanders to release underage children in their units. The SPLA also took steps during the year to remove child soldiers from RMGs. In collaboration with UNMISS, the SPLA conducted a workshop in November to develop a strategy for protecting children in armed conflict.

When threatened by RMGs, tribal disputes, or natural disasters, women and children historically gravitated to SPLA military camps for protection, exacerbating the problem of child soldiers. From 2009 until 2011, a total of 328 boys were observed in SPLA camps. Children “associated” with the SPLA posed a dilemma for SPLA leadership as there were no other governmental agencies or institutes to receive the children, many of whom had either lost their parents or were displaced from their families due to conflict. The Demobilization, Disarmament, and Reintegration Commission (DDR) and the Ministry of Gender, Child, and Social Welfare continued to track and demobilize children associated with military organizations. The government conducted public relations campaigns to discourage families from sending their children to SPLA military camps to seek shelter, support, and financial compensation. UNMISS training emphasized that SPLA members would be liable for recruiting and keeping children in the barracks even if children are not recruited but return to the SPLA on their own volition.

The reintegration process—the final stage of the DDR campaign that began in 2001 in Rumbek, Lakes State—aimed to demobilize children associated with the army following a Sudan People’s Liberation Movement (SPLM) agreement with the U.N. Since 2005 more than 3,000 children were demobilized, mainly from the Bahr el Ghazal region consisting of Western and Northern Bahr el Ghazal states. The South Sudan DDR Commission managed the reintegration process after the signing of the CPA in 2005. At year’s end most children had been reintegrated with their families and had attended vocational training, primary schools, and accelerated learning programs. In some cases UNICEF partnered with the South Sudan DDR to provide the families of demobilized children with goats to help pay for the children’s needs until the family was able to support the child.

The use of child soldiers was common throughout the two-decade Sudanese civil war, although the 2008 Child Act banned it as well as the employment of children in the military. The 2008 Act establishes 18 as the minimum age for voluntary recruitment into the armed forces and requires the government to ensure that “no child be used or recruited to engage in any military or paramilitary activities, whether armed or unarmed, including, but not limited to work as sentries, informants, agents or spies, cooks, in transports, as laborers, for sexual purposes, or any other forms of work that do not serve the interests of the child.”

The SPLA released approximately 20,000 child soldiers in the past few years. While the SPLA no longer recruited children, UNMISS previously stated that there was still a problem with “associated” child soldiering by former child soldiers who spent much of their time in and around SPLA units.

Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

Other Conflict-related Abuses.—Security forces and RMGs operating in South Sudan restricted the movement of U.N. personnel and other humanitarian groups. Conflict in intertribal areas impeded the delivery of assistance to vulnerable populations, particularly prior to independence on July 9. Trucks carrying humanitarian supplies were vulnerable to land mines and hijackings. For example, a World Food Program truck on its way to deliver food to schools was hijacked during the year. Establishing the identity of perpetrators was often difficult.

Conflict between the SPLA and SAF along the northern border areas, RMG attacks on SAF and SPLA security forces, government counterattacks, clashes between security forces and civilians, interethnic and intercommunal conflict, LRA attacks, and cattle rustling resulted in 250,000 IDPs during the year.

In Jonglei alone, 63,000 persons were displaced between August and December as a result of interethnic and intercommunal violence, much of it related to cattle raid-

ing. In most cases the homes of IDPs who fled were burned, their cattle stolen, and their means of livelihood destroyed.

Approximately 7,400 persons were displaced as a result of LRA attacks in Western Equatoria and Western Bahr el Ghazal. Approximately 70,000 civilians were displaced in previous years by LRA attacks and had not returned to their homes by year's end.

In addition to civilian displacement, massive refugee flows resulted from conflict during the year. Approximately 78,000 refugees from Sudan fled to South Sudan as a result of conflict between the SPLA-North (SPLA-N) and SAF along the disputed border areas. This number included 24,000 residents of Southern Kordofan and 54,000 residents of Blue Nile State who fled SAF aerial bombings in November and December. Most refugees from Sudan settled in Unity and Upper Nile states.

In early July, prior to the July 9 independence of South Sudan, the U.N. reported that more than 8,000 residents of Southern Kordofan fled SAF aerial bombing attacks in the Lake Jau area, a disputed and undemarcated border area between Unity State in South Sudan and Southern Kordofan in Sudan.

The government's capacity to assist IDPs and refugees was extremely limited, and most humanitarian aid was provided by the international community or host families and communities. The U.N. High Commissioner for Refugees (UNHCR), other U.N. agencies, international NGOs, domestic NGOs, and other donors provided shelter, emergency health-care services, water and sanitation services, food assistance, nonfood items, and livelihood assistance for IDPs. However, conflict along the border, RMG activity, attacks, lack of infrastructure and road access, land mines, heavy rains, and flooding impeded the delivery of assistance to refugees inside and outside conflict zones. U.N. assessments consistently concluded that some areas of South Sudan's border with Sudan remained unsafe for the return of IDPs.

Returnees suffered abuses, such as armed attacks, killings, gender-based violence, recruitment of child soldiers, and forced labor, according to the UNHCR. Government forces, RMGs, and ethnic groups were responsible for such abuses. Returnees also faced delayed allocation of land, lack of basic services, inability to obtain transportation to their final destinations, and lack of employment.

There were credible reports that the following armed groups perpetrated serious human rights abuses in South Sudan during the reporting period: the LRA and the SSLA.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The transitional constitution provides for freedom of speech and press; however, the government did not always respect these rights in practice.

Freedom of Speech.—Individuals could criticize the government publicly or privately without reprisal, in large part because the government did not have the ability to impede criticism or regularly monitor political meetings.

Freedom of Press.—Independent media in the country included four newspapers and 11 radio stations. The government occasionally interfered in the publication of articles. Due to the high price of television sets and poor electricity, the country had only one government-owned television station, Southern Sudan TV.

At a dialogue forum during the year for the media and national security services, an SPLA spokesman warned reporters against covering sensitive topics, including any reporting on the army.

Violence and Harassment.—Journalists were detained, intimidated, and harassed for criticizing security forces or the government. Security forces confiscated or damaged journalists' cameras and equipment, demanded photography permits from journalists, and restricted their movements, particularly prior to independence.

For example, prior to the July 9 independence of South Sudan, Nhial Bol, the editor of The Citizen newspaper, was arrested, detained, and later released without charge. Security forces arrested Bol three times since 2007 following articles in The Citizen that accused officials of corruption and mismanagement.

On November 2, security forces arrested without charge Ngor Aguot Garang, editor of the English-language daily Destiny, following an October 26 article in the newspaper that criticized President Kiir. The newspaper was suspended, and on November 5, Dengdit Ayok, the deputy editor of Destiny and author of the article, was also arrested and suspended from working as a journalist. On November 18, both journalists were released. Garang claimed that he was beaten and tortured while in detention.

Libel Laws/National Security.—Security forces accused journalists of espionage without any substantial evidence. For example, prior to the July 9 independence of South Sudan, on May 18, security forces arrested Mohamad Arkou Ali, a journalist

from Sudan Radio Service in Wau, for taking photographs without a permit. Arkou, who was not in a military area at the time, was held for three weeks.

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

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The transitional constitution provides for freedom of peaceful assembly, and the government generally respected this protection. However, there were unconfirmed reports from opposition political leaders that they were not allowed to hold rallies or political events in some states.

Freedom of Association.—The transitional constitution provides for freedom of association, and the government generally respected this right in practice. However, there were unconfirmed reports from opposition political leaders that their right of association was not respected in some states.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The transitional constitution provides for freedom of movement within the country, foreign travel, and repatriation, and the government generally respected these rights outside the zone of conflict; however, the government obstructed movement within the zone of conflict (see section 1.g.). The transitional constitution does not provide for emigration. Conflict involving government forces, RMGs, and ethnic groups in conflict areas resulted in widespread displacement and restrictions on movement (see section 1.g.).

The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to IDPs, refugees, and persons of South Sudanese nationality living in Sudan who returned to South Sudan during the year. However, security forces and RMGs operating in South Sudan sometimes restricted the movement of U.N. personnel and the delivery of humanitarian aid.

Emigration and Repatriation.—During the year approximately 360,000 persons of South Sudanese nationality living in Sudan returned to South Sudan through government-organized programs coordinated by the UNHCR and International Organization of Migration (IOM). The majority of returnees settled in Northern Bahr el Gazal, Unity, and Upper Nile states but continued to face violence, abuse, and lack of basic services. However, living conditions for returnees were almost indistinguishable from the general population due to the lack of development and livelihood activities throughout the country. The government faced enormous challenges in addressing the needs of the massive influx of returnees, in addition to those of the existing population. Challenges included implementation of a comprehensive development plan to assume control of and professionalize public sector services, particularly the health sector.

Internally Displaced Persons (IDPs).—Conflict between the SPLA and SAF along the northern border areas, RMG attacks on SAF and SPLA security forces, government counterattacks, security forces clashes with civilians, interethnic and intercommunal conflict, LRA attacks in Western Equatoria, and cattle rustling resulted in approximately 250,000 IDPs during the year (see section 1.g.).

Protection of Refugees.—Access to Asylum.—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. However, the government allowed refugees to settle in the country.

Approximately 78,000 refugees from Sudan fled to South Sudan as a result of conflict between the SPLA-N and SAF along the disputed border areas (see section 1.g.).

Approximately 20,000 refugees from the Democratic Republic of the Congo (DRC) and the Central African Republic (CAR) fled to Western Bahr el Ghazal due to LRA attacks in their home countries.

Approximately 5,000 Ethiopian refugees fled to South Sudan due to ethnic persecution in Gambella, Ethiopia.

The government's capacity to assist refugees was extremely limited, and most humanitarian aid was provided by the international community or host families and communities. The UNHCR, the lead agency in providing and coordinating humanitarian assistance for refugees, worked closely with the South Sudanese Relief and Rehabilitation Commission. UNHCR support varied depending on refugee location

and specific circumstances, but on a national level it provided physical protection, food, legal assistance, livelihood activities, and family reunification. The UNHCR also provided either direct or indirect support through numerous international NGOs contracted as implementing partners to provide humanitarian assistance and fill protection gaps. The International Committee of the Red Cross, IOM, and numerous NGOs provided relief assistance to refugees and IDPs throughout the country. However, fighting between the SAF and SPLA-North in disputed border areas, RMG attacks, lack of infrastructure and road access, land mines, heavy rains, and flooding impeded humanitarian access to many towns and villages.

Refugee Abuse.—Refugees suffered abuse, such as armed attacks, killings, gender-based violence, recruitment of child soldiers, and forced labor, according to the UNHCR. Government forces, RMGs, and ethnic groups were responsible for such abuses. Returnees also faced delayed allocation of land, lack of basic services, inability to obtain transportation to their final destinations, and lack of employment.

Stateless Persons.—While data was incomplete, there were reports of de facto stateless populations in South Sudan. During the week beginning July 25, state authorities in Western Bahr el Ghazal ordered 3,000 to 5,000 members of the nomadic Mbororo population to leave the state; the Mbororo are a nomadic population who move between the DRC, CAR, and South Sudan. State authorities claimed that other ethnic communities living in Western Bahr el Ghazal feared an “Arabization” of Western Bahr el Ghazal by the Mbororo population and complained of land disputes and crop damage from Mbororo cattle. Most Mbororo members departed the state for South Darfur and the CAR; however, between 150 and 160 Mbororo members remained in Western Bahr el Ghazal and were de facto stateless. Observers agreed that the Mbororo population posed no security threat and that action taken against the Mbororo was motivated by ethnic and political considerations.

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

The transitional constitution, which came into effect in July, does not address the right of citizens to peacefully change their government; however, citizens of Southern origin exercised this right in a January referendum in which they voted overwhelmingly to secede from Sudan to create the independent republic of South Sudan.

Elections and Political Participation.—Recent Elections.—South Sudan has not yet held elections as a new nation. Prior to independence on July 9, more than 98 percent of voters cast their ballots in favor of secession during the Southern Sudan Self-Determination Referendum on the status of Southern Sudan, held between January 9 and 15. Both international and domestic observers characterized the process as generally peaceful and fair, despite some irregularities. The Carter Center reported to the South Sudan Referendum Commission that incidents of assisted voting for illiterate and poorly educated voters occurred in all 10 states and could have undermined the secrecy of ballots, although in most cases it did not influence the will of voters. Security officials reportedly were present in some referendum centers, which could have intimidated some voters. The absence of large-scale voter education and civic education contributed to voters’ limited understanding of the process and inhibited their ability to make informed decisions about the impact of continued unity as opposed to secession.

Presidential and legislative elections were held in April 2010 and were dominated by the SPLM party. While the presidential election, which resulted in the election of President Salva Kiir Mayardit, was deemed generally free and fair by international observers, the SPLM imposed governors in some states. Voters in Unity State, for example, voted overwhelmingly for the independent candidate, but the incumbent SPLM governor was declared the winner. The imposition of SPLM governors in Jongei and Unity states triggered violence, resulting in deaths and injuries.

In the months leading up to the April 2010 elections, security forces harassed, arrested, and detained persons thought to be opposed to the SPLM, including journalists and opposition members.

Political Parties.—The SPLM enjoyed a near-monopoly of power and has been the most broadly recognized and supported political entity since the signing of the CPA in 2005. SPLM membership conferred political and financial advantages. In the new cabinet announced in August, opposition parties headed only four of 29 ministries. Many opposition members were dismissed from civil service employment at central and state levels during the year. Opposition parties lacked large constituencies, were not represented in many states, and had limited financial resources and poor infrastructure. Only a few had regular party conventions or established communica-

tion networks. Contrary to the principles adopted at the October 2010 Political Parties Conference—including the establishment of a National Constitutional Review Commission that would convene an all-party constitutional system and a broad-based transitional government during the transitional period—opposition representation was inadequate, according to civil society members. SPLM leaders alleged that opposition parties were financed by, and their leaders were loyal to, Sudan. Security threats and increased RMG activity exacerbated such suspicions.

Participation of Women and Minorities.—The CPA stipulates at least 25 percent female participation in the legislative and executive branches of government, and women held 90 of the 332 seats in the National Assembly; however, women occupied only five of the 50 seats in the Council of States. Fifteen female ministers, including five female ministers and 10 deputy ministers, served in the 56-member cabinet.

The government made efforts to obtain representation from all ethnic groups; however, no formal mechanism to achieve such balance had been established by year's end.

Section 4. Official Corruption and Government Transparency

The transitional constitution provides criminal penalties for acts of corruption; however, the government did not effectively implement the law, and officials continued to engage in corrupt practices with impunity. Although President Kiir publicly criticized corruption, it was a problem in all branches of government and was compounded by poor record keeping, lax accounting procedures, and the pending status of corrective legislation within the country.

The South Sudan Anticorruption Commission (SSACC) was created in 2009 under the authority of an amendment to the interim constitution of 2005. The transitional constitution expanded SSACC responsibilities to include prosecuting as well as investigating allegations of corruption. However, the 2009 Southern Sudan Anticorruption Commission Act provides that the SSACC refer investigations suggesting criminal activity to the Ministry of Justice for prosecution. On September 6, the National Legislative Assembly adopted the 2010 SSACC annual report and noted that the transitional constitution mandates that the commission prosecute corruption suspects. In practice the commission had no authority to prosecute because the constitution does not repeal or amend the 2009 act, previous laws, or procedures vesting prosecutorial powers in the Ministry of Justice. Further complicating the prosecution issue, corruption is not defined in the constitution or criminal code. Since its establishment, the SSACC has submitted six cases of corruption for prosecution to the Ministry of Justice, none of which had been adjudicated by year's end.

In June, prior to the July 9 independence of South Sudan, the SSLA called the ministers of finance and legal affairs to testify on a massive grain scandal in 2009. According to the SSLA Select Committee, in 2009 the Finance Ministry had asked contractors to build 132 emergency grain stores at a cost of \$34 million. Only 46 of the 132 were built, and the rest of the money was either misappropriated or embezzled.

Government officials of director general rank and higher are required to submit financial declaration forms, although there is no penalty for failure to comply.

No law provides for public access to government information.

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

Prior to independence in July, domestic and international NGOs were unable to work effectively due to conflict, flooding, and occasional government restrictions. Security forces and RMGs operating in South Sudan sometimes restricted the movement of U.N. personnel and other humanitarian groups, and conflict in intertribal areas also impeded the delivery of assistance to vulnerable populations (see section 1.g.).

Following independence on July 9, a variety of domestic and international human rights NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. During the year there were reports of increased visa and residency processing requirements for NGO employees. Government officials were generally cooperative and responsive.

U.N. and Other International Bodies.—The government generally cooperated with representatives of the U.N. or other international organizations. However, on August 20, police officers beat the chief human rights officer for UNMISS after he refused to let police officers search his luggage at a hotel in Juba. The UNMISS official, who told reporters that he was beaten, kicked, and punched, was hospitalized for five days before being sent abroad for further medical treatment. Four police offi-

cers involved in the attack were stripped of their ranks and given extra work for seven days. The Ministry of Interior commissioned an investigation.

Government Human Rights Bodies.—Members of the South Sudan Human Rights Commission are appointed by the president, but the organization operated somewhat independently. The commission cooperated with international human rights advocates and submitted reports and recommendations to the government. Severe resource constraints prevented the commission from doing more than raising awareness of human rights issues during the year.

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

The transitional constitution prohibits discrimination on race, gender, disability, language, and social status; however, the government did not effectively enforce the law.

Women.—Rape and Domestic Violence.—Rape is punishable by up to 14 years' imprisonment and a fine; however, the government did not effectively enforce the law, and rape was thought to be widespread. Spousal rape is not addressed in the law. No information was available on the number of persons who were prosecuted, convicted, or punished for rape, and convictions of rape were seldom publicized. According to observers, sentences meted out to persons convicted of rape were often less than the maximum.

The law prohibits domestic violence; however, the government did not enforce the law. Violence, including spousal abuse, against women was common, although there were no reliable statistics on its prevalence. Women were often reluctant to file formal complaints, and police seldom intervened in domestic disputes. Statistics on the number of abusers prosecuted, convicted, or punished were not available.

Sexual Harassment.—Sexual harassment is punishable by up to three years' imprisonment and a fine; however, the government rarely enforced the law. Although no statistics were available, observers noted that sexual harassment was a serious problem throughout the country, particularly by police. In 2010 the local press reported that newly trained police in Juba harassed women for wearing jeans and short skirts. Victims of such harassment filed complaints against the police, and an investigation into the complaints continued at year's end.

Reproductive Rights.—Couples were not subject to coercion or violence in deciding the number, spacing, and timing of children; however, few couples had access to the information and means for responsible birth control methods. Contraception, skilled medical attendance during childbirth, and obstetric and postpartum care were not widely available. Reproductive choices were also limited by dowry since men who paid exorbitant dowries to marry believed they should have the final say in domestic decisions. High illiteracy rates among women also limited female access to accurate information concerning the right to healthy birth control. The maternal mortality rate was 2,000 deaths per 100,000 live births. According to Doctors without Borders, a woman in South Sudan had "a bigger chance of dying during childbirth than of going to high school." Women were not provided equal access to diagnosis and treatment for sexually transmitted diseases because there were no facilities to provide these services.

Discrimination.—The transitional constitution provides for gender equality and equal rights for women; however, deep cultural prejudices continued to result in widespread discrimination against women. Communities often followed customary laws and traditional practices harmful to women. For example, women were arrested and detained for adultery. Women also experienced discrimination in employment, pay, credit, education, and owning and/or managing businesses.

The government took steps to empower women in political, economic, and social arenas. For example, during the year the Ministry of Gender, Child, and Social Welfare used a World Bank grant to disseminate funds to 109 women, who started businesses in all 10 states. In April the government also launched the first women's vocational training institute in Yirol West County, Lakes State. The government also held an "activism week" to raise awareness about violence against women.

Children.—Birth Registration.—The transitional constitution states that persons born to a South Sudanese mother or father have the right to citizenship. The government did not register all births immediately.

Education.—The law provides for tuition-free basic education up to grade eight, although education was not compulsory, and many children did not attend school. Lack of schools and muddy terrain during the rainy season made it difficult for children to attend school. Girls often lacked equal access to education. Many girls chose not to attend school or dropped out of school due to the absence of separate bathrooms in some schools and the preponderance of male teachers.

Child Abuse.—Child abuse, including sexual abuse, was widespread. Child rape was common but seldom reported due to fear among victims and their families of stigmatization. Child abduction also was a problem, and the Murle ethnic group often abducted women and children during cattle raids.

Child Marriage.—The transitional constitution provides for a minimum marriage age of 18; however, the law was not enforced, and child marriage was a problem. No statistics were available on the extent of the practice. Many abducted children, especially girls, were forced into marriage.

The practice of girl compensation—compensating the family of a crime victim with a young girl from the perpetrator's family—occurred in three counties of Eastern Equatoria State. Victims were generally between the ages of 11 and 15, were often physically and sexually abused, did not attend school, and served as servants for the victim's family. Local officials complained that efforts to curb the practice were impeded by the lack of security services and rule of law in many areas. However, during the year the advisor to the governor on gender and human rights formed an NGO to combat the practice in Eastern Equatoria State.

Sexual Exploitation of Children.—The law does not provide for a minimum age of consensual sex, and commercial sexual exploitation of children was a problem. The law does not address child pornography. The perpetrators of child prostitution and child trafficking may be punished by up to 14 years' imprisonment; however, both crimes occurred, particularly in urban areas. In Juba numerous girls between ages 12 and 15 were involved in prostitution.

Child Soldiers.—Children were used as soldiers in government forces and armed groups (see section 1.g.).

Displaced Children.—During the year numerous children were displaced as a result of conflict and flooding; few had access to government services, such as education.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—It was unknown whether there were Jews among the Ethiopian community; there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/tip>.

Persons With Disabilities.—The law does not specifically prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services. The government has not implemented programs to ensure access to buildings for persons with disabilities. There were no mental health hospitals or institutions, and persons with mental illnesses were held in prisons.

National/Racial/Ethnic Minorities.—Interethnic fighting was a serious problem (see section 1.g.). The country had more than 81 ethnic groups and a long history of interethnic conflict. Ethnic groups were broadly categorized into the Nilotic (Dinka, Nuer, and Shilluk ethnic groups), Nilo-Hamitic, and the Southwestern Sudanic groups. For these ethnic groups, cattle represented wealth and status, and competition for resources to maintain large cattle herds often resulted in conflict. Longstanding grievances over perceived or actual inequitable treatment and distribution of resources and political exclusion contributed to conflict.

Several interethnic clashes occurred following independence in July, including a cycle of retaliatory attacks between the Murle and Lou Nuer ethnic groups in Jonglei State. Interethnic conflict spread throughout Lakes State with subgroups of the dominant Dinka group, Dinka pastoralists, and Jur Bel agriculturalists fighting for land resources. Interethnic clashes occurred in northeast Lakes State between the Nuer from Unity State and the Dinka in Lakes State. Longstanding tensions in Unity State between the nomadic Misseriya, the Nuer, and the Ngok Dinka communities resulted in a series of violent confrontations. Following the January referendum on secession, northern Arab groups, including the Misseriya from Southern Kordofan and Abyei Area, migrated into northern Unity State, increasing competition and tension over resources for cattle.

Christians in South Sudan often discriminated against Arabs and Muslims.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law prohibits sodomy, which is punishable by death. There were no reports that this law was enforced during the year. Societal discrimination against gay men and lesbians was widespread. There were no known lesbian, gay, bisexual, or transgender organizations.

In July 2010, prior to the July 9, 2011 independence of South Sudan, President Kiir remarked in an internationally broadcast radio interview that homosexuality would not be accepted in the South.

Other Societal Violence or Discrimination.—There were no credible reports of discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—As a new nation, South Sudan continued to operate under select legislation inherited from Sudan. The 1997 Labor Act of Sudan remained in effect during the year. Under the act independent unions are permitted. The law is silent on the rights to strike and bargain collectively and does not explicitly prohibit antiunion discrimination or provide for reinstatement of workers fired for union activities. A new draft labor law was under review by the Ministry of Justice at year's end; it was expected to go before the National Assembly in 2012. Government enforcement of preexisting labor laws was little to nonexistent.

The country had no industries or manufacturing sector, and 80 percent of the population relied on subsistence farming or animal husbandry for their livelihood. The South Sudan Workers' Trade Union, the country's only trade union, had approximately 50,000 public sector workers.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor. Government enforcement of the law was weak. According to the Ministry of Justice, neither the police nor labor inspectors referred cases of forced labor to the ministry during the year.

Government forces and RMGs recruited child soldiers (see section 1.g).

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits child labor and the act of exposing children to economic exploitation. The minimum age for paid employment in strenuous work is 14, while the minimum age for "light work" is 12. Under the law strenuous work includes activities such as mining and quarrying, work in factories, graveyard shift work, or employment in prisons or the military. Light work is defined as work that does not harm the health or development of a child and does not affect the child's school attendance or capacity to benefit from such.

The government did not enforce child labor laws. Child labor was concentrated in the agricultural sector (the majority of which was subsistence farming) and cattle herding. The Ministry of Labor estimated that approximately 2,000 children in Juba County were engaged in child labor of some kind.

Government forces and RMGs recruited child soldiers.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—South Sudan continued to operate under select legislation inherited from Sudan. There were no new laws stipulating a national minimum wage, nor was there an official estimate of the poverty income level. The Civil Service Provisional Order applies to the public sector and outlines the rights and obligations of public sector workers, including benefits, salaries, and overtime. The law provides the Ministry of Labor, Public Service, and Human Resources with the right to issue the schedule of salary rates according to which all civil servants, officials, and employees are to be paid. Under the law only unskilled workers are to be paid overtime in excess of 40 hours of work per week. Civil servants, officials, and employees working at higher pay grades are expected to work necessary hours beyond the standard work week without overtime pay. When exceptional additional hours are demanded, the department head may grant time off instead of reimbursement.

The government set occupational safety and health standards for public sector workers through the Acceptable Conditions of Work laws. The government has not enacted similar legislation on wages, working conditions, or occupational safety and health for workers outside of the public sector.

The Ministry of Labor, Public Service, and Human Resources is responsible for enforcement of laws on wages and working conditions. It had between seven and 10 labor inspectors. Standards were not effectively enforced, and the Ministry of Justice reported receiving no cases of labor violations. Penalties for violations of laws on wages and working conditions were not sufficient to deter violations. The International Labor Organization (ILO) attempted to train labor inspectors during the year but found most persons lacked professional training or were not actual em-

ployees of the Labor Ministry. During the year the Central Equatoria State labor ministry reportedly conducted 69 labor inspections in Juba.

No information was available on working conditions with respect to minimum wage, hours of work, and occupational safety and health. According to the ILO, less than 12 percent of workers were in the formal sector, which included a few security companies and a brewery. The majority of workers in the country were agricultural workers, of which 70 percent were agropastoralists, and 53 percent were engaged in unpaid subsistence family farming.

SUDAN

EXECUTIVE SUMMARY

Sudan is a republic transitioning, after the secession of South Sudan in July, toward a new constitution from a power-sharing arrangement established by the 2005 Comprehensive Peace Agreement (CPA). The National Congress Party controls the government, with power concentrated in the hands of authoritarian President Omar Hassan al-Bashir and his inner circle. In April 2010 the country held its first national, multiparty elections in 24 years. The elections, which several opposition parties boycotted, did not meet international standards. Observers reported restriction of civil liberties, intimidation, threats of violence, lack of transparency in vote tabulation, and other problems. President Bashir was reelected, and his political party won 323 of 450 seats in the National Assembly. There were instances in which elements of the security forces acted independently of civilian control, especially in the Darfur Region and the Three Areas.

From January 9 to 15, citizens of South Sudanese origin voted in a referendum on the secession of South Sudan from Sudan. Ninety-eight percent voted for secession. International and national observers described the referendum process as consistent with international standards, peaceful, and orderly. The Republic of South Sudan formally gained its independence in July. Although required by the Comprehensive Peace Agreement, a simultaneous referendum on the status of Abyei was not held, and popular consultations in Southern Kordofan were indefinitely postponed. Blue Nile consultations were concluded, but the recommendations were not implemented by year's end. Conflict continued in Darfur, and conflict occurred in the three border areas of Abyei, Southern Kordofan, and Blue Nile (the Three Areas). Abyei's final sovereignty status was not resolved, and the area was under joint administration by both Sudan and South Sudan.

The main human rights abuses during the year included the following: government forces and government-aligned groups committed extrajudicial and other unlawful killings; security forces committed torture, beatings, rape, and other cruel and inhumane treatment or punishment; and prison and detention center conditions were harsh and life threatening.

Other major abuses included arbitrary arrest and arbitrary, incommunicado, and prolonged pretrial detention; executive interference with the judiciary and denial of due process; obstruction of humanitarian assistance; restriction of freedoms of speech, press, assembly, association, religion, and movement; harassment of internally displaced persons; restrictions on privacy; harassment and closure of human rights organizations; violence and discrimination against women, including female genital mutilation; child abuse, including sexual violence and recruitment of child soldiers; trafficking in persons; violence against ethnic minorities; denial of workers' rights; and forced and child labor.

Except in rare cases, the government took no steps to prosecute or punish officials in the security services and elsewhere in the government who committed abuses. Security force impunity remained a serious problem.

Rebels in Darfur and the Three Areas also committed abuses during the year.

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

a. Arbitrary or Unlawful Deprivation of Life.—The government and its agents committed arbitrary and unlawful killings.

Government forces, government-aligned militias, rebels, and interethnic fighting killed civilians in connection with the conflicts in Darfur and the Three Areas (see section 1.g.).

Security forces killed demonstrators. For example, on March 17, police opened fire on students protesting at the University of El Fasher in North Darfur, killing two, and dispersed others with tear gas. The students were protesting the government ban on all campus political activity.

On June 17, National Intelligence and Security Services (NISS) agents abducted and reportedly killed a Darfuri University of Khartoum student one day after he delivered a speech about the situation in Darfur. On June 18, his body was discovered with signs of severe torture. NISS authorities claimed he had been electrocuted at the bakery where he worked; witnesses, however, stated that NISS authorities had captured and tortured him.

In February 2010 NISS agents arrested University of Khartoum student Mohamed Moussa Abdallah Bahr el Din. He was found dead the next day; his body showed signs of torture. At year's end there were no new developments in the case.

Authorities did not prosecute any police officers for the May 2010 killing of 17 and injuring of an estimated 200 during protests over a North Darfur Ponzi scam. As of year's end, there were no new developments.

b. Disappearance.—There were reports of politically and ethnically motivated disappearances during the year in nonconflict areas.

In December armed elements in Khartoum, allegedly members of the South Sudanese Democratic Militia/Athor, conducted a series of raids against and kidnappings of at least 15 people of South Sudanese origin. Some were kidnapped for ransom, and others were reportedly pressed into the service of anti-South Sudanese government militias.

The whereabouts of an unknown number of Zaghawa Darfuris detained in Khartoum following the Justice and Equality Movement's (JEM) attack on Omdurman in 2008 remained unknown.

The government, as well as government-backed militias, were responsible for the disappearance of civilians during the year (see section 1.g.) in conflict areas.

Gunmen in Darfur abducted humanitarian workers and African Union—United Nations Mission in Darfur (UNAMID) personnel; this included criminal kidnappings for ransom and politically motivated kidnappings; some cases mixed both motives (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.).

In accordance with Sharia (Islamic law), the Criminal Act provides for physical punishments, including flogging, amputation, stoning, and crucifixion—the public display of a body after execution. In practice such physical punishment other than flogging was not frequently used. Traditional customary law commonly was applied to convicted defendants. 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.

For example, some of those arrested in the late January and early February antigovernment protests were subjected to torture and other forms of mistreatment while in detention. Safia Isaq, a recently graduated student allegedly involved in organizing protests through the Girifna movement on Facebook, was arrested by NISS on a separate occasion. Three security force members allegedly gang-raped her during detention (see section 1.d.).

Public order laws, in force in Khartoum State only, prohibit indecent dress, which is punishable by a maximum of 40 lashes, a fine, or both. Authorities applied these laws more frequently against women than men. They were applied to both Muslims and non-Muslims.

In December 2010 security forces arrested more than 44 persons, mostly women, demonstrating in reaction to a video that showed two police officers lashing a woman. Authorities later released the demonstrators on bail but charged them with public nuisance and disturbing the peace. As of year's end, there were no new developments.

Police and NISS officers forcibly dispersed protesters, which resulted in serious injuries and deaths (see sections 1.a. and 2.b.).

Security forces and armed nonstate actors raped women, including in connection with the conflicts in Darfur and the Three Areas (see section 1.g.).

Prison and Detention Center Conditions.—Prison conditions throughout the country remained harsh, overcrowded, and life threatening. Health care often was below standard. Prisoners sometimes relied on family or friends for food. Officials continued to deny visits to prisoners arbitrarily.

The government mistreated some persons in custody. Security forces held some political and nonpolitical 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. Generally, food, water, and sanitation were provided for prisoners, although the quality of all three was basic. Families of prisoners usually were allowed to supplement the meals of prisoners with food from the outside.

Most prisoners did not have access to beds; in general prisoners were provided with blankets in the winter. Ventilation and lighting conditions differed between prisons, and law enforcement figures reported that overcrowding was a problem.

There were reports of negligent deaths in prisons and pretrial detention centers, but comprehensive figures were not readily available.

On December 8 and 9, prisoners in El Fasher's Shala Prison rioted in protest of scheduled executions of Liberation and Justice Movement (LJM) and Justice and Equality Movement detainees. One prisoner was killed and 10 injured before the rioting ended. The prisoners from LJM, a movement that had signed a peace agreement with the government, were subsequently moved to Kober Prison in Khartoum.

The Ministry of the Interior reported there were 20,000 total prisoners, with 2,427 awaiting trial and 17,573 already sentenced.

Men and women were not held together. Incarcerated women reportedly received better quality food than men. In Khartoum juveniles were not held in adult prisons or jails but sometimes were held with adults elsewhere in the country.

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.

Prisoners were allowed to take part in religious observance. There were locations in prisons for Islamic prayer but no dedicated areas for Christian observance. Christian priests were sometimes allowed to hold services in prisons, although access was not regular.

Authorities permitted prisoners, but not all detainees, to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, which authorities investigated and documented. However, these rights were not always granted to pretrial detainees, political prisoners, and those in the custody of police or security forces.

The government allowed some restricted visits to prisons by human rights observers, although it continued to deny unrestricted access. The International Committee of the Red Cross did not have access to government prisons during the year. The Ministry of Justice occasionally granted UNAMID access to government prisons in the Darfur area during the year.

Prison officials in Darfur participated in U.N. Development Program-sponsored capacity-building training sessions during the year.

Rebel groups in Darfur periodically detained people they kidnapped in isolated locations, but there were no reports of prisons run by local warlords, paramilitary groups, or rebel forces.

d. Arbitrary Arrest or Detention.—The interim national constitution prohibits arbitrary arrest and detention without charge; however, the government continued to arrest and detain persons arbitrarily, often under the National Security Act. Throughout the country arbitrary arrests and detention were common, including of U.N. employees.

For example, in January NISS agents arrested Hassan al-Turabi, head of the opposition Popular Congress Party, and nine other party members for calling on the government to carry out democratic reforms. All 10 were released in May without charge.

In January more than 100 persons, among them journalists, opposition members, and students, were arrested during protests inspired by events in Egypt and Tunisia. According to the U.N.'s independent expert, most were released quickly after their arrests and without charges. However, more than 30 were held for an extended period after the protests and reportedly suffered abuse at the hands of authorities. Most were released by late May.

In Darfur at least 29 Darfuris were arrested during the year and remained in arbitrary detention. This number does not include 46 Darfuris arrested between 2008-10 who continued in detention. On July 12, the government released 25 Darfuri political prisoners after it publicly stated it planned to release all political prisoners.

In August the wali of South Darfur granted amnesty to five sheikhs from Kalma Camp who had taken shelter in a UNAMID Community Policing Center inside the camp the prior year following a series of violent clashes within the camp. The five sheikhs were accused of killing supporters of the Doha peace process and faced death penalty charges. The wali also announced the release of 72 prisoners and state pardons for additional prisoners.

Role of the Police and Security Apparatus.—Several government entities have responsibility for internal security, including the police, NISS, Ministry of Interior, and Ministry of Defense. The NISS maintains security officers in major towns and cities. The Ministry of Interior controlled the Central Reserve Police (CRP). The Ministry of Defense's Border Intelligence Force (border guards), a loosely organized force composed largely of former Janjaweed Arab militia, operated in Darfur and elsewhere. The CRP also contains a number of former Janjaweed fighters. In November the CRP attacked the western section of the Zamzam internally displaced persons (IDP) camp in North Darfur, killing one IDP and injuring eight others.

Security force impunity was a serious problem. The 2010 National Security Act provides NISS officials with legal protection for acts involving their official duties. Abuses by security forces generally were not investigated. Security force corruption was a problem, and security force members often supplemented their incomes by extorting bribes.

On August 24, a military court tried three police officers accused of physically assaulting a doctor at the police hospital. The military court convicted both the three police officers and the doctor and sentenced them to one month in prison.

During the year the government named a special prosecutor from the Ministry of Justice to monitor NISS detentions. Nonetheless, the U.N.'s independent expert remained concerned about weak judicial oversight of NISS arrests and detention and the failure of the security service's rules to take fully into account human rights principles and respect for the rule of law.

Arrest Procedures and Treatment While in Detention.—Warrants are not required for an arrest. The criminal procedure law permits authorities to detain individuals for three days without charge, which can be extended for 30 days by order of the NISS director of security and another 15 days with the approval of the prosecuting attorney. Individuals accused of violating national security were frequently detained indefinitely without charge, although the National Security Act specifies such individuals may be detained without charge for three months, which the director of security may extend for another three months. The law provides for an 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.

The law allows for bail, except for those accused of crimes punishable by death or life imprisonment, and there was a functioning bail system.

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.

Arbitrary Arrest.—The NISS, military intelligence, and Sudanese Armed Forces (SAF) arbitrarily arrested and detained persons. Authorities often detained persons for a few days before releasing them without charge, but many persons were held much longer.

The Sudanese People's Liberation Movement—North (SPLM-N), whose military arm was fighting the SAF in Southern Kordofan and Blue Nile states, reported military and intelligence forces abducted numerous civilian members of the movement during fighting in Blue Nile and Southern Kordofan during the year. Human rights groups were not able to verify most of these claims, although Human Rights Watch and Sudan-based human rights activists confirmed the detention by national security personnel in Damazin, Blue Nile, on September 2 of Abdelmoniem Rahma, a well-known Sudanese writer, artist, activist, and former adviser on cultural affairs to the governor of Blue Nile State. Rahma remained in detention without charge at year's end. The SPLM-N controlled swathes of territory in the two states and denied access to human rights monitors. It was also accused of abducting civilians.

Pretrial Detention.—Lengthy pretrial detention was common. The large numbers of detainees and judicial inefficiency, such as the failure of judges to appear for court, resulted in trial delays. For example, the individuals arrested for their association with Radio Dabanga were held in pretrial detention from October 2010 until their trial began on June 16. They were cleared of all charges in December.

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 and the security forces, particularly in cases of alleged crimes against the state. On occasion courts displayed a degree of independence; however, political interference with the courts was commonplace, and some high-ranking members of the judiciary held positions in the Ministry of Interior or other ministries in the executive branch.

A state of emergency, which allows for arrest and detention without trial, remained in place in Darfur and was extended to Blue Nile State. The special courts

from 2010 ceased to exist; however, the Ministry of Justice appointed a series of three special prosecutors for Darfur during the year.

The judiciary was inefficient and subject to corruption. In Darfur judges were often absent from their posts, delaying trials. Access to functioning courts was also a problem for residents in other remote areas.

Trial Procedures.—The interim national constitution and law provide for fair and prompt trials as well as a presumption of innocence; however, this often was not respected. Trials are open to the public at the discretion of the judge. In cases of national security and offenses against the state, trials are usually closed. Juries are not used. The law stipulates the government is obligated to provide a lawyer for cases in which indigents are accused and for which the punishment might exceed 10 years' imprisonment or possibly execution. The accused can also request assistance through the legal aid department at the Ministry of Justice or the Sudanese Bar Association. Defendants and their attorneys generally have the right to present evidence and witnesses, be present in court, confront accusers, and have access to government-held evidence relevant to their cases. However, some defendants reportedly did not receive legal counsel, and counsel in some cases could only advise the defendant and not address the court. Persons in remote areas and in areas of conflict generally did not have access to legal counsel. There were reports the government sometimes did not allow defense witnesses to testify. Defendants have a right to appeal, except in military trials, where there is no appeal.

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 to be political opponents.

Military trials, which sometimes were secret and brief, did not provide procedural safeguards. For example, a defendant's attorney could advise the defendant but could not address the court.

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, including drug and currency offenses. Special courts, composed primarily of civilian judges, handled most security-related cases. Defendants in these courts had limited opportunities to meet with counsel and were not always allowed to present witnesses during trial.

Due to the long distances between court facilities and police stations, local mediation was often the first resort to try to resolve disputes. In some instances unofficial tribal courts operating outside the official legal system decided cases. Such courts did not provide the same protections as regular courts.

While Islamic jurisprudence strongly influences the law, in domestic cases concerning Coptic Christians, such as divorce and other family matters, courts often allowed a Coptic priest, particularly the archbishop, to make the final ruling.

Political Prisoners and Detainees.—The government held hundreds of political prisoners and detainees. Some political detainees were held in isolated cells in regular prisons, and many were held without access to family or medical treatment. Human rights organizations asserted that the NISS ran "ghost houses," where they detained opposition and human rights figures without confirming they were in detention by the state. Security forces detained without charge, tortured, and held incommunicado political opponents. Detentions of such persons were prolonged at times.

The government continued to arrest members and leadership of the Popular Congress Party (PCP), SPLM-N, and other opposition parties.

On September 12, shortly after the nationwide ban of the SPLM-N and following that party's public adoption of a regime change strategy in conjunction with armed Darfuri groups, police officials raided the house of prominent SPLM-N member Izdihar Guma. They arrested her and her husband and held them for five hours. Upon her release authorities put her under a travel ban limiting her movements to Khartoum. Approximately 26 members of the SPLM-N's leadership remained in detention at year's end. The NISS also confiscated SPLM-N property countrywide.

The government detained persons who participated in political protests.

The government severely restricted international humanitarian organizations' access to political detainees. The government allowed UNAMID extremely limited access to Darfuri political detainees in Khartoum and Darfur.

Civil Judicial Procedures and Remedies.—Those seeking damages for human rights violations had access to courts; 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 rou-

tinely violated these rights in practice. Emergency laws in Darfur and Blue Nile State legalize interference in privacy, family, home, and correspondence.

Security forces frequently conducted searches without warrants and targeted persons suspected of political crimes.

Police often entered IDP areas without a warrant in search of illegal alcohol brewing and 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.

By law 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 universally enforced. Non-Muslims may adopt only non-Muslim children; no such restrictions apply to Muslim parents.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Darfur.—In Darfur fighting involving government forces, government-aligned militias, rebel groups, and ethnic groups continued. These groups killed, injured, and raped women and girls, used child soldiers, and displaced civilians. Darfur rebel factions, bandits, and unidentified assailants also killed, beat, and abducted civilians, humanitarian workers, and personnel of UNAMID. Interethnic violence was a severe problem and resulted in civilian deaths and displacement.

Clashes between the SAF, associated militias, and rebel forces, as well as tribal fighting and violent criminality, led to the killing of an estimated 939 people in Darfur during the year. In 2010, 2,321 confirmed killings occurred.

As a result of conflict, an estimated 1,945,000 civilians remained internally displaced, and approximately 274,640 refugees remained in Chad. According to U.N. estimates, as many as 70,000 persons were displaced between January and October in Darfur by government and rebel fighting as well as increased tribal violence. During the year the Office of the U.N. High Commissioner for Refugees (UNHCR) verified 110,000 returns of IDPs and 30,000 refugees, mostly to areas in West Darfur.

Fighting between government forces, irregular forces aligned with the government, and rebel groups particularly affected the area of Jebel Marra. In addition heavy fighting between government-supported militias and ethnic Zaghawa rebels, sometimes affiliated with the Sudan Liberation Movement/Minni Minnawi (SLM/MM), broke out in December 2010 and continued through May. Intercommunal violence continued during the year in North and South Darfur. Conflicts in IDP camps also resulted in deaths. Rape as well as recruitment of child soldiers continued to occur.

Government forces provided support, including weapons and ammunition, to government-aligned militias, and the government seldom took action against soldiers or militia members who attacked civilians. During the year the government began to provide weapons to African tribes to fight other African tribes; in past years the government primarily provided Arab tribes with weapons to fight against African tribes. Rebel forces reportedly received financial support from foreign sources during the year.

Fighting, insecurity, bureaucratic obstacles, and government and rebel restrictions reduced the ability of peacekeepers and humanitarian workers to access conflict-affected areas. Armed persons attacked, killed, injured, and kidnapped peacekeepers and aid workers. Humanitarian organizations often were not able to deliver humanitarian assistance in conflict areas, particularly in Jebel Marra.

Although different national and international nongovernmental organizations (NGOs) filled the void left when the government expelled 13 international and three local humanitarian NGOs in 2009, security concerns and the Emergency Law, which gives the government the right to search humanitarian workers and bar access to areas in conflict zones, continued to hamper humanitarian intervention. Lack of access and fear of government retribution reduced reporting on human rights violations, especially sexual and gender-based violence, and humanitarian situations during the year.

The government remained uncooperative with U.N. Security Council Resolution 1593 and with execution of the International Criminal Court (ICC) arrest warrants for President Bashir, Ahmad Muhammad Haroun, and Ali Muhammad Abd al-Rahman. In December the ICC's chief prosecutor requested the court issue a warrant for the arrest of Minister of Defense Abdurrahman Hussein for war crimes and crimes against humanity, stemming from his involvement in government efforts to suppress the violence in Darfur when he served as minister of the interior and special adviser to the president for Darfur. At year's end the court had not issued the requested warrant.

Developments with respect to the ICC prosecutor's 2008 request for an arrest warrant for three rebel commanders, Bahr Idress Abu Garda, Abdallah Banda Abakaer Nourain, and Saleh Jerbo Jamus, for war crimes committed during the 2007 attack on African Union peacekeepers at Haskanita, included the following: In February 2010 the ICC dropped charges against Abu Garda. In June 2010 Abdallah Banda and Saleh Jerbo, in response to summonses, appeared before the ICC Pretrial Chamber I. In November 2010 they waived their right to be present at the confirmation of charges hearing, which took place in December of that year. In March the ICC confirmed it would try Abdallah Banda and Saleh Jerbo, and the trial began in April.

There were no developments regarding the recommendations of the African Union High-Level Panel on the 2009 report on Darfur, including its recommendation to create a hybrid court of Sudanese and international judges to prosecute the most serious crimes committed in Darfur and a truth and reconciliation commission. Discussions with the government on implementing the panel's suggestions remained stalled.

The Three Areas.—The border region of Abyei was the site of violence, widespread displacement, and human rights violations throughout the interim period of the CPA. Abyei was scheduled to have a referendum at the same time as South Sudan to determine if it would join with a possible new independent South Sudan or remain a part of Sudan. Disputes over who could vote in the referendum prevented it from taking place. The Sudanese government stated the Misseriya, who migrate yearly through Abyei from the North, should be eligible to participate, while the government of South Sudan and the SPLM stressed the protocol called only for Dinka Ngok and other residents, but not nomadic groups, to vote. This delay in the referendum caused an increase in tensions among ethnic groups in the area, and violence soon broke out between the SAF and Sudan People's Liberation Army (SPLA). An estimated 110,000 people were displaced from the region, mostly into the South, and the town of Abyei was largely destroyed and looted for the second time in the interim period. On June 27, the U.N. Security Council unanimously adopted Resolution 1990, establishing the U.N. Interim Status Force in Abyei (UNISFA) and mandating the deployment of 4,200 Ethiopian peacekeepers. By year's end UNISFA had fully deployed, with 3,653 troops on the ground. Ethiopian peacekeepers were carrying out the force's primary task of protecting the civilian population and establishing a safe and secure environment. Access to the Abyei area by international organizations and observers was not a problem following the deployment of UNISFA forces.

The U.N. reported arbitrary killings, disappearances, displacement, and detentions in Abyei, although these reports dramatically decreased after the deployment of UNISFA.

In June violence erupted in Southern Kordofan following the opposition SPLM-N refusal to accept the results of a closely contested election for state governor and government efforts to disarm elements of the SPLM-N's forces. Both SAF and SPLM-N forces were accused of targeting civilians and employing violence indiscriminately. According to the U.N.'s Office for the Coordination of Humanitarian Affairs, the fighting created 300,000 "IDPs or Otherwise Severely Affected Persons" and 20,000 refugees from Southern Kordofan. The government of Sudan denied international humanitarian organizations access to the state, and international staff of NGOs operating there were expelled, making monitoring and verification of human rights abuses difficult.

In September in Blue Nile State violence between the SAF and SPLM-N flared. SPLM-N declarations of intent to overthrow the national government and accusations the SPLM-N was receiving material support from the government of South Sudan led to the dismissal of the pro-SPLM-N governor and the imposition of a national ban on the SPLM. The U.N. reported as many as 66,000 "IDPs or Otherwise Severely Affected Persons" and 67,000 refugees from Blue Nile at year's end. Continued denial of access for international humanitarian staff impeded reporting and verification of events.

Killings.—In Darfur and the Three Areas, government forces and government-aligned militias killed civilians, including by repeated aerial bombardment of civilian areas. Ground attacks often followed aerial bombardments. Rebel forces also killed civilians during attacks. Attacks resulted in civilian displacement (see section 2.d.).

Violence in Jebel Marra—a mountainous area that reaches into each of the Darfur states—killed and displaced numerous civilians. In eastern Jebel Marra, government forces and Arab militias launched offensives against rebel forces based in the

mountains. In western Jebel Marra, the government also launched aerial bombardment campaigns against rebel-held towns.

Fighting between the SAF and rebel forces in eastern Jebel Marra particularly affected Feina, Suni, Jawa, Golombai, and Fanga Suk villages. In western Jebel Marra, the villages of Nertiti, Sortony, Kaguro, and Rockero suffered from heavy fighting. In January the SAF launched an aerial and ground offensive around Shangil Tobaya, North Darfur, that caused deaths and large-scale civilian displacement. In April and May, heavy fighting broke out between government forces and rebels in the area around Muzbat and Um Baru, North Darfur, traditionally held by the SLM/MM. Humanitarian organizations lacked access to Jebel Marra, with the government permitting only brief day-trips to certain areas, making it difficult to gather information on the fighting's impact on civilians. UNAMID documented gender-based violence in connection with the fighting in Jebel Marra.

There were numerous reports of aerial bombardments.

For example, on February 17, the government bombed Tukumare, North Darfur, killing at least three civilians and injuring three others.

On April 10-12, the government launched numerous aerial bombardment campaigns around Muzbat, North Darfur, followed by ground attacks.

From January to March, in South Darfur, fighting between government and Sudan Liberation Army/Minni Minawi (SLA/MM) forces displaced tens of thousands of persons from Khor Abeche and Shaeria. Negeha and Jaghara villages, near Khor Abeche, were burned. Humanitarian staff was denied access to Khor Abeche. In North Darfur, fighting between government forces and rebel groups in Dar al-Salaam and Shangil Tobaya continued from December 2010 through March, and sporadically afterward. There were reports of civilian deaths, looting, and destruction of civilian property during the fighting in both North and South Darfur.

On May 31, progovernment militia attacked the predominantly Zaghawa town of Abu Zerega, North Darfur, and killed two civilians, looted livestock, and took at least 14 civilians hostage. The hostages, with their hands tied behind their backs, were taken to a field and executed. During the government-led investigation that followed, one Zaghawa resident of Abu Zerega who had been an eyewitness to the looting and killings on May 31 was reportedly taken out of his vehicle and shot.

Inter- and intratribal conflict continued during the year, fueled by growing competition for resources exacerbated by desertification and population growth, the weakening of traditional mediation mechanisms, and the proliferation of arms. However, inter-Arab fighting markedly decreased during the year compared with a spike in incidents in 2010.

The U.N. reported that between January and October, intertribal violence killed approximately 95 persons. This accounted for 11.5 percent of violence-related deaths in Darfur. According to U.N. reports, fighting erupted in June between the Salamat and Habaniya tribes in Buram, South Darfur. The Humanitarian Aid Commission (HAC) confirmed 70 people were killed and an estimated 1,500 households were displaced as a result of the clashes.

On August 5, a Sierra Leonean peacekeeper serving with UNAMID was killed and a second was seriously injured when their car was ambushed by four gunmen in Duma Village, northeast of Nyala, South Darfur.

On October 10, unidentified assailants ambushed a UNAMID patrol in North Darfur's Zam Zam IDP camp. Two Rwandan soldiers, one Senegalese police advisor, and one attacker died during the ensuing firefight.

In January government-backed Misseriya militia attacked police positions near Maker, Abyei, leaving dozens dead. In February and March, Misseriya militia continued to attack police and civilians in Abyei, leaving as many as 154 dead.

Air raids resulted in civilian deaths throughout Southern Kordofan; similar tactics appeared to be employed in Blue Nile. For example, aerial bombardments occurred in Kadugli, Kauda, Dilling, Talodi, Um Durein, and other parts of Southern Kordofan. During the week of October 17, the U.N. reported nearly 2,000 refugees from Blue Nile State fled to Ethiopia to escape aerial attacks by the SAF. They fled bombings by Antonov planes on the towns of Bau, Sali, and Dinduro, all located between Kurmuk and Damazin.

During the June fighting in Southern Kordofan, the U.N. reported the SAF carried out shelling of densely populated areas. On June 8, SAF soldiers pulled a contractor with the U.N. Mission in Sudan (UNMIS) out of his vehicle in front of the UNMIS Kadugli compound. Soldiers proceeded to remove him from the area, and soon thereafter witnesses reported hearing gunshots and finding his corpse.

On May 19, SPLM forces attacked a U.N. convoy that was escorting withdrawing SAF forces from Kadugli, resulting in loss of life among the SAF forces.

The U.N. reported both the SAF and Sudan Peoples' Liberation Army-North (SPLA-N) allegedly laid antipersonnel land mines in Kadugli, resulting in civilian deaths.

Abductions.—Unidentified assailants also abducted U.N. personnel in Darfur.

For example, on January 13, three Bulgarian U.N. pilots were kidnapped in West Darfur; they were released on June 6.

Anger about the Doha peace accords also led to abuses. Rebel forces outside of the process attacked those perceived to have collaborated with the government.

On September 13, alleged members of SLA/Abdul Wahid (SLA/AW) kidnapped Hawa Mohammed Arbab, a member of the West Darfur Legislative Council who participated in the Doha negotiations. She was released on October 20.

There were reports of several instances of forced disappearances in the Southern Kordofan conflict.

Physical Abuse, Punishment, and Torture.—All parties to the conflict in Darfur and in the Three Areas were accused of perpetrating torture and other abuse. The government abused persons detained after armed conflict as well as IDPs suspected of having links to rebel groups. There were continued reports government security forces, both pro- and antigovernment militias, and other armed persons raped women and children.

Sexual and gender-based violence continued during the year throughout Darfur. Authorities often obstructed access to justice for rape victims. IDPs reported that perpetrators of such violence were often government force members, militia members, or unidentified men. Assailants assaulted, raped, threatened, shot, beat, and robbed women.

According to U.N. and Radio Dabanga reports, both state and nonstate armed actors raped at least 115 Darfuri women between February and December. This number did not include several mass rapes reported by the U.N. and Radio Dabanga. In addition, two boys were reportedly raped in North Darfur. The majority of victims identified their perpetrators as belonging to government-affiliated militias.

There were multiple reports of IDPs being harassed, arrested, and tortured by the NISS (also see section 2. d., IDPs), with UNAMID documenting cases of abuse, arbitrary arrest, and torture by security forces in Darfur, including the CRP.

Government officials were accused of employing torture and violent tactics against civilians throughout the Southern Kordofan conflict.

For example, on June 20, a young woman of Nuban descent was reportedly interrogated by police about her work with an international NGO; police beat her with their fists, sticks, rubber hoses, and electric cables. The U.N. confirmed her injuries shortly after the attack.

On June 16, SAF personnel detained, interrogated, and subjected to cruel and degrading treatment four U.N. Military Observers (UNMOs). The U.N. reported that the UNMOs were lined up at gunpoint by an SAF captain when an SAF major entered the room and ordered him not to shoot.

Child Soldiers.—The Armed Forces Act prohibits the recruitment of children and provides criminal penalties for perpetrators. However, eyewitness reports indicated child soldiers remained with most of the armed groups, including the SAF and Public Defense Forces, engaged in conflict; the problem was especially serious in Darfur and Southern Kordofan.

A U.N. report covering 2009 stated more than 14 Sudanese and foreign armed forces and groups in Darfur recruited and used children, especially in West Darfur. These groups included the SAF, police (including the CRP and Border Intelligence Force), 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 2009.

Although UNICEF signed an action plan in 2007 with SLA/MM that committed the rebel group to identify locations where child soldiers operated, SLA/MM continued to use child soldiers. SLA/MM fighters reportedly raided Zam Zam IDP camp from time to time to capture youth allegedly involved in criminality and forcibly recruit them into the armed movement. JEM also reportedly used child soldiers during the year.

In June the general commander of the Sudan Liberation Movement—Abdel Wahid (SLM/AW), Mohammed Adam Abdel Salam Tarada, again issued a command prohibiting the use and recruitment of child soldiers.

From February through April, 574 children were released by JEM-Peace Wing, SLA-Peace Wing, and the Movement for Popular Forces for Rights and Democracy. In June 2010 JEM signed an action plan with UNICEF to end the use of child soldiers.

On September 13, the Sudan Disarmament, Demobilization, and Reintegration (DDR) Program, in collaboration with the West Darfur DDR Commission, UNICEF, and UNAMID launched a demobilization campaign in El Geneina, West Darfur, with approximately 350 minor excombatants participating. The former child soldiers come from the Justice and Equality Movement/Peace Wing, Sudan Liberation Army/Mustafa Terab, and the Liberation and Reform Movement.

There were no new developments in the 2008 case of children detained in connection with the JEM attack on Omdurman. As of December 2009, 119 children received pardons and were released, but some children were sentenced to death and remained detained at year's end.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Other Conflict-related Abuses.—All parties to the Darfur and Three Areas conflicts obstructed the work of humanitarian organizations, UNAMID, and UNMIS, increasing the displacement of civilians and abuse of IDPs. Violence, insecurity, and the denial of visas and refusal of access to international organizations reduced the ability of humanitarian organizations to provide needed services.

Despite the 2007 joint communique between the government and the U.N., government forces frequently harassed NGOs that received international assistance, restricted or denied permission for humanitarian assessments, refused to approve technical agreements, changed procedures, copied NGO files, confiscated NGO property, questioned humanitarian workers at length and monitored their personal correspondence, delayed issuance of visas and travel permits, restricted travel, and publicly accused humanitarian workers of aiding rebel groups.

Darfur.—During the year Operation Spring Basket, a UNAMID initiative in partnership with humanitarian organizations began, aimed at increasing secure access for humanitarian workers to Jebel Marra and areas of North Darfur previously inaccessible to them. The operation produced mixed results, as the NISS often denied flight permission to U.N. helicopters. Rebels also blocked access to areas under their control.

For example, access to the Darfuri Kalma IDP camp was granted on a case-by-case basis. On May 20, UNICEF staff were denied access while other organizations such as Care International Switzerland and OXFAM America were granted access the same month.

On February 10, security officials arrested 13 Medecins du Monde (MDM) local staff working in eastern Jebel Marra. By August all the employees were released. The government also expelled MDM from Darfur, allegedly for reporting false information regarding the security and humanitarian situations.

On May 6, a UNAMID national staff member was arrested allegedly for proselytizing and being affiliated with the SLA/AW movement. She was released on July 12.

Policy discrepancies between Darfur state-level and Humanitarian Aid Commission (HAC) officials in Khartoum adversely affected humanitarian operations.

The HAC continued to require that NGOs refrain from interviewing or selecting staff unless they used a five-person government selection panel with 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 on an ad hoc basis, often at the state level.

Rebel forces and bandits obstructed humanitarian assistance, regularly attacked the compounds of humanitarian organizations, and seized humanitarian aid and assets, including vehicles. Kidnappings and attacks on humanitarian convoys continued during the year. Instability forced many international aid organizations to reduce their operations in Darfur.

The Three Areas.—Since June and September, respectively, the government blocked access to Southern Kordofan and Blue Nile for international aid organizations.

For example, in August a joint UN/Sudanese government mission to assess the humanitarian situation and provide critical food aid to displaced people arrived in Kadugli, but the Southern Kordofan governor told the group to return to Khartoum before it could carry out its mission. Since that time no international organizations have been permitted to return to Southern Kordofan.

International aid organizations were similarly restricted from providing aid in Blue Nile State.

The SAF reportedly carried out house-to-house searches, resulting in arbitrary arrests and detentions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of 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, including the NISS, continued to censor print and broadcast media, arrest and torture journalists, and harass vocal critics of the government. Nightly prepublication censorship of newspapers occurred from May to August. The government controlled the media through the National Press Council, which administered mandatory professional exams for journalists and editors. Journalists also practiced self-censorship.

The government directly controlled radio and television and required that both reflect government policies. Some foreign shortwave radio broadcasts were available, and a private FM radio station continued to operate. The government restricted U.N. radio. In addition to domestic and satellite television services, there was a pay cable network, which directly rebroadcast uncensored foreign news and other programs.

Freedom of Press.—The constitution guarantees freedom of press but newspapers, especially privately owned and pro-opposition ones, were frequently subjected to measures to prevent them from reporting on issues deemed sensitive by authorities. Those measures included direct prepublication censorship, confiscation, legal proceedings, and denial of state advertising. Confiscation, in particular, inflicted severe financial damages on newspapers that were already hard-pressed due to low circulation.

On September 28, the government closed the independent newspaper *Al Jarida* for reporting on the Sudanese military presence in Abyei. The government authorized its reopening in late December, but it had not resumed publishing because the government-run National Publications Council refused to approve the paper’s requests for new editorial staff hires.

On September 14, NISS agents confiscated copies of the progovernment daily *Akhbar Al-Yawm* after it published statements by Khalil Ibrahim, the then leader of the rebel JEM. Sudanese security authorities instructed newspapers to refrain from reporting on statements by or activities of rebel groups in the country.

Violence and Harassment.—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. Authorities continued to target aggressively journalists and publications through contrived legal proceedings, politicized criminal charges, and confiscations.

Journalists were subjected to arrest, harassment, intimidation, and violence due to their reporting.

For example, on January 10, authorities in Khartoum detained two journalists from *Bar’ut*, a weekly publication in eastern Sudan. The journalists, Abouicha Kazem and Abdelgader Bakash, were accused of attacking the constitution because they had discussed the idea of a partition of the East of the country in the context of the referendum on self-determination in the South. Both were released without charge after three weeks.

Three journalists, Abuzar Al-Amin, Al-Tahir Abu Jawhara, and Ashraf Abdelaziz, from the PCP-affiliated newspaper *Rai-Al-Shaab*, were detained and charged with crimes against the state in May 2010. Abdelaziz and Abu Jawhara were released on February 2 after serving their one-year sentences (originally two years but reduced by an appeal court). Al-Amin was released on bail on August 8 after serving one year of his original five-year sentence and was facing the possibility of life imprisonment or the death penalty on new charges including criminal conspiracy, criminal offences, attacks on the state aimed at undermining the constitutional system, and publishing false information.

In October and November 2010, security forces arrested several Darfuri activists and an individual who worked for Radio Dabanga. Abdelrahman Adam, a freelance journalist detained since October 2010, and three other persons, who denied being Radio Dabanga employees, were detained for allegedly divulging state secrets, undermining the constitutional system, calling for resistance, and inciting sedition. They were later released, and charges were dropped in December.

The NISS also required journalists to provide personal information, such as details on their tribe, political affiliation, and family.

The government selectively restricted international media. Some foreign journalists were denied visas; others had regular access to opposition politicians, rebels, and civil society advocates.

Internet Freedom.—The government monitored Internet communications, and the NISS read e-mail messages between private citizens. The National Telecommuni-

cations Corporation blocked some Web sites and most proxy servers deemed offensive to public morality. While there generally were no restrictions on access to news and information Web sites, authorities regularly blocked access to YouTube. During the 2010 elections, the government blocked access to the Sudan Vote Monitor Web site.

Academic Freedom and Cultural Events.—The government restricted academic freedom. For public universities the government determined the curriculum and appointed the vice chancellors, who were responsible for administering the institutions. Some universities required students to participate regularly in progovernment rallies and other activities, and some professors exercised self-censorship. The government regularly arrested student activists. Security forces used tear gas and other heavy-handed tactics against peaceful protests occurring at universities or involving university students.

Public Order Police continued to visibly monitor public gatherings and cultural events, often intimidating women and girls, who feared police would arrest them for “indecent” dress or actions.

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. In 2010 the National Elections Commission issued a circular note requiring 72-hour prior notice for political rallies, which it later reduced to 36 hours.

The government continued to deny permission to Islamic orders associated with opposition political parties, particularly the Anwar (Umma Party) and Khatmiya (Democratic Unionist Party), to hold large gatherings in public spaces, but parties regularly held 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.

During protests in late January and early February, NISS officials reportedly organized a fake burial for a student reported killed during demonstrations. Officials then arrested at least 20 people who came to the funeral.

Police use of excessive force to disperse demonstrators resulted in deaths and injuries (see section 1.d.).

Authorities generally took no action against security force members 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. The law effectively prohibits political parties linked to armed opposition to the government. In September the government closed SPLM-N offices in Khartoum and other states and arrested several leaders; 16 other political parties were also banned in September for having links with South Sudan. There were approximately 52 registered political parties. The Umma Party, Democratic Unionist Party, and Communist Party were not officially registered with the government. The government continued to harass some opposition leaders who spoke with foreign organizations or embassies.

c. Freedom of Religion.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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’s encampment policy requires asylum seekers and refugees to stay in 12 designated camps. The government did not allow IDP camps to be established in Southern Kordofan and Blue Nile states.

The government impeded the work of the UNHCR and delayed full approval of UNHCR activities, particularly in North and South Darfur, the Three Areas, and eastern Sudan. While in some cases it cooperated with the UNHCR and other humanitarian assistance organizations in assisting refugees and asylum seekers, the government restricted and harassed such organizations. The UNHCR confirmed the government continued to disregard international agreements and targeted refugees and asylum seekers for abuse. Although the government permitted most refugees from Eritrea and Ethiopia to remain in the country, there were reports during the year that NISS agents forced some Eritrean refugees back across the border before the HAC could process them.

In October the government reportedly handed over more than 300 Eritreans to the Eritrean military without screening them for refugee status.

In-country Movement.—In Darfur the government and rebels restricted the movement of citizens and U.N. and humanitarian organization personnel (see section 1.g.).

While movement was generally unhindered for citizens outside conflict areas, foreigners needed government permission for domestic travel outside Khartoum, which was often difficult to obtain. Foreigners must register with the police on entering the country, obtain permission from the police to move more than 15.5 miles outside Khartoum or from one city to another, and reregister at each new location within three days of arrival.

The government delayed issuing humanitarian and diplomatic visas and travel permits for Darfur to foreign NGO staff and denied access to international staff during ongoing violence in the Three Areas.

Foreign Travel.—The government required citizens to obtain an exit visa if they wished to depart the country. Issuance was usually pro forma, and the government did not use the visa requirement to restrict citizens' travel during the year.

Unlike in the previous year, the government did not restrict persons from traveling outside of the country to attend conferences.

Exile.—The law prohibits forced exile, and the government did not use it. However, opposition leaders and NGO activists remained in self-imposed exile throughout northern Africa and Europe, and other activists fled the country during the year.

Internally Displaced Persons (IDPs).—Large-scale displacement continued to be a severe problem. There were an estimated 1,945,000 IDPs in Darfur, 1.5 million displaced South Sudanese, and 68,000 IDPs in the East. In Blue Nile and Southern Kordofan there were 81,000 and 330,000 IDPs, respectively. Approximately 80 percent of the 130,000 people initially displaced in Blue Nile had returned home. There were modest voluntary returns of IDPs in Darfur. An estimated 120,000 persons were displaced from Abyei, mostly into the South.

As of September there were 274,640 registered refugees from Darfur in Chad. There was no complete breakdown of refugee populations from Blue Nile and Southern Kordofan, but there were 85,000 refugees from Sudan in the Maban area of South Sudan, while the total number of refugees from Sudan in South Sudan was 102,900.

While in previous years the U.N. estimated there were approximately 2.7 million IDPs in Darfur, more recent data from the UNHCR indicated the number of IDPs in Darfur to be 1.945 million. In the first half of the year, the U.N. reported continued fighting between the government and armed rebels caused the displacement of 70,000 new IDPs.

In West Darfur, humanitarian partners provided assistance to more than 20,000 returnees. In 2011 the UNHCR verified 110,000 returns of IDPs and 30,000 refugees, mostly to areas in West Darfur.

The total number of returnees, including spontaneous returnees, may be much higher and was difficult to verify.

IDPs in Darfur faced major humanitarian needs. Although other international humanitarian NGOs replaced 13 expelled by the government in 2009, the delivery of humanitarian services continued to suffer from logistical and security constraints.

During the year the World Food Program cut food distribution by half in Darfur as it reassessed the number of IDPs requiring assistance and found it was lower than previous estimates. The organization reported no significant increase in malnutrition rates after the reduction in distributions.

Government attempts to resettle IDPs were modest but generally successful. There were no reports of forced resettlement, and a significant number of IDPs resettled spontaneously.

Government restrictions, harassment, and the threat of expulsion resulted in the continued closure of most gender-based violence programming. While gender-based violence programming was mainstreamed into other humanitarian efforts, reporting and reach were severely curtailed (see section 1.g.). Some U.N. agencies successfully worked with offices of Advisors on Women and Children to the Governor in Darfur to raise awareness on the issue of sexual and gender-based violence.

There were numerous reports of abuses committed by security forces, rebels, and militias against IDPs, including rapes and beatings. Abuse of IDPs by government forces and government backed-militias in the Southern Kordofan conflict were reported.

For example, according to the U.N., on June 8, four armed men entered an IDP area outside of the UNMIS perimeter in Kadugli. Witnesses claimed the men abducted three IDPs from the area on suspicion they were SPLM-N supporters.

On June 7, three IDPs who had been assisting UNMIS personnel to load supplies were pulled out of a truck and beaten by SAF personnel. A UNMIS staff member who attempted to intervene was threatened at gunpoint by one of the soldiers.

Outside of IDP camps, insecurity restricted IDP freedom of movement; women and girls who left the towns and camps risked sexual violence. Insecurity within IDP camps was also a problem. Conflicts regarding political representation in the Doha peace processes resulted in deaths and additional displacements during the year. This was exacerbated by the proliferation of arms in the camps. The government provided little assistance or protection to IDPs in Darfur. Most IDP camps had no functioning police force. International observers noted criminal gangs aligned with rebel groups operated openly in several IDP camps and operated back and forth across the border with Chad.

In early June 10 people were killed in an internal conflict in Hassahissa Camp after they were accused of being government agents pretending to be SLA/AW supporters.

Similar politically motivated violence erupted in Hamidiya and Hassahissa IDP camps in West Darfur in February, June, and August. There were multiple cases reported of IDPs being harassed, arrested, and tortured by the NISS. The government harassed IDPs in Darfur who spoke with foreign observers. For example, Ibrahim Jallab Izairg, an IDP activist from Hassahissa Camp, was arrested on May 8 after he met with a foreign diplomat.

In September the government pardoned five sheikhs (tribal leaders) from Kalma IDP Camp who were accused of instigating violence in the camp in July 2010 that led to clashes between pro-Doha and anti-Doha factions within the camp and the deaths of at least 35 people. The sheikhs sought refuge at the UNAMID Community Policing Center in the camp in July 2010; the government sentenced them to death in 2010 but pardoned them in September after they spent more than a year in the center.

Two IDPs who were arrested following a U.N. Security Council visit to Darfur in October 2010 were released on July 13, following President Bashir's decree to release all political prisoners.

Between one and 1.5 million IDPs lived in Khartoum State, many of them in shantytowns rather than in the four formal camps. Many South Sudanese IDPs in Sudan have lived in the country for decades, formed families, and found mainly informal employment. At year's end Sudan and South Sudan had not reached an agreement regarding the status of South Sudanese in Sudan in the post-CPA period. At times government officials made statements supporting the expulsion of South Sudanese and at other times called for their protection.

Displaced South Sudanese in and around Khartoum were subject to arrest, flogging, fines, warrantless searches, and imprisonment in relation to prohibitions against alcohol. The government restricted access to formal IDP camps around Khartoum.

In the East the government continued to restrict humanitarian access. These restrictions significantly limited the ability of humanitarian organizations to provide services to vulnerable groups such as IDPs and refugees. Approximately 50 percent of IDPs and refugees in camps received food rations. According to the UNHCR, there were an estimated 70,000 Eritrean and Ethiopian refugees in eastern camps and another 26,000 in Khartoum.

In Southern Kordofan 73,000 people were displaced in the June and July fighting. In Abyei approximately 110,000 were displaced, with many crossing the border into South Sudan. (See section 1.g. for information about abuse of IDPs in the Abyei, Southern Kordofan, and Blue Nile conflicts.)

Protection of Refugees.—Access to Asylum.—The laws provide for the granting of asylum or refugee status. The government granted asylum to many asylum seekers, but there was no standard determination procedure or documentation. Officially, the government should grant prima facie refugee status to asylum seekers. However, during the year it required Eritreans to register as asylum seekers rather than automatically granting the appropriate refugee status, a policy contrary to national law governing refugee status. Most Eritreans who entered the country appeared to be familiar with the new steps required to register with the government as an asylum seeker. However, police reportedly arrested more than 300 Eritreans attempting to reach Egypt. Officials reportedly turned them over to Eritrean officials without screening them or allowing them to request asylum.

Government officials routinely took up to three months to approve refugee status.

Nonrefoulement.—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.

Refugee Abuse.—Refugees were vulnerable to arbitrary arrest, 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.

Employment.—Refugees are entitled to work permits but in practice rarely received them. A 2007 decree prohibits international NGOs from hiring refugees.

Access to Basic Services.—Government-supervised primary education, while not free, was available to IDP and refugee children in Khartoum and in refugee camps outside Khartoum at a cost of 30 Sudanese pounds (approximately \$10 at official rates) per month.

Temporary Protection.—The government provided temporary protection to individuals who might not qualify as refugees under the 1951 refugee convention and the 1967 protocol.

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

Sudan continued to operate under the CPA interim national constitution, but with all references to the South removed. The interim constitution provides citizens with the right to change their government peacefully. Post-CPA provisions relating to this right include those providing for a referendum on the status of Abyei and popular consultations in Blue Nile and Southern Kordofan.

The CPA called for a referendum in January for South Sudanese to vote either for unity with the country or secession, and for a concurrent referendum to determine if Abyei would remain part of Sudan or join South Sudan. The referendum for South Sudanese secession concluded on schedule with an overwhelming majority voting for separation in a process that international observers described as peaceful and credible. The results of that referendum were implemented on July 9 as the new Republic of South Sudan gained its independence—the Republic of Sudan was the first to recognize the newly independent country. Preparations for the Abyei referendum remained stalled due to disagreement over voter eligibility and violence.

The last national- and state-level executive and legislative elections were held in April 2010 but did not meet international standards (see Elections and Political Participation below).

Sudan's executive leadership is made up of a three-member presidency consisting of a president, first vice president, and second vice president. President Omar Hassan al-Bashir, who won the election in 2010, promoted Ali Osman Taha (National Congress Party, NCP) to the position of first vice president in September and appointed El-Haj Adam Yousif (NCP), a Darfuri, as the second vice president. The appointment of Yousif came after the government signed the Doha Darfur Peace Document, which contained the condition of a vice presidential appointment from a Darfuri ethnic group.

The interim constitution also provides a formula for allocating seats in the bicameral legislature (composed of a postsecession 340-member National Assembly and 30-member Council of States) and cabinet prior to the elections. The formula reserved 52 percent of the positions for the NCP and 14 percent for northern opposition parties, including those from Darfur.

Elections and Political Participation.—Following CPA guidelines, the Southern Sudan Self-Determination Referendum was held from January 9 to 15. Voters cast 3,851,994 ballots, reflecting almost 98 percent registered voter turnout; 98.8 percent of voters chose secession for the South. Observers reported the process was generally fair, despite some logistical, procedural, and security problems. Turnout for the referendum in the North was low due to distance from voting centers, limited awareness the vote would occur, and ambiguity about the future of Southerners in the North. Also a heightened security presence around polling centers in northern Sudan may have dissuaded voters from participation. On July 9, the South peacefully seceded from Sudan, becoming the new country of South Sudan.

The CPA also provided for a popular consultation process to obtain the views of persons in Blue Nile and Southern Kordofan on the CPA, so that their respective legislatures could negotiate any shortcomings in the constitutional, political, or administrative arrangements of the CPA with the government. The CPA stated the consultations were to be completed by July 8, prior to the secession of South Sudan. The National Assembly extended this process on July 20. In Blue Nile the first stage of consultations was held between January 14 and February 2 at more than 100 hearing centers across the state. Further stages of the process, including review by the government in Khartoum, remained stalled at year's end. In Southern

Kordofan popular consultations continued to be delayed as disputes remained over a census and due to violence in the area.

Gubernatorial elections took place in Southern Kordofan from May 2 to 7. NCP candidate and ICC indictee Ahmed Haroun won the vote amid allegations by the opposition SPLM of material irregularities. According to foreign election observers, the vote was “peaceful and credible.” However, they noted there existed a climate of insecurity and tension, and there were irregularities including lapses in voter identification procedures. The SPLM ultimately refused to accept the outcome of the elections, and violence soon erupted between NCP and SPLM supporters; popular consultations were not carried out.

The proposed Abyei referendum, designed to allow the region’s residents to vote to join South Sudan or remain unified with Sudan, was derailed by violence in January and June. Concerned parties could not agree on residency status for members of the nomadic Misseriya tribe—who spend part of the year in Abyei—with Sudan supporting the right to vote of the Misseriya and Southerners rejecting it. The referendum process remained on hold.

Recent Elections.—The country’s first multiparty national and state-level executive and legislative elections in more than 24 years occurred in 2010. The SPLM candidate for president of Sudan, Yasir Arman, withdrew from the race just before the polling. The elections, which several opposition parties boycotted, did not meet international standards. Basic freedoms were circumscribed throughout the process. Despite significant technical and commodities assistance from the international community, logistical preparations were inadequate. Intimidation and threats of violence occurred. The conflict in Darfur did not permit a tranquil electoral environment. The counting and tabulation process was disorganized, not transparent, and did not follow procedural safeguards put in place by the National Elections Commission. According to a foreign NGO, problems with counting and the tabulation process raised “questions about the accuracy of the election results.”

President Omar Hassan al-Bashir (NCP) was reelected, as was first vice president (and later government of South Sudan president) Salva Kiir Mayardit (SPLM). Ali Osman Taha was reappointed to his position of second vice president. After the secession of South Sudan, the post of first vice president was vacant until Ali Osman Taha assumed it in September. El-Haj Adam Yousif, an NCP member from South Darfur, was appointed as the second vice president.

In the National Assembly, the NCP won 323 seats, the SPLM 99 seats, and other parties and independents 24 seats; four constituencies were vacant. NCP gubernatorial candidates won all elected governor posts in Sudan with the exception of Blue Nile State, where the SPLM incumbent won. However, immediately after the start of hostilities in Blue Nile on September 1, Khartoum deposed the state’s SPLM governor and installed a temporary military government.

Observers noted numerous problems with the preelection environment. The legal framework did not protect basic freedoms such as assembly, speech, and press. Security forces restricted the actions of opposition parties, including through the arrest of opposition members and supporters. There was insufficient voter information, and logistical preparations for the vote were not adequate.

During voting observers found incorrect or incomplete voter registries and noted this resulted in disenfranchisement. Location information for polling centers was not sufficiently clear. Many centers did not open on time and received polling materials late. Mistakes on ballots were a problem. Problems with safeguards at polling centers included not following procedures pertaining to indelible ink, voter identification, and ballot box seals. Observers also reported intimidation and harassment. A video posted to the Internet shortly after the elections showed what appeared to be a uniformed elections official stuffing a sealed ballot container with paper. In Darfur participation of IDPs in the election was low.

The vote tabulation process was seriously flawed. During vote counting, officials did not follow proper procedures or properly reconcile ballots counted with those received. Logistical problems delayed the transport of materials such as ballot boxes and results forms. Officials did not follow the electronic tabulation process, which resulted in inability to verify results. Observers had difficulty getting access to tabulation centers. Observers noted “parallel tabulation operations” in Khartoum and South Darfur. In these cases observers were able to access official centers, but there were other places where access was denied while tabulation was underway.

Political Parties.—The NCP dominated the government. Authorities impeded and monitored political party meetings and activities, restricted political party demonstrations, used excessive force to break them up, and arrested opposition party members. In September the SPLM-N leadership called for the overthrow of the government and was outlawed as a political party. Its offices in Khartoum and other

states were closed after the outbreak of violence in Blue Nile State. The government confiscated party documents and property. In early September at least 25 SPLM members were arrested, including an SPLM-N member of Parliament, Ezdihar Goumaa. Following the suppression of the SPLM-N, the government banned 16 other political parties for representing Southerners. At the end of the year, 26 SPLM-N employees remained in detention, according to the party.

Participation of Women and Minorities.—Women have the right to vote. The 2008 National Elections Law calls for 25 percent of the seats in the national and state assemblies to be filled from state-level women's lists. Women won 95 of the 340 seats in the National Assembly. Women held five of 30 seats in the Council of States and seven of 66 cabinet positions in the newly formed government.

Section 4. Official Corruption and Government Transparency

The law does not specifically address official corruption. However, officials are subject to the Financial Service Audit law that calls for a special anticorruption attorney to investigate and try corruption cases. Criminal law provides punishments for embezzlement that can include execution for public service workers. All bankers are considered public service workers. Officials frequently engaged in corrupt practices.

There are no laws providing for public access to government information, and the government did not provide such access.

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. Workers of both domestic and international human rights organizations were restricted and harassed.

The government harassed, arrested, beat, and prosecuted human rights activists for their activities.

For example, on June 25, the NISS arrested Bushra Gamar Hussein Rahma, a human rights activist from Southern Kordofan, in Omdurman. From the time of his arrest, he was held incommunicado and denied access to his family and his lawyer. At year's end Bushra remained in prison without charge.

In December 2010 a court sentenced Mudawi Ibrahim Adam, former director of the Sudan Social Development Organization, to one year in prison and a fine of 3,000 Sudanese pounds (\$1,000) for embezzlement. He was previously acquitted of those charges in 2009, a finding that the HAC appealed but regarding which it reportedly did not provide any new evidence. Authorities released Mudawi in January.

The government restricted, harassed, and arrested NGO-affiliated international human rights and humanitarian workers, including in Darfur (see section 1.g.).

The government refused and delayed the issuance of visas to international NGO workers and restricted their access to parts of the country.

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, contrary to provisions in the 2007 joint communique between the government and the U.N. This included delaying the issuance of visas and travel permits to humanitarian workers.

Government Human Rights Bodies.—The government's Advisory Council for Human Rights did not respond to requests by international organizations to investigate human rights violations and did not provide lists of detained individuals to the international community.

The National Commission for Human Rights Act, purportedly created by law in 2009, had not been established by year's end.

The government did not cooperate with the ICC (see section 1.g.).

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 based on disability, language, or social status.

Women.—Rape and Domestic Violence.—The punishment for rape 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 made public; however, observers thought sentences often were less than the legal maximum. There was no information available on the 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.

By law, if a woman accuses a man of rape and fails to prove her case, she may be tried for adultery. In practice victims sometimes refused to report their cases to family or authorities due to fear they would be punished or arrested for "illegal pregnancy" or adultery (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.

Female Genital Mutilation (FGM).—See section 6, Children.

Sexual Harassment.—No law specifically prohibits sexual harassment, although 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. There were frequent reports of sexual harassment by police in Darfur and elsewhere.

Reproductive Rights.—Couples were able to decide freely on reproductive issues. Contraception, skilled medical attendance during childbirth, and obstetric and postpartum care were not always accessible in rural areas. The U.N. Population Fund estimated the maternal mortality rate at 750 deaths per 100,000 live births. Women had equal access to diagnosis and treatment for sexually transmitted diseases.

Discrimination.—The law discriminates against women, including many traditional legal practices and certain provisions of Islamic jurisprudence as interpreted and applied by the government. In accordance with that interpretation, 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. Depending on the wording of the marriage contract, it is often much easier for men than women to initiate legal divorce proceedings. In certain probate trials, the testimony of women is not considered equivalent to that of men; the testimony of two women is considered equivalent to that of one man. In other civil trials, the testimony of a woman is considered equivalent to that of a man.

A Muslim woman cannot legally marry a non-Muslim unless he converts to Islam. This prohibition usually was neither observed nor enforced among certain populations.

To obtain an exit visa, children must receive the permission of both mother and father.

Various governmental bodies have decreed women must dress modestly according to Islamic or cultural standards, including wearing a head covering. However, women often appeared in public wearing trousers or with their heads uncovered. In Khartoum persons known as Public Order Police occasionally brought women before judges for allegedly violating Islamic standards.

The Ministry of Social Welfare, Women, and Child Affairs was responsible for matters pertaining to women.

Women experienced economic discrimination in access to employment, credit, pay for substantially similar work, and owning or managing businesses. Women were accepted in professional roles; for example, 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. Although the interim constitution eliminated gender discrimination in conferring nationality on children, the legal definition of "responsible parent" used in the July amendment to the 1994 nationality law remains the child's father. The term refers to a mother only in cases where she has been granted sole legal custody. This change means that a child of a Sudanese mother and South Sudanese father could lose his or her Sudanese nationality. The law passed the national legislature, and although the president failed to sign the law within the mandated 30-day limit, the law passed de facto into force in mid-August.

Birth Registration.—Most Sudanese newborns had access to birth certificates, but some living in remote areas did not. Registered midwives, dispensaries, clinics, and hospitals could issue certificates. A Sudanese birth certificate does not automatically qualify a child for citizenship.

Education.—The law provides for tuition-free basic education up to grade eight; however, students often had to pay school, uniform, and exam fees. In Darfur few children outside of cities had access to primary education.

Child Abuse.—Child abuse and abduction were widespread in conflict areas. Criminal kidnapping of children for ransom was reported on several occasions during the year.

Child Marriage.—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 it remained a problem.

Harmful Traditional Practices.—Female genital mutilation remained widespread. A 2010 Sudan Household Health Survey, the most recent available, reported FGM incidence at 65.5 percent, a 5 percent decrease from 2006. Ministry of Health bylaws prohibit FGM by physicians and medical practitioners; however, midwives continued to perpetrate FGM. The government actively campaigned against it in partnership with UNICEF, civil society groups, and the High Council for Children's Welfare. Several NGOs also worked to eradicate FGM.

Sexual Exploitation of Children.—Child prostitution and trafficking of children also remained problems. Penalties for offenses related to child prostitution and trafficking varied and could include imprisonment and/or fines.

There is no minimum age for consensual sex or a statutory rape law. Pornography, including child pornography, is illegal.

Child Soldiers.—Armed groups continued to recruit and deploy child soldiers in internal conflicts (see section 1.g.).

Displaced Children.—Internally displaced children often lacked access to government services such as education.

Institutionalized Children.—The government operated reformatory 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, schooling, and living conditions at the camps generally were very basic. All children in the camps, including non-Muslims, must study the Qur'an, and there was pressure on non-Muslims to convert to Islam. War Child and other international and domestic humanitarian NGOs were permitted to monitor the camps and sometimes assisted the government with certain aspects of camp operations.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community remained miniscule, 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.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—While the law does not specifically prohibit discrimination against persons with disabilities, it stipulates "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 prisoners with mental disabilities were chained 24 hours a day if they were considered a danger to themselves. Mentally disabled prisoners were not exempted from trial, although their cases could be deferred during treatment.

National/Racial/Ethnic Minorities.—The population is a multiethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. These designations are often self-identified, referring to language and other cultural attributes. Northern Muslims traditionally dominate the government. Interethnic fighting in Darfur was between Muslims who considered themselves either Arab or non-Arab and also between different Arab tribes.

The Muslim majority and the government continued to discriminate against ethnic minorities in almost every aspect of society. Citizens in Arabic-speaking areas who did not speak Arabic experienced discrimination in education, employment, and other areas.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law prohibits sodomy, which is punishable by death; however, there were no reports of antisodomy laws being applied. There were no known lesbian, gay, bisexual, or transgender (LGBT) organizations.

Official discrimination based on sexual orientation and gender identity occurred. Societal discrimination against LGBT persons was widespread. Vigilantes targeted suspected gay men and lesbians for violent abuse, and there were public demonstrations against homosexuality.

Other Societal Violence or Discrimination.—There was discrimination against persons with HIV/AIDS. Social taboos about discussing sex out of wedlock in a conservative society complicated the work of activists and the international community to confront the issue.

Promotion of Acts of Discrimination.—The government and government-supported militias reportedly promoted hatred and discrimination, using standard propaganda techniques to incite tribal violence.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides for the right of association for economic and trade union purposes. The 2010 Trade Union Act established a single national trade union federation. The law allows workers to join independent international unions, but in some cases their membership was not officially recognized. Only the government-controlled SWTUF, which consists of 25 state unions and 22 industry unions, can function legally; all other unions were banned. The law requires all unions to be under the umbrella of the Sudan Worker's Trade Union Federation (SWTUF). 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.

The constitution grants unions the right to strike. Nonetheless, the government restricted this right in practice. Some unions have bylaws that self-restrict their right to strike. Specialized labor courts adjudicated standard labor disputes, but the Ministry of Labor has the authority to refer a dispute to compulsory arbitration. Disputes can be referred to arbitration if this is stated in the work contract.

The law does not prohibit antiunion discrimination by employers. Labor laws apply to migrant workers with legal contracts and protect all Sudanese, regardless of regional or tribal identity. In practice migrant workers and some ethnic minorities suffered from discrimination, lack of knowledge of their legal rights, and lacked ready access to judicial remedies.

Courts exist to look into labor complaints; however, bureaucratic steps mandated by law to resolve disputes within companies can be lengthy in practice. In addition, court sessions can involve significant delays and costs when appealing labor grievances.

There were credible reports that the government routinely intervened to manipulate professional, trade union, and student union elections.

For many years the International Trade Union Confederation (ITUC) raised concern over the following issues: trade union monopoly controlled by the government, denial of trade union rights in the export processing zone, and nearly nonexistent collective bargaining. The International Labor Organization expressed concern in a 2011 report over allegations of the "brutal and fatal repression of workers in the oil sector, who demanded improved working conditions."

According to ITUC, in the oil-producing regions, police and secret service agents, in collusion with oil companies, closely monitored workers' activities. In addition, the government-controlled SWTUF was used as part of the government's strategy to control workers to ensure a regular flow of oil. However, there were no reports of murder, arrests, threats, or unfair dismissal of union leaders and members by government or employers during the year.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, including by children. In practice enforcement proved challenging in rural areas and areas undergoing conflict.

Although the government continued to deny that slavery and forced labor existed in the country, the government's Committee for Eradication of Abduction of Women and Children (CEAWC)—which ceased operations in August 2010—stated that up to 10,700 South Sudanese, Rizegat, and Misseriya abductees from the Second Sudanese Civil War possibly remained in captivity in Southern Kordofan and parts of greater Bahr al Ghazal. It was not clear to what extent those abductees were involved in forced labor.

While noting the government's statement that after the end of the civil war abductions had stopped completely, the International Labor Organization's (ILO) Conference Committee on the Observation of Standards reported in 2011 that there was no verifiable evidence that forced labor had been completely eradicated in practice.

The ILO continued to urge the government to address continuing violations in certain regions in which “victims are forced to perform work for which they have not offered themselves voluntarily, under extremely harsh conditions, and combined with ill treatment which may include torture and death.” The ILO also expressed concern over the lack of accountability of perpetrators and sufficient victim rehabilitation measures.

Representatives of the Eritrean community in Khartoum stated undocumented Eritreans in the capital were subject to abusive work conditions. They also reported that many undocumented workers did not report abuse out of fear that authorities might deport them back to Eritrea due to their illegal status.

The forcible recruitment of persons into armed groups continued (see section 1.g.).

The government stated it investigated and prosecuted cases of forced labor during the year but did not compile comprehensive statistics on the subject.

Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The interim national constitution mandates protection of children from exploitation. The Child Act of 2010 defines children as persons younger than 18; however, the act does not explicitly prohibit child labor. The labor law does not clearly define the age for child labor, but its provisions suggest that 12 years is the minimum age for employment. The Ministry of Social Welfare, Women, and Child Affairs is responsible for enforcing child labor laws.

The law forbids the employment of young persons in hazardous industries and jobs, or in jobs requiring significant physical effort or that are harmful to their morals. The law also forbids the employment of young persons between 8 p.m. and 6 a.m., although authorities may exempt young persons between the ages of 15 and 16 from this restriction. It is illegal to employ children under the age of 12, except in state vocational training schools and training workshops and jobs performed under apprenticeship contracts. Work that is supervised by family members and does not include nonfamily members, such as on family farms, is also excluded from these provisions.

The law allows minors to work for seven hours a day broken by a period of one paid hour of rest. It is illegal to make a young person work more than four consecutive hours, work overtime, or work during weekly periods of rest or on official holidays. To waive, postpone, or reduce annual leave entitlements is also prohibited. However, the government did not always effectively enforce such laws.

Child labor was a serious problem, particularly in the agricultural sector where the practice was common. Most child labor occurred in the informal sector and in menial jobs that the government lacked the resources to monitor comprehensively. Children were engaged in shining shoes, washing and fixing cars, collecting medical and other resalable waste, street vending, begging, agricultural work, construction, and other menial labor.

The use of child soldiers and child trafficking were problems.

d. Acceptable Conditions of Work.—The minimum wage set by the High Council of Salary in the Ministry of Cabinet Affairs is 265 Sudanese pounds (approximately \$90) per month for the public sector. The minimum salary in the private sector is set by agreement between individual industries in the private sector and the High Council of Salary, and it varies among industries.

The law limits the workweek to 40 hours (five eight-hour days, which does not include a 30 minute to one hour daily break), with days of rest on Friday and Saturday. Overtime should not exceed 12 hours per week or four hours per day. There is no prohibition on excessive compulsory overtime.

The laws also prescribe occupational safety and health standards. The right of workers to remove themselves from dangerous work situations without loss of employment is not recognized. Any industrial company with between 30 and 150 employees must have an industrial safety officer; any company over that size should have an industrial safety committee that includes management and employees. Committees and officers are supposed to report safety incidents to the Ministry of Labor. The law requires that the owner of an industrial company must inform workers of occupational hazards and provide means for protection against such hazards. Management is also required to take necessary precautions to protect workers against industrial accidents and occupational diseases. Some heavy industry and artisanal mining operations were reported to not have sufficient safety regulations.

The above-mentioned safety laws do not apply to domestic servants as defined by the 1955 Domestic Servants Act; agricultural workers other than those employed in the operation, repair, and maintenance of agricultural machinery, enterprises that process or market agricultural products such as cotton gins or dairy product fac-

tories, or jobs related to the administration of agricultural projects including office work, accountancy, storage, gardening, and livestock husbandry; family members of the employee who live with the employee and who are completely or partially dependant on him for their living; and casual workers.

The Ministry of Labor, which maintained field offices in most major cities, is responsible for enforcing these standards. There were various types of labor inspectors, including specialists on labor relations, labor conflicts, vocational/health practices, and recruitment practices. They operated on both federal and state levels.

However, these standards were not effectively enforced in practice. Although employers generally respected the minimum wage law in the formal sector, in the informal sector wages could be significantly below the official rate. Since enforcement by the Ministry of Labor was minimal, working conditions generally were poor.

SWAZILAND

EXECUTIVE SUMMARY

Swaziland is an absolute monarchy. King Mswati III and Queen Mother Ntombi, the king's mother who rules as his co-monarch, have ultimate authority over the cabinet, legislature, and judiciary. There is a prime minister and partially elected parliament, but political power remained largely with the king and his traditional advisors. International observers concluded that parliamentary elections held in 2008 did not meet international standards. Security forces reported to civilian authorities.

In 2011 citizens remained unable to change their government. The three main human rights abuses were police use of excessive force, including use of torture and beatings; a breakdown of the judiciary system and judicial independence; and discrimination and abuse of women and children.

Other significant human rights problems included extrajudicial killings by security forces; arbitrary arrests and lengthy pretrial detention; arbitrary interference with privacy and home; restrictions on freedom of speech, assembly, and association; prohibitions on political activity and harassment of political activists; trafficking in persons; societal discrimination against members of the lesbian, gay, bisexual, and transgender (LGBT) community; harassment of labor leaders; restrictions on worker rights; child labor; and mob violence.

In general, perpetrators acted with impunity, and the government took few or no steps to prosecute or punish officials who committed abuses.

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

a. Arbitrary or Unlawful Deprivation of Life.—During the year there were several reports that the government or its agents committed arbitrary or unlawful killings. On May 17 the Times of Swaziland reported that members of the Royal Swaziland Police Service (RSPS) shot and killed Mathendele Mantfonsi in a remote forest in the Lomahasha area, near the Mozambique border, where he was tending his marijuana field. Police argued the shooting was in self defense as Mantfonsi attempted to resist arrest after being caught engaging in illegal activity. According to the RSPS, investigations in the case have been completed and the report will be sent to the Directorate of Public Prosecutions (DPP).

On January 29, Mbongeni Masuku was dragged from his car by police officers and shot in the head. RSPS spokesperson Superintendent Wendy Hleta told reporters that Masuku was resisting arrest. Masuku's family, present at the time of the shooting, said Masuku knew the police officers and had been threatened by them. According to the RSPS, the case remained under active investigation.

On March 4, authorities announced the results of the investigation of the death of Sipho Jele, who died in May 2010 while in custody at Sidwashini Prison. A government-appointed coroner stated Jele's death was a suicide. Civil society groups questioned the validity of the finding and impartiality of the coroner, a former police officer. Jele died in police custody three days after being arrested for wearing a T-shirt from the banned political group People's United Democratic Movement of Swaziland (PUDEMO).

According to the RSPS, cases of unlawful killing were investigated in line with the policy of investigating a case if a complaint is received, and referred to the Director of Public Prosecutions as appropriate. At year's end several cases were under investigation, but no officers had been prosecuted.

During the year there were reports of killings by community police, who are volunteers with arrest authority operating under the supervision of chiefs in rural areas and of local civil authorities in urban centers.

For example, on June 18, community police reportedly tortured and eventually killed Mxolisi Masuku, whom they accused of housebreaking and poultry theft. Masuku was allegedly a well-known member of a local gang notorious for causing trouble in the community. After the killing, community police burned Masuku's body.

Authorities had begun to take some action against community police who commit abuses.

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, and some officers were brought to court on charges, but no convictions or punishments were reported during the year. Many cases of torture were investigated, but findings were not made public. 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 over the head.

On January 1, police beat an 18-year-old pregnant woman who had been brought to a police station by her father on suspicion that she had aborted an earlier pregnancy. According to the victim, who was interviewed by the Center for Human Rights and Development, a Swazi nongovernmental organization (NGO), she was forced to undress in front of a male police officer and then two officers, one male and one female, assaulted her with a knife. The victim claimed that, during the incident, one officer sat on her stomach while the other covered her face with a plastic bag. According to the RSPS, investigation continued at year's end.

On March 9, 12 high school students were called individually into the school's staff room, where they were allegedly beaten by police with the approval, and in the presence, of school officials. The students were being investigated on suspicion they were ringleaders of a school boycott that had taken place the previous week. Students suffered injuries during the interrogation and sought medical assistance from Mkhuzweni Health Center.

On September 7, police assaulted Swazi activists, including prominent members of local labor unions, after a rally in Siteki. Civil society activists sustained injuries when police forcibly disbanded the public gathering to prevent members of the Congress of South African Trade Unions from addressing the crowd.

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

According to the RSPS, abuse cases were investigated in line with the policy of investigating a case if a complaint is received, and referred to the director of public prosecutions as appropriate. At year's end several cases were under investigation, but no officers had been prosecuted.

There were credible reports of use of excessive force by community police during the year.

For example, on March 23, during an investigation of a house break-in and theft, community police of Mahlanya tortured Ndumiso Dlamini. Dlamini was told to remove his clothes and had his head submerged in water during interrogation.

On July 29, community police brutally beat Kitso Dlamini until he lost consciousness. After the beating, Dlamini suffered memory loss and at year's end, still often spoke incoherently.

In some cases, authorities took action against community police who committed abuses. Three community police officers—George Simelane, Sibusiso Mnisi, and Sikhumbuzo Dube—were sentenced to 15 months in prison after assaulting a burglar, Vusi Mavuso, in Manzini. A local magistrate sentenced the three, saying they did not have a right to beat the victim but only to apprehend a suspect and turn the individual over to the RSPS. In October the RSPS offered a three-day workshop to educate community police as to their roles and responsibilities in preventing crime and apprehending suspects. Community police were trained on how to apprehend suspects and warned against using excessive force.

Prison and Detention Center Conditions.—Prison and detention center conditions varied. Some facilities were overcrowded with generally poor living conditions, while other facilities were modern, and prisoners there were treated professionally.

The government permitted limited independent monitoring of prison conditions by local human rights groups. Media were not allowed inside prisons. Statistics released by the Correctional Services in May revealed there were an estimated 3,000 inmates and an additional 764 awaiting trial. Female inmates constituted 2.6 percent of the adult prison population and male inmates 97.4 percent. Correctional

Services provided free formal education to juveniles while in jail, along with instruction in various trade skills to adult inmates. Inmates also engaged in agriculture and animal husbandry projects.

In prisons women were held separately from men and juveniles from adults; however, there were reports that women and men were detained together in jails after arrest, due to space constraints. Juveniles attend Correctional Services schools. The Correctional Services bureau was short staffed, with one warder per approximately 30 inmates. Correctional Services was also in need of psychologists, nutritionists, dietitians, and social workers to provide appropriate care and counseling for inmates.

Overcrowding in some prisons was a problem, exposing inmates and officers to diseases and infections such as tuberculosis, HIV/AIDS, and hepatitis. There were allegations of rape in prisons. Facilities were of mixed quality. While some were old and dilapidated, others were newer and well maintained. Independent monitoring groups found it difficult to secure access to prison facilities during the year, and none issued public reports during the year. International officials and NGOs working on programs to fight HIV were permitted entry to prisons and detention centers, although sometimes with difficulty.

Prisoners and detainees had reasonable access to visitors. Christian inmates were permitted religious observance. Chaplains and independent pastors from various denominations were allowed to minister, but other religious groups, although not explicitly prohibited, generally could not access inmates. Authorities investigated allegations of inhuman conditions and documented results of such investigations, but the reports were never made public. Ministry of Justice officials visited prison and detention centers during the year.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, police arbitrarily arrested and detained numerous persons.

For example, on May 14, approximately 10 union members from the Swaziland National Union of Teachers (SNAT), the Swaziland Federation of Trade Unions (SFTU), and the Swaziland Federation of Labor (SFL) were detained by armed police after holding a union meeting. The police declared the meeting illegal because no permission was sought from their office to hold such a meeting; however, there is no such legal requirement.

In the days leading up to the “April 12 Uprising”—several days of planned protest actions by unions, teachers, students, and political parties—police used heavy-handed intimidation tactics, including arbitrary searches and detentions. For example, on April 12, police picked up several activists gathered in a square in Manzini and took them to a local police station for questioning. Following the questioning, police loaded them into two military trucks and deposited them in a remote rural area.

Role of the Police and Security Apparatus.—The king is the commander in chief of the Umbutfo Swaziland Defense Force (USDF), holds the position of minister of defense, and is the commander of the police and Correctional Services. He presides over a civilian principal secretary of defense and a commanding general. Approximately 40 percent of the government’s workforce was assigned to security.

The RSPS, under the authority of the prime minister, is responsible for maintaining internal security. The USDF, which reports to the king in his capacity as defense minister, is responsible for external security but also has domestic security responsibilities, including protecting members of the royal family and patrolling the borders. The principal secretary of defense and the army commander are responsible for day-to-day USDF operations. The Correctional Services are responsible for the protection, holding, and rehabilitation of convicted persons and keeping order within Correctional Services’ institutions. However, they also routinely worked alongside police during protests and demonstrations. The RSPS, USDF, and Correctional Services were generally professional; however, members of all three 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 its findings to the public. When specifically approached for information on abuses, RSPS officials were cooperative. Police academy training for new recruits included human rights components in line with regional standards. Some officers attended additional training programs that included a human rights component.

Traditional chiefs supervise volunteer rural “community police,” who have the authority to arrest suspects and bring them before an inner council within the chiefdom for trial for minor offenses. For serious offenses, community police are required to apprehend suspects and transfer them to the RSPS for further investiga-

tion; however, this did not always occur and, when it did, it often happened after suspects were subjected to ill treatment.

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 the prescribed period. In general, detainees were informed promptly of the charges against them; their families had access to them and were allowed to consult with lawyers of their choice. There is a functioning bail system, and suspects can request bail at their first appearance in court, except in the most serious cases such as murder and rape.

Lengthy pretrial detention was common. As of May pretrial detainees constituted an estimated 20 percent of the prison population. A judicial crisis beginning in July exacerbated the problem (see section 1.e.). Judicial inefficiency and staff shortages also contributed to the problem, as did the police practice of prolonging detention to collect evidence and prevent detainees from influencing witnesses.

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 based on two systems: Roman-Dutch law and a system of traditional courts that follows traditional law and custom. 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 these institutions are 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. Traditional courts are not supposed to try cases involving non-Swazis, but in practice did hear cases involving nationals of other countries.

The director of public prosecutions has the legal authority to determine which court should hear a case, and public prosecutors have delegated responsibility; however, police usually made the determination and often took cases not properly investigated to these traditional courts because the standard of evidence required for conviction was not as high as in the western-style courts. 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.

Chief Justice Michael Ramodibedi, a Lesotho national, sparked the onset of a judicial crisis when, on June 28, he unilaterally suspended High Court Judge Thomas Masuku, accusing him of a dozen instances of misconduct, including insulting the king in a judicial opinion. Ramodibedi's initiation of disciplinary action over a judicial opinion offered by a colleague immediately called into question the judiciary's independence. The chief justice further undermined judicial independence when, in collusion with the court registrar, he began interfering with court administration. In protest of the chief justice's actions, the kingdom's lawyers filed complaints against him and initiated a boycott of the courts. Members of the International Commission of Jurists visited the kingdom and, in a series of public and private meetings, decried Ramodibedi's actions as unconstitutional and demonstrating a lack of judicial independence. Prime Minister Barnabas Sibusiso Dlamini supported Ramodibedi throughout the crisis.

Even though he acted outside his constitutional authority in unilaterally suspending Masuku, in August the chief justice held a disciplinary hearing for Masuku in which he acted as plaintiff, prosecutor, and judge. Although the constitution stipulates that, if a chief justice is party to a disciplinary action, he must recuse himself from that case, Ramodibedi presided over the hearing. He refused Masuku's requests that the hearing be public and he be allowed to present oral evidence or call witnesses. In a September 27 legal notice, King Mswati III fired Masuku for "serious misbehavior."

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, 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 pre-trial consultations with the Public Prosecutor’s Office. Defendants and prosecutors have the right of appeal up to the Supreme Court.

In September, while the kingdom’s attorneys were boycotting courts, Chief Justice Ramodibedi ordered magistrates to hear cases in the absence of counsel. In one case before the Industrial Court, Ramodibedi dismissed an appeal when attorneys for neither side appeared.

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 240 emalangeni (\$34.50) and prison sentences of up to 12 months. However, there were reported cases in which traditional courts exceeded their legal jurisdiction in passing sentences on accused persons.

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 do not comply with civil laws, 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 March 4, authorities stated the death of political prisoner Sipho Jele, who died while in custody, was a suicide; however, civil society groups claimed the finding was not impartial (see section 1.a.). There were no reports of other political prisoners during the year.

Civil Judicial Procedures and Remedies.—The judiciary tries civil as well as criminal cases, including suits for damages against government agents. Administrative remedies are available under civil service rules and regulations.

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 delay might cause evidence to be lost.

During the year police conducted random checks for irregular immigrants, weapons, stolen vehicles, and evidence of other criminal activities through roadblocks and searches in homes. Police also entered homes and businesses and conducted searches without judicial authorization.

Police conducted physical surveillance of members of labor unions, political groups, religious groups, and others. For example, on April 13, police escorted Muzi Mhlanga, secretary general of the SNAT, to his house, detained him there for seven hours, and confiscated his cell phone. On April 14, as he was leaving the country for a meeting in Zimbabwe, officers escorted him from Mbabane to Matsapha to ensure he did not communicate with any of the SNAT leadership.

In 2008 the government designated 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 are subject to arrest and prison terms of 25 years to life.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech and press, but the king may deny 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 broadcast media remains firmly in state control. There are two state-owned radio stations and one private station, owned by a Christian group. The majority of Swazis get their news from radio broadcasts. There are two Swazi television stations, one of which is state owned. Despite invitations issued by the existing regulator for parties to apply for licenses, no new licenses have been awarded. The content of broadcasts is censored as evidenced by the stations’ refusal to broadcast anything that is perceived as critical of government or the monarchy. 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 their family members who criticized the monarchy risked exclusion from the traditional regiments’ (chiefdom-based groupings of males dedicated to serving the king) patronage system that distributed scholarships, land, and other benefits.

Swazi officials discouraged press freedom in public statements.

For example, on June 13, Prime Minister Dlamini told the media to stop broadcasting or writing about a land scandal in which he and five cabinet ministers were implicated. After a months-long debate over the sale of government land to the six ministers, at steeply “discounted” prices, the king pronounced the matter closed and said no one should speak of it further. Reiterating the monarch’s pronouncement, the prime minister said that media should cease covering the scandal; the media complied.

On September 15, during the last day of a series of meetings aimed at promoting national dialogue, King Mswati III asked local journalists why they always reported negatively on issues in the country and accused media of being “part of the problem” instead of offering solutions. According to the state-owned Swazi Observer, the king said he expects the media to “change its ways and come out of this dialogue with a new will to support national initiatives.”

Daily newspapers criticized government corruption and inefficiency but generally avoided criticizing the royal family.

Violence and Harassment.—Journalists continued to be harassed during the year. For example, on June 22, police detained one journalist for nine and a half hours, searched his home, and accused him of possessing “highly seditious” documents—downloads from a blog by a British academic that discussed royal expenditures. The journalist, who works for a South African newspaper and is one of very few Swazi reporters who openly criticizes the government and the monarch, indicated that the police, who were in possession of a search warrant, took down his passport number and told him not to leave the country.

Internet Freedom.—There were no official government restrictions on access to the Internet. For the most part, individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Nevertheless, there were reports that the government monitored e-mail, Facebook, and Internet chat rooms, and that police were bugging certain individuals’ telephones.

Academic Freedom and Cultural Events.—Restrictions on political gatherings and the practice of self-censorship affected academic freedom by limiting academic meetings, writings, and discussion on political topics. For example, professors at the University of Swaziland were requested by university administration to prevent certain academicians from speaking at workshops to which they had been invited. The professors objected on grounds of academic freedom but were forced to alter the program.

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 and a permit from the municipal council to hold political meetings, marches, or demonstrations in a public place. Authorities routinely attempted to prevent meetings and demonstrations by withholding consent or taking civil society leaders to court. On several occasions, the Industrial Court upheld the right to freedom of assembly and allowed demonstrations to take place. However, when demonstrations did take place, Swazi security officials were deployed in force, on occasion outnumbering protesters.

From September 5-9, civil society groups representing labor unions, students, teachers, school administration, and political parties held protest marches in urban areas around the country. The government attempted to prevent the marches by taking labor unions to court. The Industrial Court, however, upheld the right to freedom of assembly, and the protest action proceeded. During the first two days marchers adhered to agreed-upon routes, and security forces acted with restraint.

On the third day, however, violence erupted in Mbabane when protesters threw bottles at police and corrections officers, who used tear gas to disperse the crowd and beat several students with batons.

In the days leading up to the “April 12 uprising” —a series of planned demonstrations in commemoration of the day, in 1973, that King Sobhuza II announced the decree that abrogated the independence constitution and banned political parties— police, correctional services officers, and soldiers established roadblocks throughout the country, and security forces detained numerous activists in an attempt to prevent the demonstration. On April 12 and 13, soldiers used excessive force, tear gas, water cannons, preventive detentions, roadblocks, house searches, curfews, and physical intimidation to quash the protests.

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 of the 1973 ban on political parties had not been heard by year’s end. However, in a 2008 affidavit, the former prime minister reiterated that political parties were banned, and in 2008 Prime Minister Dlamini designated PUDEMO, SWAYOCO, the SSN, and UMBANE as “specified entities” under the Suppression of Terrorism Act. The act provides that persons 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.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 their chiefdoms, and evictions due to internal conflicts, alleged criminal activity, or opposition to the chief occurred.

Nonethnic 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.

Protection of Refugees.—Access to Asylum.—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. The government cooperated with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in providing protection and minimal assistance to refugees and asylum seekers. Swaziland hosted an estimated 800 refugees, the majority from the Great Lakes region of Africa and Somalia.

Durable Solutions.—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 waited longer to apply, sometimes more than 10 years, due to lack of data 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 remained unable to register, to contest elections, or otherwise participate in the formation of a government. In February the attorney general, Majahenkaba Dlamini, dismissed claims that parties were “banned.” He said that the 1973 decree that banned political parties is superseded by the kingdom’s constitution, and that political parties can exist because no law specifically bans their existence. 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 members of parliament. Although the constitution requires the king to consult with others (usually a traditional council) before making a major decision, he is not required to accept their advice.

Elections and Political Participation.—Recent Elections.—In September 2008 parliamentary elections were held, the first since the constitution went into effect in 2006; the king appointed a government in October 2008. International observers concluded the elections did not meet international standards. Political parties were not allowed to register or sponsor candidates of their choice. Ballots were cast in secrecy but could be traced by registration number to voters; some ballot boxes were not properly protected. Accusations of bribery were reported. There were widespread reports that citizens were advised if they did not register to vote, they would no longer receive government services.

During the year the Elections and Boundaries Commission (EBC), whose mandate is to “ensure that elections are properly managed on behalf of the electorate,” began preparations for the next round of elections, scheduled to be held in 2013. According to the EBC chairman, Chief Gija S.G. Dlamini, the commission was reviewing draft legislation to update existing electoral laws.

Political Parties.—According to the government, when the current constitution took effect, the 1973 decree that banned political parties lapsed. The constitution provides for freedom of association but does not address how political parties can operate, including how they can contest elections. In 2006 the minister of justice and constitutional affairs stated 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 traditional authorities often denied them permission to meet.

The constitution also states that candidates for public office must compete on their individual merit, thereby effectively blocking competition based on political party affiliation.

The government harassed and detained opposition members.

For example, on April 12 and 13, Mario Masuku, leader of the banned political party PUDEMO, was detained in his home to prevent his participation in demonstrations planned to commemorate the day on which, in 1973, King Sobhuza II issued the decree banning the operation of political parties.

Participation in the traditional sphere of governance and politics is predominantly done through chiefdoms. Chiefs are custodians of traditional law and custom, report directly to the king, and are responsible for the day-to-day running of their chiefdoms and maintaining law and order. 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, a fact that provoked land disputes, especially at the time of burials.

Participation of Women and Minorities.—The constitution provides that 55 of the 65 seats in 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 to 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. The house had not nominated these members by year’s end.

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 appointed only seven female senators. 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 out of 20 ministerial positions.

Widows in mourning (for periods that can vary from one to three years) were prevented from appearing in certain public places or from being 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 minority members 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.

In October Minister of Finance Majozi Sithole reiterated his earlier statement that an estimated 80 million emalangeni (\$11.52 million) in potential government revenue was lost each month due to corruption. The Anticorruption Commission, funded by the Ministry of Justice, is charged with fighting corruption by carrying out education and prevention programs as well as by investigating cases. It has the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. During the year it recorded 249 complaints of corruption. After completing investigations, the ACC referred 18 cases to the director of public prosecutions, two of which resulted in convictions. Several cases were pending in the court system, and two cases were dismissed for lack of evidence.

The ACC conducted dozens of sensitization workshops and meetings around the country, provided educational materials for schools, and appeared on numerous radio and television shows. One ACC representative acknowledged a widespread public perception that the ACC is ineffective and described the commission as being in “start up” mode despite being established in 2008; a fact largely attributable to a lack of financial and human resources and the general backlog of cases in the court system.

Principals and teachers routinely demanded bribes to admit students.

Credible reports continued that business contracts, government appointments, military recruitment, and school admissions were awarded on the basis of a person’s relationship with government officials. Authorities rarely took action when incidents of nepotism were reported.

For example, on September 18, the Times of Swaziland reported that the Ministry of Tinkhundla (Local Administration) entered into a deal for three million emalangeni (\$432,276) to lease office equipment that should have cost approximately one million emalangeni (\$144,092). The minister of tinkhundla reportedly violated procurement regulations when he unilaterally awarded the contract for office supplies without the approval of the Tender Board, a statutory body responsible for approval of government procurement. The prime minister promised to institute a forensic investigation of all tenders issued by the Ministry of Tinkhundla. By the end of the year, the investigation had been completed but the report awaited review and adoption by Parliament.

In May 2010 the general manager and the senior mechanical engineer of the Central Transport Administration, Polycarp Dlamini and Mpumelelo Mamba, were arrested along with Sandile Dlamini, the manager of Protronics Networking Corporation, and Industrial Court judge Sifiso Nsibande, on charges of fraud. The four men were released on 50,000 emalangeni (\$7,204) bail each. On November 28, Dlamini pled guilty to and was convicted of defrauding the Swazi government of more than 12 million emalangeni (\$1.7 million) and, at year’s end, awaited sentencing.

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 Commission on Human Rights and Public Administration. According to the commission, the majority of those required to declare assets and liabilities did so. The commission suspected underreporting in a number of cases. The commission has not made this information public.

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 rarely were responsive to their

views. 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.

U.N. and Other International Bodies.—The government generally cooperated with international organizations and permitted visits by U.N. representatives. However, in May the government did not meet with visiting officials from international NGO Human Rights Watch (HRW). Staff from HRW were told that officials were busy and not in a position to meet with them.

Government Human Rights Bodies.—In 2009 the government established the Commission on Human Rights and Public Administration. Since its establishment, the commission has received 26 complaints, seven of which it resolved - mainly through alternative dispute resolution. Nineteen complaints remained pending. The commission remained nearly powerless due to lack of funding and enabling legislation. The commission consisted of one commissioner and five deputy commissioners, although one of the deputies has been acting commissioner since September 14. It had no full-time staff. The commission is precluded from investigating any matter “relating to the exercise of any royal prerogative by the Crown.” A number of local NGOs, including Women and Law in Southern Africa, expressed concerns regarding the location of the commission’s offices within the vicinity of royal residences—an area which women in mourning attire and in pants may not enter, according to custom and tradition.

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

The constitution prohibits discrimination based on race, gender, disability, age, ethnicity, religion, political opinion, or social status; however, the government did not consistently enforce the law.

Women.—Rape and Domestic Violence.—The law criminalizes rape; however, no law specifically addresses spousal rape. Rape was common, and the government did not always enforce the law effectively. According to the Swaziland Action Group Against Abuse (SWAGAA), one in three Swazi women between the ages of 13 and 24 has been the victim of sexual violence. Many men regarded rape as a minor offense. According to the 2010 RSPS Annual Report, 617 rape cases were reported in 2010, but there were no data available on the number of prosecutions, convictions, or punishment. The number of reported cases is likely far lower than the number of actual cases. 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.

In November 2010 Minister of Sports, Youth, and Culture Hlob’sile Ndlovu reportedly said during a parliamentary session that when women say “do not touch me,” they actually mean “touch me further.” When called upon to retract her statement, the minister refused.

Domestic violence against women, particularly wife beating, was common and sometimes resulted in death. Domestic violence is illegal; however, police efforts to combat the crime were inadequate. According to a 2008 survey 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; however, there were no data available on the number of cases, prosecutions, convictions, or punishments.

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, which use Roman-Dutch-based law, to convict men of spousal abuse. The Roman-Dutch legal system often gave light sentences in cases of conviction for abuse against women. SWAGAA has hotlines and shelters to assist victims of abuse.

Sexual Harassment.—Legal provisions against sexual harassment were vague, and government enforcement was ineffective; no cases have ever 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. Some teachers threatened students with poor grades if they did not provide sexual favors to them.

Reproductive Rights.—The government upheld the 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. There was wide access to contraception, including at public restrooms, clinics, and workplaces throughout the country. Women were equally diagnosed and treated for sexually transmitted infections. Skilled attendance during childbirth, including essential obstetric and postpartum care, was estimated at 69 percent but was limited in rural areas. A 2011 U.N. Fund for Population report indicated the maternal mortality rate was 420 per 100,000 live births; the proportion of maternal deaths due to HIV/AIDS was 75 percent in 2008. An estimated 47 percent of girls and women ages 15-49 used a modern method of contraception in 2010.

Discrimination.—Women occupy a subordinate role in society. The dualistic nature of the legal system complicates 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 are unclear and change according to where and by whom they were interpreted. Couples often marry in both civil and traditional ceremonies, creating problems in determining which set of rules apply 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 conflict 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.

In February 2010 the High Court overturned section 16(3) of the Deeds Registry Act, which prohibited women from registering property in their own names. In May 2010 the Supreme Court amended the High Court's ruling but maintained its finding that the law was unconstitutional and stated parliament needed to enact appropriate legislation within 12 months. Pending such legislation, the Supreme Court ruled that women should continue to register property jointly with their husbands. At year's end the law remained unchanged.

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 divorces. Children born out of wedlock are viewed as belonging to the mother, unless the father claims the children. Inheritances are passed to and through male children only. Traditional authorities still exercised the right to fine women for wearing pants in their constituencies.

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 may lose her home and inheritance. When the husband dies, tradition dictates that the widow must remain at her husband's family's residence in observance of a strict mourning period 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 three 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. Women in mourning attire generally were not allowed to participate in public events and were barred from interacting with royalty or entering royal premises.

In November 2010 a woman was assaulted by a group of men identifying themselves as members of the "water party," a group of men who are commissioned by royalty to traverse the country ahead of the annual incwala ceremony, after she refused to pay a fine for wearing slacks.

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.—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 16 percent of the population.

Education.—Despite a constitutional mandate that children be provided tuition-free primary education by 2009, the government had not completely complied. In addition students' families must pay for uniforms and other supplies. The government claimed it could not afford to enact tuition-free primary education immediately; however, after a 2009 lawsuit brought by the Ex-Miners' Association to obtain the benefit on behalf of the country's children, the government began to implement the mandate gradually and offered tuition-free primary education through grade three. The Office of the Deputy Prime Minister received an annual budget allocation to pay school fees for OVCs in primary and secondary school; however, some schools continued to complain of delayed payment and expelled OVCs for nonpayment of fees. Individual schools sometimes needed to raise supplemental money for building maintenance, including of 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.—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. Most sexual assaults on girls occurred at home; fewer than half of sexual assaults were reported. Children with disabilities, children out of school, and orphans were at particular risk. According to a recent report by the Swaziland Violence Surveillance System, at least 2,619 children were reported abused from January to June this year. Punishment for child abuse was minimal, and even perpetrators of abuse that resulted in death were generally fined no more than 200 emalangeni (\$29).

On September 12, NGOs Family Life Association of Swaziland (FLAS) and Save the Children raised concerns about virginity testing for young girls. In the lead-up to the Umhlanga, or Reed Dance, an annual celebration in which tens of thousands of girls pay homage to the queen mother and celebrate chastity, an organization called Liphupho Lendlovu reportedly conducted virginity testing on more than 40 girls. In a joint statement, FLAS and Save the Children called the practice, "humiliating, degrading, and a gross violation of the fundamental rights of children and girls to privacy and bodily integrity." Liphupho Lendlovu called this year's testing a pilot program and vowed to continue the testing next year.

Corporal punishment by teachers and principals is legal and routinely practiced. School regulations state a teacher can administer a maximum of four strokes with a stick on the buttocks to a student younger than age 16, and six strokes to students older than 16; however, teachers often exceeded these limits with impunity.

At the end of March pupils at Mpofu High School boycotted classes in protest of what they viewed as excessive corporal punishment. On March 31, students told the Swazi Observer they are made to lie on a bench and strip naked from the waist down so that blows can be administered to the bare flesh.

Child Marriage.—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 the age of 16. The government recognizes two types of marriage: civil marriage and marriage under traditional law and custom. Traditional marriages can be with girls as young as 13. 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 rate of 26 percent among persons between 15 and 49 years of age.

On August 17, the Swazi Observer reported that on August 12, an 18-year-old girl from Herefords, in the Hhohho Region, was forced to enter into a customary "kuteka" marriage with a high school teacher.

Sexual Exploitation of Children.—Minors were victims of prostitution and trafficking, and girls, particularly OVCs, were victims of commercial sexual exploitation, including at truck stops and in bars and brothels.

No law specifically prohibits child prostitution. Penalties for child pornography are six months' imprisonment and a fine of 100 emalangeni (\$14.50). The law sets the age of sexual consent at 16 and prohibits the sexual exploitation of children under age 18, which is considered statutory rape. The penalty for statutory rape is six years' imprisonment and a fine of 1,000 emalangeni (\$145). During the year the

number of street children in Mbabane and Manzini continued to grow. A large and increasing number of HIV/AIDS orphans were cared for by 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. However, the government failed to pay school fees for orphans and vulnerable children, resulting in protest marches and petitions from school principals against the government.

With more than 4,000 child-headed households in the kingdom, UNICEF supported school feeding programs, operated a number of neighborhood care points, and provided nutritional support to children weakened by AIDS.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community is very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/tip>.

Persons With Disabilities.—The constitution provides for the rights of persons with disabilities, but it does not differentiate between physical and mental disabilities and requires parliament to enact relevant implementing legislation, which parliament has not done. 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 complained of government neglect. No law mandates accessibility for persons with disabilities to buildings, transportation, or government services, although government buildings under construction included some improvements for those with disabilities, including access ramps. Public transportation was not user friendly for disabled persons, and the government does not provide any means of alternative accessible transport.

The Office of the Deputy Prime Minister and its Department of Social Welfare are responsible for protecting the rights of persons with disabilities.

On February 11, the Swazi Observer reported that police officers turned away Shadrack Nyaka, a person with disabilities who had come to register a charge of assault against his landlord. According to police, Nyaka was turned away because he could not speak, and police could not understand him since there are no sign language experts in the police stations.

There is one school for the deaf and one special education 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. The hospital for persons with mental disabilities, located in Manzini, was overcrowded and understaffed.

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 nonethnic Swazis, generally white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population was nonethnic Swazi. Nonethnic 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 LGBT community was prevalent, and LGBT persons generally concealed their sexual orientation and gender identity. Colonial-era legislation against sodomy remains on the books; however, it has not been used to arrest gay men. Gay men 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 same-sex sexual conduct as neither Swazi nor Christian. Societal discrimination exists against gay men and lesbians, and LGBT advocacy organizations had trouble registering with the government. One such organization, House of Pride, was affiliated with another organization dealing with HIV/AIDS. It is difficult to know the extent of employment discrimination based on sexual orientation because victims are not likely to come forward, and most gay men and lesbians are not open about their sexual orientation.

Other Societal Violence or Discrimination.—Vigilante violence continued and in some cases resulted in deaths.

For example, on February 9, two men stabbed a woman suspected of witchcraft, two days after a “prophet” hired by the community had claimed she was responsible for killing some members of the community through “muti” or witchcraft.

On April 19, a mob demolished a house in Malkerns, alleging their son was a gangster and had been terrorizing the area, committing crimes including murder and robbery.

There was social stigma associated with being HIV positive, a fact that discouraged persons from being tested. Nevertheless, there were often long lines, especially of young persons, waiting to be tested during prevention campaigns. The armed forces encouraged testing and did not discriminate against those testing positive.

On February 15, at the Mbabane Government Hospital, an HIV-positive woman lost her baby during childbirth after being neglected by nurses claiming that her complaints of labor pains were as a result of her HIV status.

There was social stigma attached to albinism. Several people with albinism stated they were discriminated against, called names, and were at risk of being killed for ritual purposes. The government condemned such acts but took no further action.

Section 7. Worker Rights.—a. Freedom of Association and the Right to Collective Bargaining

The constitution and law provide that workers have the right to form and join independent unions, conduct legal strikes, and bargain collectively. However, these rights are either restricted or strictly regulated. The Industrial Relations Act of 2000 as amended governs employee and employer organizations. The law explicitly provides for the registration of unions and federations but grants far-reaching powers to the labor commissioner with respect to determining eligibility for registration. 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. Unions and federations are prohibited from carrying out political activities or activities that may be interpreted as political. Employees in essential services, which included police and security forces, correctional services, firefighting, health, and many civil service positions, may not form unions. There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal.

The law allows unions to conduct their activities without government interference, and prohibits antiunion discrimination. However, the 1973 Decree/State of Emergency Proclamation and the 1963 Public Order Act were reportedly used to interfere with trade unions’ affairs or to repress trade unions’ lawful and peaceful activities during the year.

The law permits strikes; however, the right to strike was strictly regulated. Strikes and lock-outs are prohibited in essential services, while the minister has the power to modify the list of these essential services, which provides for broad prohibition on strikes in nonessential sectors, including posts, telephone, telegraph, radio, and teaching. The logistical requirements involved in registering a legal strike makes striking difficult in practice. 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. The law imposes disproportionately harsh sanctions for damages caused by strike actions. For example, the trade union faces civil liability and criminal liability for any damage caused and other “unlawful behavior” during strikes.

The constitution and law provide for the right to organize and bargain collectively; however, the right is subject to various legal restrictions. The law requires that for a union to be authorized to exercise collective bargaining rights, it must first represent more than 50 percent of the workers. The law provides for the registration of collective agreements by the Industrial Tribunal, which is empowered to refuse registration if the agreements do not take into account the instructions on wages and wage levels published by the government. The Industrial Relations Act (as amended) confers on the commissioner of labor or labor inspectors the power to “intervene” in labor disputes before being reported to the commission, if there is reason to believe that they could have serious consequences for the employers, the workers, or the economy if not resolved promptly.

The government did not effectively enforce these laws. In practice workers who attempted to exercise the rights to organize and bargain collectively faced difficulties or risks due to a harsh legal environment imposed by many provisions in the labor and the security laws. Correctional Services staff continued to be denied the right to collective bargaining, and there were reportedly problems in the banking

sector with respect to such right. There were reports of acts of antiunion discrimination in the textile sector.

Government interference in union affairs has consistently been an issue under examination by the International Labor Organization (ILO), particularly those unions in the public service. The International Trade Union Confederation reported that trade union activities continued to be repressed in Swaziland. Repeated arbitrary arrests, intimidation, and beatings were reportedly used to silence activists. Union leaders and members of the SFTU were arrested several times during the year.

In the days leading up to the “April 12 Uprising”—several days of planned protest actions by unions, teachers, students, and political parties—police used heavy-handed intimidation tactics, including arbitrary searches and detentions. On April 12, police picked up several activists gathered in a square in Manzini and took them to a local police station for questioning. Following the questioning, police loaded them into two military trucks and deposited them in a remote rural area.

On May 14, police briefly detained approximately 10 union members from the SNAT, SFTU, and SFL unions after the detainees held a union meeting in Siteki. The police declared the meeting illegal because no permission was sought from their office to hold such a meeting; however, there is no such legal requirement.

On September 19 and 20, commuters including pupils in Mbabane and Manzini were left stranded when transport operators, including drivers and their assistants, engaged in strike action. In Manzini the demonstration turned violent with protesters burning tires and throwing stones at police. Some businesses were forced to close. According to the RSPS, during the skirmish 10 police officers were seriously injured.

On October 31, labor organizations decided not to proceed with a planned protest related to the country’s ongoing judicial and fiscal crises when the kingdom’s Industrial Court ruled they needed first to work through the national Labor Advisory Board. Having agreed to postpone the protest marches, labor instead organized a prayer vigil for the same evening at a local primary school. When unionists arrived at the school, they were turned away by local authorities and told that they would not be allowed to use the school as they had not secured prior permission to use the premises. The labor leadership moved the gathering to a local church but were met there by Swazi police who said that they could not allow the vigil to take place.

During the year there were allegations that employers used labor brokers to hire individuals on contracts to avoid hiring those who would normally be entitled to collective bargaining rights. There are no laws governing the operation of labor brokers.

Antiunion discrimination continued to occur. Workers frequently invoked the antiunion discrimination and reinstatement provisions during the year. 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.

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 textile and apparel industry.

b. Prohibition of Forced or Compulsory Labor.—The constitution and law prohibit forced or compulsory labor; however, there were reports that such practices occurred. The ILO and the SFTU characterized the 1998 Administrative Order, Act No. 6 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. Although the High Court had declared the order null and void, the government did not officially repeal it as recommended by the ILO, stating the order was automatically overridden by the constitution. Victims of forced labor included women and children forced into domestic servitude, agricultural labor, herding livestock, portering, and market vending.

Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The constitution and the Employment Act prohibit child labor; however, such laws were not effectively enforced, especially outside the formal work sector, and child labor was a

problem. The law prohibits hiring a child younger than age 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 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 agriculture children pick cotton, harvest sugarcane, and herd livestock. This work may involve activities that put at risk their health and safety, such as using dangerous machinery and tools, carrying heavy loads, applying harmful pesticides, and working alone in remote areas.

Child domestic servitude was also believed to be prevalent. Such work can involve long hours of work and may expose children to physical and sexual exploitation by their employer.

Children also work as porters, bus attendants, taxi conductors, and street vendors. Children working on the streets risk a variety of dangers, such as severe weather and automobile accidents; they also may be vulnerable to exploitation by criminals. Other children reportedly worked 14-hour days in textile factories.

Children's exploitation in illicit activities was a problem. Children served alcohol in liquor outlets and grow, manufacture, and sell drugs.

The Ministry of Labor, the Office of the Deputy Prime Minister through the National Children's Coordination Unit and Department of Social Welfare, and the RSPS are responsible for enforcement of laws relating to child labor. The government's effectiveness in combating child labor was limited, however, due to a lack of baseline information about the scope of the problem and a lack of dedicated resources for identifying and punishing violators. Through the Office of the Deputy Prime Minister, the government pays school fees for orphans and vulnerable children to provide additional social support and keep these children from engaging in child labor.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. 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 531.6 emalangeni (\$76.50), for an unskilled worker 420 emalangeni (\$60.50), and for a skilled worker 600 emalangeni (\$86.50). An estimated 69 percent of the population lives below the poverty line of 57 emalangeni (\$7.80) and 104 emalangeni (\$14.32) per month for rural and urban areas respectively.

There was a standard 48-hour workweek for most workers and a 72-hour workweek for security guards; however, public transportation workers complained that they were required to work 12 hours a day or more without any overtime compensation. It was not clear whether there were specific exceptions for female workers. 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.

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. 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. All workers in the formal sector, including migrant workers, are covered by the wage law.

The labor commissioner conducted inspections in the formal sector but was hampered, by budgetary constraints, to meet its goals in terms of number of inspections and to fully enforce standards in all sectors.

Wage arrears, particularly in the garment industry, were a problem. The minimum wage laws did not apply to the informal sector, where many workers were employed.

Although policies exist regarding maternity leave, women often believe they are compelled to keep working from economic need, which sometimes resulted in giving birth in unsafe environments, for example, on the way to work.

The Labor Commissioner's Office conducted few safety inspections because of staffing shortages.

The Ministry of Health revealed that HIV/AIDS prevalence among female factory workers led to staffing shortages. As all standards are voluntary and there is no centralized quality assurance function, there were no credible records to identify sectors in which violation of the OSH standards occurred.

According to the Times of Swaziland, preliminary findings of a study of workers in Matsapha found 50 percent to be HIV positive. Female workers complained they felt obligated to engage in risky sexual behavior—mostly having multiple, concurrent partners who provide extra cash or in-kind assistance.

TANZANIA

EXECUTIVE SUMMARY

The United Republic of Tanzania is a multiparty republic consisting of the mainland and the semiautonomous Zanzibar archipelago, whose main islands are Unguja and Pemba. The union is headed by a president, Jakaya Kikwete, who is also the head of government; its unicameral legislative body is the National Assembly (parliament). Zanzibar, although part of the union government, has its own president, court system, and legislature and exercises considerable autonomy. Tanzania held its fourth multiparty general elections in October 2010 in which voters on Tanzania mainland and Zanzibar elected a union president and their respective representatives in the union legislature.

In Zanzibar, where past elections were marked by violence and widespread irregularities, the 2010 elections proceeded peacefully after a power-sharing agreement was reached between the ruling Chama cha Mapinduzi (CCM) party and the opposition Civic United Front (CUF). The Zanzibar electorate chose Ali Mohamed Shein, the immediate past union vice president, as president of Zanzibar and also elected members of its House of Representatives. The union and Zanzibar elections were judged to be largely free and fair. Union security forces reported to civilian authorities, but there were instances in which elements of the security forces acted independently of civilian control.

The three most widespread and systemic human rights issues in the country were the use of excessive force by police, prison guards, and military personnel, which resulted in deaths and injuries; harsh and life threatening prison conditions; and mob violence.

Other human rights problems included restrictions on freedoms of press and assembly; some limitations on religious freedom, primarily in Zanzibar; restrictions on the movement of refugees; official corruption, including judicial corruption and inefficiency, particularly in the lower courts; societal violence against women and persons with albinism; child abuse, including female genital mutilation (FGM); and discrimination based on sexual orientation. Trafficking in persons, both internal and international, as well as child labor were problems.

In some cases the government took steps to prosecute those who committed abuses, but impunity also existed.

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. Nongovernmental organizations (NGOs) and local news agencies documented several cases of police officers mistreating, beating, and causing the deaths of civilians.

A researcher with the Legal and Human Rights Center (LHRC) announced at the launch of its biannual report that police brutality and extra judicial killings were on the rise. By December a total of 25 persons were killed and more than 40 were injured at the hands of police and other security officers.

For example, on January 5, police officers shot and killed two persons during an antigovernment protest in the Arusha region. The Party of Democracy and Development (CHADEMA) opposition party organized the protest to dispute the results of the Arusha mayoral elections. Arusha Regional Police Commander Tobias Andengenyne confirmed the deaths and stated that nine persons were injured, including three police officers. Police arrested 13 senior CHADEMA officials for inciting the violence. CHADEMA objected that the case was politically motivated. At year's end the case was pending in court.

In May police shot and killed at least five and possibly as many as seven persons attempting to invade African Barrick's gold mine in North Mara, leading to dem-

onstrations in which a number of journalists and opposition party politicians were arrested. Authorities took no action against those responsible for the killings.

Reports continued concerning police and private security force shootings of trespassers in corporate gold mining areas near Lake Victoria. On February 5, the LHRC reported that game rangers and wardens shot and killed poacher Mohamed Suta in the Selous Game Park and injured Hamisi Rashid. Rashid was subsequently unable to identify the suspects in a lineup of the rangers and wardens. At year's end the investigations into the shooting and killing continued.

There were no further developments in the following 2010 shooting deaths by police: the January killing of Swetu Fundikira, the March death of Musa Juma,—both of which took place in police custody—and the April killing of Ndekirwa Palangyo.

b. Disappearance.—Unlike in the previous year, there was at least one report of a politically motivated disappearance.

On September 3, the Daily News, a government newspaper, reported the disappearance of human rights activist Eustace Nyarugenda, who disappeared for eight days from his home in the district of Bariadi, Shinyanga region, before a travelling herdsman found him drugged. Police were investigating the incident, but his abduction reportedly was connected to his work on theft and urban crime.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices, but there were reports that police officers, prison guards, and soldiers who abused, threatened, and otherwise mistreated civilians, suspected criminals, and prisoners faced limited accountability. The abuse most commonly involved beatings.

For example, in March Eliasi John of the Temeke region complained that a police officer injected acid into his eyes causing permanent blindness. John claimed that the officer arrested him at a pub, tied him up at a nearby police station, and injected the solution into his eyes. Police later took John to Temeke District Court on charges of robbery. John, who claimed innocence, stated that the court ignored his allegation that he was tortured.

On April 4, in a visit to express concern to the office of Inspector General of Police (IGP) about the increase in extrajudicial killings, police brutality, and protracted investigations, the LHRC Monitoring Union made specific reference to the case of Eliasi John. The IGP forwarded the complaint to the Attorney General's Office for further action.

According to human rights activist Christopher Lilai of Nachingwea district in Lindi region, a police officer beat Ally Ahmed when he was caught trying to attend a soccer match without paying, until he lost consciousness and required hospitalization. Lilai reported the incident in his blog on May 14 and posted pictures of Ahmed unconscious.

Local government officials and courts occasionally used caning as a punishment for both juvenile and adult offenders. For example, in January the Bukoba district magistrate ordered the deportation of John Maitiland, a British citizen, after immigration authorities determined that he was in the country unlawfully. Before deportation the court ordered Maitiland to pay a fine of 80,000 TZS (Tanzanian shillings) (\$50) and subjected him to 10 strokes of the cane.

On June 4, on the mainland, the Sumbawanga District Court sentenced Polikalipo Mwisua to 30 years in prison and 24 strokes of the cane for raping a 12-year-old schoolgirl.

On August 23, the Arusha Resident Magistrate's Court finalized a second autopsy report on Juma Lissu, who died in the Arusha Central Police remand prison in 2009. Lissu's wife told human rights activists that police officers beat her husband at their house and took him to the police office, where he died the next day. Relatives disputed the initial autopsy report, which described the cause of death as malaria and lung disease. They also rejected the second report, which stated that Lissu died of natural causes. Human rights activists complained that failure to conduct the first autopsy in a timely fashion made it physiologically impossible for the coroner to make a proper ruling on the cause of death.

The spokesperson for the Tanzanian Police Force (TPF) reported that police training curricula included sessions on protecting human rights, including combating human trafficking, which were later reinforced by additional training on the same topic.

Prison and Detention Center Conditions.—Despite some improvements prison conditions remained harsh and life threatening. Inadequate food, overcrowding, poor sanitation, and inadequate medical care were pervasive. There were allegations that authorities engaged in torture. For example, according to the Jambo Leo newspaper's December 7 edition, Ayub Yusuf told the Singida regional court that police officers arrested him and two others for attacking a traffic police officer. Yusuf

claimed the police pressed a gun to his neck and inserted the end of a second gun into his rectum, causing him severe pain and injury.

The behavior of prison officers was at times itself a threat to the life and health of prisoners. For example, in Mwanza region police questioned some officers at the Kwimba district police station over the death of Maganza Kasanga, who was allegedly beaten to death while in police custody on September 6. Police officials promised to take action against the perpetrators, but there were no further developments by year's end.

On September 10, the Habari Leo reported that Donasian Mafuru, a cook at the Ukonga prison mess, complained to reporters that he was beaten, tortured, and injured by 10 prison officials. He claimed they attacked him after he accused them of stealing his cooking utensils. An investigation continued at year's end.

The Commission for Human Rights and Good Governance (CHRAGG) reported in September that in their visits to 75 prisons, they found that the quality of food, size of cells, availability and quality of inmate uniforms, and distribution of mosquito nets had improved. Murder suspects spent less time in pretrial detention due to the expansion of the judiciary. However, the average time awaiting trial remained between three and four years, and prisoners complained of delays in hearing their cases. CHRAGG reported that despite some improvements, sanitation and overcrowding remained problems that encouraged the spread of disease. The most common were malaria, tuberculosis, HIV/AIDS, and other diseases related to poor sanitation. Prison dispensaries offered only limited treatment, and friends and family members of prisoners generally had to provide medications or the funds to purchase them.

According to the principal commissioner of prisons, 15 deaths in prisons due to HIV/AIDS were reported during the year.

Prison staff complained of water shortages and a lack of electricity as well as inadequate medical supplies. Limited transportation also affected the ability of prison staff to take prisoners to health clinics and hospitals. Foreign prisoners complained it was difficult for embassy officials to visit them and that they waited long periods before being transferred to their home countries.

CHRAGG reported that children were held together with adults in several prisons due to a lack of detention facilities. There was one prison for children in the Mbeya region and five remand homes across the country. Officials attributed the shortage to a lack of coordination between the judiciary, police, and prison department. The number of probation officers also remained inadequate.

According to the October prison's report of the Tanganyika Law Society (TLS), women were held separately and their conditions were generally better than those of men. There were fewer female prisoners, and each one had a bed, two blankets, a mosquito net, and sweaters to wear during the cold season. The report stated that due to overcrowding, every three male prisoners often had to share two mattresses.

Some inmates were reportedly forced to worship in denominations chosen for them by prison wardens. Seventh-day Adventists complained they had to work on Saturday. Generally, however, prisoners and detainees had reasonable access to visitors and were allowed to worship freely.

The union Ministry of Home Affairs Public Complaints Department and a Prison Services Public Relations Unit responded to public complaints and inquiries sent to them directly or through the media about prison conditions.

On the mainland prisoners were permitted to submit complaints to judicial authorities, but it was alleged that the letters were censored. Prisoners were also able to submit complaints to CHRAGG during its prison visits. CHRAGG also served as the official ombudsman.

On the mainland the law allows judges and magistrates to grant parole or impose alternative sentences such as community service as a means of reducing overcrowding, but these options were rarely used. Only 3,057 prisoners on the mainland have 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.

As of December the prisons held 38,568 inmates, of whom 18,797 were convicts (49 percent) and the remainder pretrial detainees (51 percent). An estimated 1,206 inmates were women. The principal commissioner of prisons claimed that there were no children in the prison system. The 2011 TLS prison's report, however, stated that there were some prisons that mixed adult prisoners with children due to overcrowding. In one prison TLS officials found two 12-year-old children who complained that they had to do the same work as the older inmates and were punished when they were unable to work as fast as them. Discrepancies in prison reporting may be due in part to inadequate recordkeeping in the prisons.

In Zanzibar juveniles were held with adults, and remand prisoners were held with convicted prisoners.

The Zanzibar Legal Services Center reported that there had been no investigation on the 2009 allegations of sexual abuse by prison officers in Zanzibar.

On the mainland authorities often moved prisoners to different prisons without notifying their families.

Serious threats to life continued in detention centers. For example, in Mwanza Region police questioned some officers at the Kwimba district police station about the death of Maganza Kasanga, who was allegedly beaten to death on September 6 while in police custody. Police officials promised to take appropriate action against the perpetrators.

Between August and September, the LHRC, TLS, and CHRAGG visited local prisons. International organizations, such as the International Committee of the Red Cross (ICRC), visited five prisons in May, September, and December to provide family message exchange and tracing services to refugees and noncitizens.

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.—Under the union Ministry of Home Affairs, the TPF has primary responsibility for maintaining law and order both on the mainland and in Zanzibar. The Field Force Unit is a special division in the national police force and has primary responsibility for controlling unlawful demonstrations and riots. The TPF is staffed by nearly 40,000 personnel with multiple divisions and specialties throughout the country. It was overstretched and underfunded, as characterized by a reactive response to incidents. Excessive force, police corruption, and impunity were reported throughout the year. Low pay contributed to perceived corruption in certain units, as reported widely by citizens and the press. Newspaper articles, civil complaints, and reports of police corruption from the Prevention and Combating of Corruption Bureau (PCCB) and Ministry of Home Affairs also continued.

Sungusungu citizens' patrols are traditional neighborhood anticrime groups that exist throughout the mainland. The People's Militia Act of 1973 grants them the power to make arrests. In general, these groups provide neighborhood security at night. Sungusungu members are not permitted to carry firearms or machetes, but they carry sticks or clubs. They work with municipal governing authorities as well as police but operate independently from police. They are formed or disbanded based on the perceived local need. In areas surrounding refugee camps, Sungusungu members have authority to arrest refugees who travel outside the camps without permission. Within the camps groups composed of refugees act as security forces, supplementing the police. At times Sungusungu patrols beat criminal suspects before turning them over to police.

Mainland police sometimes acted as prosecutors in lower courts, which allowed police to manipulate evidence in criminal cases. The spokesperson for the TPF reported that police officers acted as prosecutors in nine regions.

TPF leadership was committed to training and improvement, but ground-level officers often failed to meet these commitments. Police continued to hold educational seminars for officers to combat corruption and took disciplinary action against police officers implicated in wrongdoing. During the year 22 police officers were dismissed for unethical behavior and an additional two demoted.

The mainland community policing initiative that was launched in 2009 to mediate local disputes and reduce police corruption continued. The community police received standardized training, and police conducted awareness campaigns for citizens on how to assist community policing units.

Police arrested and detained journalists during the year (see section 2.a.).

In Zanzibar the Zanzibar Director of Public Prosecution (DPP) replaced police prosecutors with civilian prosecutors in all but four districts of the isles. This initiative, together with efforts to increase the use of mediation and ensure thorough investigations before suspects were placed in detention, reduced the case backlog significantly and eliminated it in some courts.

In Zanzibar "special units" are deployed at the district level for activities that would fall under police jurisdiction on the mainland. Recruitment, training, and command and control of the "special units" are opaque and influenced by the ruling party in Zanzibar. These units, including the fire brigade and prison guards, were often activated during political activities, such as voter registration or voting itself. Until the formation of a Government of National Unity in Zanzibar after the October 2010 elections, they reported to the Zanzibar minister of regional administration. Subsequently, the Government of Zanzibar pledged to review the role of

Zanzibar's "special units." Representatives from the Zanzibar President's Office reported that they were not aware of this review.

The Ministry of Defense is responsible for external security on the mainland and Zanzibar; it also has some limited domestic security responsibilities.

Arrest Procedures and Treatment While in Detention.—On the mainland 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, but police failed to comply with this requirement consistently. 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, lack of communication systems and infrastructure, and illiteracy and poverty of the accused. Generally, 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 suspects in cases involving charges of murder, treason, drugs, armed robbery, or other violent offenses where the accused might pose a public safety risk. In some cases courts imposed strict conditions on freedom of movement and association when they granted bail. 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. The law also allows a detainee to challenge the grounds for detention at 90-day intervals. The mainland government has additional broad detention powers under the law, allowing regional and district commissioners to arrest and detain for 24 hours anyone who "disturb[s] public tranquility." As was the case the previous year, this act was not invoked.

Pretrial Detention.—CHRAGG estimated that more than 51 percent of the prison population consisted of pretrial detainees. Detainees charged with criminal matters generally waited three to four years for trial due to a lack of judges to hear cases, an inadequate judicial budget, and the lengthy time required to complete police investigations.

Prisoners continued to protest the length of time it took to hear their cases.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, but the judiciary remained underfunded, corrupt (see section 4), inefficient (especially in the lower courts), and subject to executive influence. 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.

In Zanzibar there were six high court judges and four magistrates for the land tribunal. In 2010 the land tribunal only had three magistrates which caused a backlog in cases. The backlog in cases declined in Pemba, which has two magistrates, but not in Unguja, which also has two. Zanzibar High Court Officials asked authorities to allocate two more magistrates to Unguja.

Trial Procedures.—With some exceptions criminal trials were open to the public and the press. Courts that hold closed proceedings (for example, in drug trafficking cases and sexual offenses involving juveniles) 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 whose presiding officers are nondegree holding magistrates.

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 Zanzibar kadhi courts (traditional Muslim courts that settle issues of divorce and inheritance), could appeal decisions to the respective mainland and Zanzibar high courts. Defendants in Zanzibar can appeal decisions to the union Court of Appeal.

On the mainland 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, however, did not have legal counsel. In both Zanzibar and on the mainland, most defendants could not afford legal representation. In Zanzibar there were no public defenders.

On the mainland and in Zanzibar, police acted in some cases as prosecutors in lower courts, but this practice was being phased out. The mainland Ministry of Justice began hiring and training state prosecutors to handle the entire mainland caseload. Judicial experts had criticized the practice of police acting as prosecutors because it allowed police to manipulate evidence in criminal cases. The mainland government was able to phase out police prosecutors in the regions of Tabora, Mwanza, Moshi, and Shinyanga during the year. However, financial constraints and staffing issues slowed the process. In Zanzibar police prosecutors had been phased out in all but four districts.

There were approximately 1,300 registered lawyers in the country, 80 percent of whom practiced in Dar es Salaam, Arusha, and Mwanza. According to the Zanzibar Legal Services Center, there were only 43 registered lawyers residing and working in Zanzibar, primarily concentrated in and around the city center, and only one resident lawyer on Pemba. Most defendants in urban areas who could not afford professional representation represented themselves in court, but the government and some NGOs, such as the Tanzania Women Lawyers Association (TAWLA) and the National Organization for Legal Assistance (NOLA), provided women and the economically needy with free 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. Civil judicial procedures, however, were often slow, inefficient, and corrupt.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law generally prohibits such actions without a search warrant, but 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.

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.

In March President Kikwete admonished Ministry of Works' officials for demolishing homes without warning to make way for road construction. He called for compensation to individuals whose homes were destroyed and decried 48-hour notice of demolition as inhumane. He suggested the ministry should give notice up to two years before planned demolition. By year's end the government had not paid compensation but was attempting to make a determination of eligibility for compensation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech but does not explicitly provide for freedom of the press. The independent media on the mainland were active and generally expressed a wide variety of views. On Zanzibar the government maintained control of most of the media outlets, but independent mainland newspapers were available.

Freedom of Speech.—Individuals could criticize the government both publicly and privately without reprisal, although some persons expressed concern about doing so in public.

Freedom of Press.—On the mainland there were an estimated 13 daily newspapers. Of these, two were owned by the government, one by the ruling CCM party, and another by the chairman of an opposition party, CHADEMA. The remaining newspapers were independent, although some were owned by close associates of ruling party members. 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.

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 the only daily newspaper was owned by the Zanzibar government. However, there were four periodic newspapers, of which three were privately 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. Even in the case of state television broadcast from the mainland, there was a delay in the feed, allowing Zanzibar censors to intervene. However, the Zanzibar radio stations operated relatively independently, often reading the content of national dailies, including articles critical of the Zanzibar government.

Although the media were officially government-controlled in Zanzibar, the political opposition continued to enjoy increased access after the reconciliation process between the two political parties began in November 2009. However, observers noted that in spite of improved coverage of opposition rallies, CCM continued to get more coverage.

The mainland government allowed political opponents unrestricted access to the media; however, the ruling party had far more funding to purchase airtime. This meant that opposition parties did not receive as much publicity as the ruling party.

Violence and Harassment.—Authorities arbitrarily arrested journalists during the year.

For example, in December police arrested Absalom Kibanda, editor of the Tanzania Daima newspaper, and Theophil Makunga, executive director of Mwananchi, the newspaper group that published the piece, for allowing the newspaper to publish an allegedly seditious article. The article in question urged Tanzania security and armed forces to question “unreasonable orders” and respect the will of the people. Kibanda and Makunga were released on bail the same month. Their case was pending at year’s end.

In January police arrested journalists attempting to cover antigovernment demonstrations in Arusha. Journalists also reported that police beat them, confiscated their cameras, and destroyed their equipment.

Journalists were threatened and assaulted during the year.

For example, in January police in the Shinyanga region reportedly beat Tanzania Daima journalist Ali Lityawi for taking pictures without permission.

In the same month, Zanzibar municipal police officers beat Channel Ten TV journalist Munir Zakaria, who was reportedly filming an evacuation exercise in Darajani. Police accused him of rallying locals against the exercise.

Censorship or Content Restrictions.—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 250,000 TZS (\$156), 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. Zanzibar Ministry of Information officials reported that these provisions were not invoked during the year.

Media outlets often practiced self-censorship to avoid conflict with the government. Editors withheld stories that they felt would be overly critical of government representatives. This practice served to promote the longevity of the media outlet and curry the favor of politicians.

Libel Laws/National Security.—The law provides for arrest, prosecution, and punishment for the use of “seditious,” abusive, or derogatory language to describe the country’s leadership. The law allows police to raid and seize materials from newspaper offices without a warrant and allows the minister of information to close media outlets for reasons of undefined “public interest” or “the interest of peace and good order.”

Internet Freedom.—There were no government restrictions on access to the Internet; however, the government monitored Web sites that criticized the government. Police also monitored the Internet to prevent trafficking in persons and other illegal activities. In general, individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

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.

In early December LHRC Executive Director Helen Kijo Bisimba listed the denial of the constitutional right of demonstration and lawful assembly as one of the country's key human rights problems.

During the run-up to the November parliamentary discussion on constitutional reform and the subsequent preparations for the December celebration of 50 years of the country's independence, the government and the police increasingly limited the issuance of permits for public demonstration and assembly. Police denied demonstration permits to political parties, NGOs, and religious organizations.

Police worked with limited resources and generally lacked the equipment and training to respond to large crowds. As such, previous attempts to control crowds, particularly in Arusha, were characterized by violent conflict (see section 1.a.).

In November police placed an indefinite ban on CHADEMA demonstrations countrywide. On November 8, CHADEMA conducted a demonstration in Arusha to protest the arrest and temporary detention of several party leaders. Police claimed they received information that the protest was going to become violent, so they sent in units to forcefully put an end to the event, resulting in the injury and arrest of participants. In response, CHADEMA planned another demonstration for November 10, but on the previous day, police banned all public CHADEMA assemblies. The police commissioner announced that the ban would remain in place until police were convinced CHADEMA's assemblies would be peaceful.

Later in November police denied the request of NGO Jukwaa la Katiba ("Constitutional Forum") to demonstrate in Dar es Salaam. The group wished to protest in order to convince President Kikwete not to sign the constitutional reform bill passed in parliament. Jukwaa la Katiba is an umbrella organization comprised of representatives from more than 180 civil society organizations. The Mwananchi newspaper reported on November 23 that police denied the demonstration permit due to security concerns. Jukwaa la Katiba representatives later alleged that the grounds for refusal cited by the police were illegitimate. At year's end Jukwaa la Katiba continued to pursue the permit.

In December church leaders reported that police also denied their requests to hold public assemblies. Historically, some churches hold public prayer meetings at the end of each year to pray for the coming year. The church leaders claimed that police cited the risk of an Al-Shabaab attack on a large group of Christians as the reason for denial.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice.

Political parties were required to register, and there were some requirements as to distribution and composition of their membership (see section 3).

The process of registering NGOs was slow, but there were thousands on the mainland. The approval process was more difficult in Zanzibar. It took an average of four years to register a religious NGO.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 generally cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers, but it also encouraged the repatriation of many refugees and limited the influx of additional refugees.

Protection of Refugees.—Access to Asylum.—The country's laws provide for asylum or refugee status, and the government has established a system for providing protection to refugees.

Since February more than 1,200 irregular migrants from Ethiopia and Somalia were reportedly arrested in Tanzania en route to Mozambique. During the year the UNHCR was engaged in processing these individuals for possible asylum. Police continued to hold them in prisons, as there were no separate holding facilities for asylum seekers.

Asylum Access, an international NGO with an office in Dar es Salaam, reported that a large number of "urban refugees" lived outside Tanzania's two refugee camps. The government often treated these individuals as undocumented immigrants, deporting or imprisoning them if they faced criminal charges. Arrest was often the only situation in which the government came into contact with urban refugees. Urban refugees differ from undocumented immigrants, as many are able to demonstrate protection concerns that would qualify them for refugee status. Since they are not formally registered, they have limited access to employment, health care,

and education. There was no policy or infrastructure to serve this group, but the Ministry of Home Affairs reported that it was working to address the issue. Although the size of the urban refugee population was difficult to determine, the ministry estimated that as many as 10,000 urban refugees were living in Dar es Salaam alone. Asylum Access reported that this number may be as high as 20,000.

Nonrefoulement.—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. The UNHCR reported, however, that during the year the Ministry of Home Affairs forcibly returned asylum seekers to the Democratic Republic of the Congo (DRC) and Burundi without offering proper refugee status determination procedures. As these reports were irregular, the UNHCR did not have an accurate count.

Refugee Abuse.—The International Rescue Committee (IRC) reported that in June police forces uprooted gardens in the Mtabila refugee camp and destroyed a market in the Nyarugusu camp that they claimed was not built according to regulation.

It remained illegal for refugees to live outside their camps or settlements or to travel more than two and one-half miles outside the camps without permits. An exit permit could be obtained from the Ministry of Home Affairs office within the camps. Refugees were able to obtain permits to leave the camp with relative ease as long as they were able to provide a credible reason for exiting (e.g., attending legal procedures or obtaining wire money transfers). Refugees apprehended outside the camps without permits often were sentenced to community service rather than imprisonment and deportation, as was the case previously. By law, however, the infraction carries a fine and a three-year prison sentence. The UNHCR reported that when police apprehended refugees found outside the camps without permits, they usually placed them in a prison facility within the camps. Unless the infraction was connected with another criminal issue, police generally released these individuals back into the camps within a short amount of time.

Local government authorities policed the camps with support from refugee volunteers. The UNHCR reported that the most frequent crimes were connected to domestic violence and abuse, physical aggression, sexual abuse, and intimidation within both family units and the broader refugee community. The UNHCR reported that there were 1,200 incidents of gender-based violence in the camps during the year.

The UNHCR worked with local authorities as well as individuals working in the camps to strengthen coordination and their ability 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. NOLA, sponsored by the UNHCR, provided legal assistance to 433 refugees in the camps during the year.

Access to Basic Services.—Although public education was provided in the Nyarugusu camp, children living in the Mtabila camp were not permitted access to public elementary education. NGOs working within the camp provided informal education and recreational activities.

Durable Solutions.—In 2010 the Ministry of Home Affairs announced it was conferring citizenship upon 162,000 of the more than 200,000 refugees who had arrived from Burundi in 1972. However, by year's end the ministry had not issued any citizenship documentation to most of these individuals. The status of another 22,000 Burundi refugees settled in the Kigoma region remained in question. At year's end an estimated 39,000 Burundi refugees, 62,000 Congolese refugees, and 300 refugees of other nationalities lived in the Mtabila and Nyarugusu refugee camps in Kigoma.

During the year the return of refugees from the 1993 events in Burundi slowed to a trickle, despite encouragement from a tripartite commission composed of representatives from the UNHCR and governments of Tanzania and Burundi. With government assistance, approximately 91 refugees returned to the DRC.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections on the mainland and in Zanzibar.

Elections and Political Participation.—Recent Elections.—Tanzania held its fourth multiparty general elections in October 2010 in which voters in both the union and Zanzibar elected new presidents and legislative representatives. The union and Zan-

zibar elections were judged to be largely free and fair. However, CCM benefited from vastly superior financial and institutional resources.

In the 2010 elections, CCM retained its absolute majority in parliament with nearly 80 percent of the seats. CHADEMA replaced CUF as the leading opposition party and selected its chairman, Freeman Mbowe, as the parliamentary opposition leader.

Separate elections are held for the union and for Zanzibar, ordinarily 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.

Political Parties.—The law requires that persons running for office must represent a registered political party. There were 18 registered parties in the country.

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.

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 and independent candidates are prohibited from participating in elections. In general, political parties could operate without restriction or outside interference, although there were occasional restrictions on the parties' right to call for a demonstration. Unregistered parties and independent candidates are prohibited from participating in elections. In general, political parties could operate without restriction or outside interference, although there were occasional restrictions on the parties' right to call for demonstrations. No new political parties were registered or deregistered during the year.

The election law provides a "gratuity" payment of 40,000,000 TZS (\$25,000) to parliamentarians completing a five-year term. Incumbents can use these funds in reelection campaigns. Several NGOs and opposition parties criticized this provision for impeding aspiring parliamentary candidates from opposition parties to mount an effective challenge.

Participation of Women and Minorities.—The unicameral union parliament has up to 357 members including the attorney general, the speaker, five members elected from and by the Zanzibar House of Representatives, 102 special women's seats apportioned among the political parties based on their election results, 239 constituent seats (including 50 from Zanzibar), and up to 10 members nominated by the president.

Political parties appoint women to serve in seats set aside for them according to the percentage of votes their parties win. After the October 2010 elections, there were 102 special seats for women, and at the beginning of the year there were 126 women in the parliament. This means 24 women won seats in parliament as a result of direct competition in an election. After taking office President Kikwete appointed eight women ministers (compared with four in the former administration) and three women deputy ministers.

There were two members of parliament of Asian origin in parliament.

Following the 2010 elections, the new parliament selected Anne Makinda as the country's first female speaker of parliament.

Twenty-five of the 62 high court judges were women, and five of the 16 Court of Appeal judges were women.

The Zanzibar House of Representatives has 50 elected seats, 20 women's special seats, and eight appointed at-large seats. Two of the eight appointed seats were given to women. There were two women ministers and four deputy ministers. There were three elected seats in Zanzibar won by women.

There were three persons with disabilities in the Zanzibar House of Representatives.

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 Governance Indicators reflected that corruption was a serious problem.

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.

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," i.e., names on government payrolls that do not correspond with any actual employee. In 2010 the Director General of the National Identification Authority (NIDA) Dickson Mwaimu told parliamentarians that the government was losing billions of shillings annually through fraudulent salary payments. According to Mwaimu the government lost 26.6 billion TZS (\$16.6 million) in salaries to ghost workers in seven institutions in the previous three years.

In one of the most high-profile corruption cases of the year, Beatrice Shellukindo, CCM member of parliament, alleged in July that David Jairo, permanent secretary in the Ministry of Energy and Minerals, had ordered offices and departments under his supervision to contribute funds to be used to bribe members of parliament to support his ministry's budget request. Shelukindo claimed that Jairo ordered the leadership of public organizations such as the Tanzania Electric Supply Company, Tanzania Petroleum Development Corporation, and the Energy and Water Regulatory Authority to each contribute 50 million TZS (\$31,250) to the fund. As a result of these claims, Philemon Luhanjo, chief secretary, suspended Jairo from his position for 10 days and ordered the controller and auditor general to conduct an investigation. The investigation revealed that Jairo collected almost 580 million TZS (\$362,500), but it did not uncover concrete evidence that this money was to be used as a bribe. Luhanjo therefore lifted Jairo's suspension in August and cleared him of any wrongdoing. Shortly thereafter President Kikwete reordered Jairo's suspension and a new investigation into the case. The parliamentary investigation concluded in November; it determined that Jairo misused his position. Jairo was removed from his position as permanent secretary.

The PCCB is responsible for investigating suspected corruption cases, prosecuting offenders in coordination with the Zanzibar Director of Public Prosecution (DPP), and educating the public about corruption. The PCCB has 24 regional offices and an office in every district on the mainland. As of September 30, the PCCB had received 3,423 allegations of corruption, investigated 573 cases, brought 156 new cases to court, and prosecuted 98 cases from which there were 37 convictions. There were 35 ongoing grand corruption cases as of September. According to the PCCB, most corruption investigations concerned government involvement in mining, land matters, energy, and investments. NGOs reported that allegations of corruption involved the Tanzania Revenue Authority, local government officials, the police, licensing authorities, hospital workers, and the media.

The PCCB's mandate does not extend to Zanzibar. A special unit of the police force in Zanzibar is responsible for corruption cases. However, according to police there were no investigations as no complaints were received during the year. Zanzibar Legal Services Center officials indicated that as in the previous year, there were no corruption investigations as no complaints were filed.

Judicial and police corruption were problems. For example, in May the Legal and Human Rights Center launched its Tanzania Human Rights Report, 2010. The report noted that the police force, judiciary, and prisons department were among the most corrupt institutions in the country.

Although a number of high-profile corruption cases were in progress, the media and public continued to criticize the government for slow progress on these grand corruption cases.

The 2010 corruption case against former ambassador Mahalu began in August but was adjourned until January 2012 due to the absence of the prosecution counsel.

The corruption cases against former cabinet ministers Mungai, Mramba, and Yona were pending in court, and an investigation continued at year's end.

Government ministers and members of parliament, as well as other public servants, are required to disclose their assets after being sworn into office, both at year-end and upon leaving office; however, there was no enforcement mechanism or means to determine the accuracy of such disclosures. The Ethics Secretariat distributed 8,972 forms to politicians and civil servants during the year, and by year's end 4,071 politicians and 3,210 civil servants met the deadline for disclosure. Secretariat officials stated the 1,691 individuals who failed to meet the deadline were asked to show cause for the delay. Those with unsatisfactory explanations must appear before a tribunal.

There is no law providing for public access to government information, and such access remained limited. Government officials routinely refused to make information available. Civil service regulations effectively allow only a handful of high-level government representatives to communicate information to the media. Media groups

continued to press the government and parliament to adopt a freedom of information act and revise the bill governing the media industry.

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 generally were cooperative and responsive to their views.

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. The Zanzibar Legal Services Center was one of the few active human rights organizations in Zanzibar.

CHRAGG, which is financed by the government, operated without government interference on the mainland and in Zanzibar. By December CHRAGG had received 1,105 complaints for the year. CHRAGG classified 175 of these complaints as potential human rights violations. The other 930 complaints concerned government administration, labor disputes, pension problems, and private institutions. CHRAGG leaders complained that, due to budgetary restraints, the organization had little real ability to follow up on complaints. Furthermore, CHRAGG has no legal authority to prosecute cases. It can only make recommendations to other government offices or call media attention to human rights violations.

In January CHRAGG conducted a training session on human rights investigations. More than 55 representatives attended from government and NGO communities, both from the mainland and from Zanzibar.

U.N. and Other International Bodies.—During the year the ICRC visited prisoners at the International Criminal Tribunal for Rwanda (ICTR) in Arusha.

The government continued to host the ICTR in Arusha and was supportive of, and cooperated with, the international court. At year's end one detainee was on trial, two were awaiting trial, and 13 were on appeal.

Government Human Rights Bodies.—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 committee worked closely and cooperated well with CHRAGG.

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 or disabilities persisted, and ethnic tensions continued in some parts of the country.

For example, in July the deputy minister of community development, gender, and children told parliament that incidents of discrimination and abuse against women and children were on the increase. She claimed that 39 percent of women between the ages of 15 and 49 had been affected since 2009. The government was reviewing policies and creating strategies to provide women with various economic empowerment funds and seeking ways to place more of them in decision-making positions.

Women.—Rape and Domestic Violence.—The law provides for life imprisonment for persons convicted of rape, including spousal rape, but rape continued to be a serious problem. The law stipulates that a woman wishing to report a rape must do so at a police station before seeking medical help. Only after obtaining a release form from the police may a woman be admitted to a hospital. This process contributed to medical complications, incomplete forensic evidence, and failure to report. Victims often feared that if they took their case to the police that it would be made public. According to the 2010 Demographic and Health Survey and the 2009 Tanzania Violence Against Children Survey, 45 percent of Tanzanian women had experienced physical or sexual violence, and nearly three out of 10 girls had experienced at least one act of sexual violence before the age of 18.

Police maintained gender and children desks to support victims and address relevant crimes.

Domestic violence against women remained widespread, and police were often reluctant to pursue such cases. 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.

According to a 2005 Department of Statistics survey, 46 percent of male Tanzanian respondents believed that a husband has the right to beat his wife if she disobeys him, and 20 percent responded that a husband may beat his wife if she burns food.

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 seeking a divorce.

Sexual Harassment.—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. There were reports that women were asked for sexual favors in return for promotions.

Reproductive Rights.—The government generally 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 26 percent of women ages 15-49 used a modern form of contraception, in part due to cultural factors, lack of transportation to health clinics, and shortages of contraceptives. The government provided free prenatal, childbirth, and postpartum services but lacked sufficient qualified health care professionals as well as medical supplies. Due to budgetary restrictions and a shortage of skilled personnel, an estimated 60 percent of positions within the Ministry of Health and Social Welfare remained unfilled. This impeded the work of small, rural clinics. Pregnant women giving birth at government health-care facilities throughout the country often had to purchase their own medical supplies. Few women took advantage of postpartum care. According to the 2010 Demographic and Health Survey, the maternal mortality ratio was 454 deaths per 100,000 live births, and a woman's lifetime risk of maternal death was one in 23. These statistics have improved steadily in recent years. An estimated 43 percent of births were attended by skilled personnel. Men and women received equal access to diagnosis and treatment for sexually transmitted infections.

Discrimination.—Inheritance and marriage laws do not provide for equality for women, and women's rights often were not respected. The mainland Ministry of Community Development, Women, and Children and the mainland Ministry of Justice and Constitutional Affairs as well as their counterpart ministries on Zanzibar 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.

Women in the private sector sometimes faced discrimination from employers who believed that household obligations were a professional liability.

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 legally belongs to the government), but implementation was difficult because most women were unaware of the law. Historically, rural women have not acted as primary land occupants or managed 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.—Birth Registration.—Citizenship is derived by birth within the country's territory, or if abroad, from one's parents. Tanzania's Registration, Insolvency, and Trusteeship Agency estimated that only about 20 percent of the population of more than 40 million had birth certificates.

Registration of births within three months is free; however, parents who register their babies after three months must pay a fee. To encourage registration, children enrolling in preschool must present a registration certificate. However, this stipula-

tion was not strictly enforced and public services were not withheld if a child was not registered.

Education.—Primary education is compulsory and universal on both the mainland and Zanzibar until the age of 15. Tuition is free, but parents are required to pay for books, uniforms, and school lunches. Beginning in Form One, the equivalent of the first year of high school, parents are required to pay fees for enrollment. As a result, many children did not attend secondary school. There were inadequate numbers of teachers, books, and other educational materials to meet the demand, which affected the quality and availability of education.

Girls represented roughly half of all those enrolled in primary school but were absent more often than boys due to household duties.

Child Abuse.—The law allows head teachers to cane students, and corporal punishment in schools remained a problem, although less so than in previous years.

Child Marriage.—The law provides that girls as young as 15 can marry with the consent of parents or guardians, although no consent is required for orphaned girls without guardians. The courts also have discretion to allow the marriages of 14-year-old girls in the case of pregnancy. Additionally, the law allows Muslim and Hindu girls to marry as young as 12 as long as the marriage is not consummated until the girl reaches 15 years of age. To circumvent these laws, offenders bribed police or paid a bride price to the family of the girl to avoid prosecution. An estimated 38 percent of women between the ages of 20 and 24 were married before the age of 18, according to UNICEF data collected between 2000 and 2009.

On Zanzibar there are multiple laws that define the legal age of a child, including the penal code, which defines a child as an individual under the age of 18 who is not married or has not given birth. The Children and Young Person's Decree was amended during the year to become the Children's Act of 2011. It defines a child as being under 14. Under Islamic law, however, the age at which a child reaches puberty determines whether he or she is still a child.

Harmful Traditional Practices.—The law prohibits female genital mutilation (FGM); however, some tribes and families continued to practice it. Statutory penalties for performing FGM on girls under 18 range from five to 15 years' imprisonment, a fine of 300,000 TZS (\$188), or both. Prosecutions were rare. Many police officers and communities were unaware of the law, victims were often reluctant to testify, and some witnesses feared reprisals from FGM supporters. Some villagers reportedly bribed local leaders not to enforce the law in order to carry out FGM on their daughters. The media reported that others conducted the procedure in hiding, even on babies, to avoid detection by the law.

According to 2005 data, the Ministry of Health estimated that 5 to 15 percent of women and girls underwent FGM, a decrease from a rate of 18 percent in 1995. The average age of FGM victims was less than 10 years. 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.

The government continued to implement the 2001-15 National Plan of Action for the Prevention and Eradication of Violence Against Women and Children, which enlisted the support of practitioners and community leaders in eradicating FGM. The Anti Female Genital Mutilation Network (AFNET) worked with education officers in the Serengeti to increase awareness about the negative effects of FGM. AFNET worked specifically with a group of students between the ages of 10 and 13 to help them gain the confidence to refuse the practice.

In April police in the Tarime District, Mara region, called for the government to provide human rights education to combat FGM. The Rogoro Roman Catholic Parish in nearby Masanga village continued to serve as a shelter for girls between the ages of 10 and 16 who fled from family or societal pressures to undergo FGM. In addition to supporting these children, the shelter conducted community training on the dangers of FGM, including a predilection toward fistula.

Despite these efforts residents of the Tarime district continued to perform FGM openly on mature girls. In February the "Women Wake Up" organization conducted a rally against FGM in Tarime. During the campaign young men with machetes, clubs, and other weapons marched around villages to keep out FGM activists and threatened to kill anyone who tried to prevent village girls from undergoing FGM. The media reported that the government took no action in response.

Sexual Exploitation of Children.—The law provides that sexual intercourse with a child under 18 years is rape regardless of consent. The law was not always enforced, however. During the year human rights activists and NGOs complained that the Law of Marriage Act, which provides for marriages of 14-year-old girls, needed amendment to reflect the criminality of sexual intercourse with a child.

The Morogoro Resident Magistrate's Court sentenced Hashimu Nunda to 30 years in prison, 12 strokes of the cane, and a one million TZS (\$625) fine for raping an eight-year-old school girl on June 20.

The law criminalizes child pornography and child prostitution. Nevertheless, sexual exploitation and trafficking of children for the purposes of commercial sexual exploitation were problems. Persons found guilty of such offenses were subject to a fine ranging from one million TZS (\$625) to 500 million TZS (\$312,500), a prison term of one to 20 years, or both.

Infanticide.—Infanticide continued to be a problem, especially among poor rural mothers who believed themselves unable to afford to raise a child.

Displaced Children.—There were significant numbers of street children in Dar es Salaam, Mwanza, and Arusha. In July the deputy minister of health and social development told parliament that approximately 802,000 children were living in adverse conditions. Approximately 668,000 street children had limited access to health and education services because they lacked a fixed address or money to purchase medicines, school uniforms, and books. They were also vulnerable to sexual abuse. The government identified centers where orphans and street children could have access to these services in 89 out of 133 municipalities.

Following a February 18 explosion at the Gongo la Mboto military weapons depot, which killed 25 persons and injured 145 others, children and their families in the area were temporarily displaced. For more than a month, children had limited access to schools and safe housing. According to the December 6 edition of the Mwananchi newspaper, more than 200 victims of the explosion threatened to protest due to the government's failure to compensate them for the loss of their houses and other property. Those who received compensation complained that the amount was not enough to rebuild.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish population is very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The constitution prohibits discrimination against persons with disabilities. In 2010 the government passed the Persons with Disability Act to address the overall protection of disabled persons. Previous implementing legislation focused on specific, disjointed areas such as employment and access to healthcare, but most employers believed that disabled individuals were incapable of working, and most persons with disabilities remained unemployed. Approximately 9 percent of the population consisted of persons with a disability, and 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, few buildings were accessible. New public buildings were being built in compliance with the law, but funds to retrofit existing structures were unavailable.

There were five members of mainland parliament with disabilities. One member of parliament elected in 2010, Salum Bar'wan, was the first with albinism. During the election campaign, his opponents repeatedly claimed that people with albinism lack vitamin C and therefore do not have the ability to think clearly.

The Ministries of Education, Justice, and Labor are responsible for enforcing the rights of persons with disabilities for education, legal claims, and labor rights, respectively. The Department of Social Welfare has responsibility for coordinating matters related to persons with disabilities.

Indigenous People.—Indigenous pastoralists increasingly find it difficult to maintain their way of life on the land, as competing interests and population pressures squeeze their traditional animal grazing areas. In September pastoralists living near Katavi National Park accused rangers of the Tanzania National Park Authority (TANAPA) of shooting and killing 150 of their cattle that were drinking from the Kavuu River, which serves as the border between the park and the pastoralists' village. According to media reports, the cattle were valued at 900 million TZS (\$562,500). TANAPA denied the claims.

Indigenous Maasai residents of the Loliondo Game Controlled Area, Arusha region, continued to accuse police, military, and officials of the Ortello Business Company (OBC) of intimidation, harassment, arbitrary arrest, and torture. The government previously issued OBC a license to conduct tourist hunting expeditions in the area. Hunting practices of OBC clash with Maasai traditional beliefs.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Consensual same-sex activity is illegal on the mainland and in Zanzibar. On the mainland acts of “gross indecency” between persons of the same sex are punishable by up to five years in prison. Same-sex intercourse carries a prison sentence of 30 years to life. The law in Zanzibar establishes a penalty of up to 14 years’ imprisonment for men who engage in same-sex sexual activity and five years for women. Since the burden of proof in such cases is significant, the law was rarely applied, and there were no reports that anyone was punished under the law during the year. In the past individuals suspected of being gay or lesbian have instead been charged with loitering or prostitution. Lesbian, gay, bisexual, and transgender (LGBT) persons faced societal discrimination that restricted their access to health care, housing, and employment.

Beginning in November discussions about the possibility of donor countries linking their aid packages to gay rights issues triggered a public outcry from government and society leaders. The rights of LGBT people are not often a topic of public dialogue in the country, but this item revealed the antigay stance of a number of public figures.

Organizations such as the Tanzania Network of Women Living with AIDS worked with LGBT persons and commercial sex workers to provide education to combat HIV and AIDS transmission. Dar es Salaam-based Lesbian, Gay, Bisexual, Transgender, and Intersex Support Unit launched a public education and health advocacy project to reduce the stigma attached to sexual relations between persons of the same gender to reduce their fears about seeking medical counsel. This project was meant to both contribute to the fights against HIV and AIDS and gather support for a repeal of anti-LGBT laws.

In December 2010 a young lesbian woman was assaulted by her uncle who attempted to rape her as a means of “correcting” her sexual behavior. The woman escaped and found shelter elsewhere; however, when the uncle informed the landlord of her sexual orientation and activist work, the landlord threatened to report the woman to the police, forcing her to take refuge with a friend. In July her neighbors attempted to set her house on fire. They believed she was actively recruiting young people to become gay. The woman was forced to vacate the property and rely on friends for support.

Other Societal Violence or Discrimination.—Despite efforts by the government and NGOs to reduce mob violence through educational outreach and community policing, mobs stoned, beat, immolated, and hacked to death a number of suspected criminals. According to the spokesperson for the TPF, 637 incidences of mob violence were reported through June.

In December the LHRC recorded over 1,000 deaths due to mob violence and witchcraft-related killings. In its midyear report, the LHRC also stated that the regions of Shinyanga and Mwanza led in the number of incidents of mob violence where mobs killed 53 persons on allegations of stealing. Between 2005 and 2010, mobs killed approximately 2,775 persons in the country due to beliefs in witchcraft, accusations of theft, and other reasons.

On April 7, residents of Madale village, Dar es Salaam region, clashed with a group of approximately 50 employees of a brokerage firm sent to demolish the villagers’ houses. The firm claimed that the houses were illegally constructed on private property. When police arrived, five of the firm’s employees were found dead as a result of beatings by sticks, machetes, and axes. A member of parliament accused the police of failing to take action to prevent the violence as residents had previously complained that the firm was encroaching on their land. Police arrested 10 persons, including the owner of the property, Daniel Chacha, and the village chairman, Deogratias Kamugisha. There were no further developments in the case by year’s end.

During the year mobs turned on police whom they accused of failing to administer justice. For example, on August 30, press reported that the Mbeya regional police arrested 12 residents of Inyala village for storming a police post and demanding the release of a group of murder suspects.

There were no further developments in the following 2010 mob killings: the July death of Siajabu Bernard for stealing maize and the August death of Kastoli Mkamula for breaking into a house.

Mobs, persons claiming to be victims of witchcraft, or relatives of alleged victims killed persons whom they alleged to be witches. The spokesperson for the TPF reported 306 such cases through June. Prosecutions were often impeded by the reluctance of witnesses to testify.

Between January and June, according to a report by LHRC, 142 persons were killed in Shinyanga on allegations of bewitching others.

Following death sentences given to 10 persons in 2010 for killing persons with albinism, this type of violence decreased significantly. In the Lake Zone, practitioners of witchcraft previously sought albino body parts in the belief that they could be used to create power and wealth. During the year, however, police confirmed only one killing connected to albinism. CHRAGG reported that it did not receive any complaints concerning albinism issues.

In March the district commissioner of Muheza intervened in the case of a young woman with albinism whose parents had kept her locked in a room for three years. The district commissioner negotiated her release and treatment in a local hospital.

On October 14, a man in the Geita region attacked Adam Robert, a 12-year-old with albinism. The assailant used a machete to sever three of Robert's fingers. At year's end the assailant was missing, but the police arrested five persons in connection with the attack, including Robert's father, stepmother, and a witch doctor who allegedly planned the attack. At year's end the case was pending in court.

The law 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. The law also criminalizes the deliberate transmission of HIV.

According to a founding member of the Parliamentarians' AIDS Coalition, parliamentarians and others were more open to discussing HIV/AIDS than in the past.

The government, working with NGOs, continued to educate the public about HIV/AIDS-related discrimination and 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.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The union and Zanzibar governments have separate labor laws. Workers on the mainland have the right to form and join independent trade unions, conduct legal strikes, and bargain collectively. In practice, however, some private mining and construction companies did not allow workers to form unions and in some cases terminated their employment. During the year the Tanzania Mines, Energy, Construction and Allied Workers' Union (TAMICO) recorded more than 200 unfair terminations of active unionized workers. 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 law provides the registrar in the Ministry of Labor with significant control over trade unions, including the right to deregister unions if there is overlap within an enterprise. Unions have to submit financial records and a membership list to the registrar annually. The registrar can suspend a trade union if it determines that the union violates the law or endangers public security. Association with an international trade union requires government approval. Although the law does not specifically prohibit antiunion discrimination, in practice it is treated like other forms of legally defined discrimination (based on disability, religious affiliation, etc.). Trade Union Congress of Tanzania (TUCTA) officials stated that there were many instances of discrimination of union workers, particularly in mining companies. Disputes on grounds of antiunion discrimination must appear before the Commission for Mediation and Arbitration (CMA). Reinstatement is not mandatory.

While mainland workers have the legal right to strike, employers have the right to a lockout after complying with certain legal requirements and procedures. 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.

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, 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 may refer it to the labor court. 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 "essential" 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) may not strike. Workers in other sectors may also be subject to this limitation as determined by the Essential Services Com-

mittee. This tripartite committee composed of employers, workers, and government representatives has the authority to periodically determine which services are essential.

The Zanzibar labor law requires a union with 50 or more members to be registered and sets literacy standards for trade union officers. The labor law in Zanzibar applies to both public and to private sector workers. They may not join mainland-based labor unions. Zanzibar government workers have the right to strike as long as they follow procedures outlined in labor law.

The law provides for collective bargaining in the private sector. Public sector employees also have the right to bargain collectively through the Trade Union of Government and Health Employees.

In practice many private sector employers adopted antiunion policies or tactics even though case law discourages discriminatory activities by an employer against union members. During the year employees of private security firms, mining companies, major shopping chains, and international banks complained to the International Labor Organization (ILO) that their employers had strongly advised them against unionization. The ILO reported that employees came to them during the year with allegations of threats of violence against union leaders, and the ILO referred these individuals to the CMA and the Ministry of Labor. For example, in August the chairman and secretary general of a mining union were fired due to their actions on behalf of their members. Although the CMA mediated, the case was resolved in South Africa (where the company is based) on appeal and the union officials were reinstated.

In practice some employers used hiring practices such as subcontracting both to decrease overall costs and to avoid hiring workers with bargaining rights. The ILO reported that industry leaders, particularly in the banking and mining sectors, strongly discouraged employees from collective bargaining and union membership. TUCTA reported that many skilled workers were hired as day laborers without a contract.

Approximately 50 former employees of the Geita Gold Mine reported to LHRC officials they had been terminated from employment after falling sick and could not organize because the mine did not allow trade unions. Even though mine officials refused to meet with the LHRC, the NGO reported the matter to TUCTA. On May 1, the LHRC met with President Kikwete, who made a public statement that denying a group of workers permission to form a union was a criminal offence.

Strikes were very infrequent on both the mainland and Zanzibar.

While workers and employers freely practiced the right to collective bargaining during the year, many workers did not have employment contracts after working for many years. The ILO referred their case to relevant authorities and asked TUCTA to pursue legal action against these employers. TUCTA's common practice is to support mediation instead of legal action.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits most forms of forced or compulsory labor. Statistics about enforcement were not available, and the ILO reported that it had no record of government enforcement actions during the year. There were reports that such practices, especially involving children, occurred. In some instances girls from rural areas were forced into domestic servitude, while boys were subject to forced labor on farms, in mines, and in the informal business sector.

The law allows prisoners to work without pay on construction and agriculture projects within prisons both to ostensibly develop the skills of the prisoners and to reduce the costs of operating the prisons. Prisoners were also used as labor on projects outside of the prison, such as road repair and government construction projects. The law deems as acceptable any such work of a convicted person as long as that person is supervised by a public authority and his work is not for the benefit of any private party.

The law establishes criminal penalties for employers using forced labor. Offenders may be fined up to five million TZS (\$3,125), sentenced to one year in prison, or both.

See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the exploitation of children in the workplace. By law the minimum age for contractual employment is 14. Children over 14 (but under 18) may be employed to do only light work unlikely to harm their health and development or attendance at school. Children under age 18 may not crew on a ship or be employed in a mine, factory, or any other worksite where working conditions could be hazardous. The law does not specifically limit working hours for children but establishes the same

finances and criminal penalties for employers of child labor as for employers of forced labor, i.e., a fine not exceeding five million TZS (\$3,125), imprisonment for one year, or both.

On the mainland the Ministry of Labor was responsible for enforcement of labor laws, together with the CMA and the labor court. Several government ministries, including the Ministry of Labor, had special child labor focal persons.

Child labor remained an issue as the laws were not often enforced. Although the Ministry of Labor reportedly conducted inspections and issued warnings to violators of child labor statutes, no reported child labor cases were 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 on the mainland and in Zanzibar resulted in limited enforcement of child labor provisions, and child labor continued to be widespread. By one estimate, approximately 30 percent of children ages five to 14 years were engaged in child labor.

Children work as domestic help, street vendors, and shopkeepers as well as in small-scale agriculture (e.g., coffee, sisal, tea, and tobacco), family-based businesses, fishing, and artisanal mining of gold and tanzanite gems. In Zanzibar children work primarily in transportation, fishing, clove picking, domestic labor, small businesses, and gravel making.

During the year the government worked with stakeholders to reduce child labor especially at the district, ward, and village level. Some government leaders were committed to ending child labor in their localities and worked in collaboration with international NGOs to withdraw children from the workplace during the school year. For example, a TAMICO official reported that during the year, his organization worked with a Norwegian NGO to remove 100 children from tanzanite mines for placement in schools. TAMICO gave 75 mothers small loans and entrepreneurial training to increase family income while the children attended school.

In Iringa a local radio station began a project called *Mwanga wa Watoto* (Children's Light) to create awareness of the problem of child labor in the region by broadcasting coverage on child labor issues for two hours every week.

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.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>

d. Acceptable Conditions of Work.—Tanzania has an industry-based minimum wage. The new minimum wage standards, established in July 2010 for employees in both the public and private sectors in the mainland, were divided into eight employment sectors. The lowest minimum wage was 70,000 TZS (\$44) per month for workers in the agricultural sector, and the highest was 350,000 TZS (\$212) per month for workers in the mineral and aviation sectors. These monthly wages were above the poverty line of 13,998 TZS (\$9) per month per person established by the 2006/07 Household Budget Survey. The labor laws cover all workers, including foreign and migrant workers. The minimum wage rate in Zanzibar is 100,000 TZS (\$63), an increase from 80,000 TZS (\$50) in 2010.

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 is illegal to employ women to work between 10:00 p.m. and 6:00 a.m.

Several laws regulate safety in the workplace. The Ministry of Labor 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. TAMICO officials complained that mining companies did not allow surprise visits, and union officials were not taken to the lowest levels of the mines where the miners worked.

Workers could sue an employer if their working conditions did not comply with the Ministry of Labor's health and environmental standards. Disputes were generally resolved through the Commission for Mediation and Arbitration. There were no exceptions for foreign or migrant workers.

Labor standards were not effectively enforced, particularly in the informal sector, where most of the workforce was employed. The World Bank estimated the size of the informal sector to be more than 50 percent of the total workforce.

Tanzania's labor standards laws are taken from the international convention on labor standards. The convention does not name specific penalties, and the government did not often enforce penalties for such violations. Other than continuing negotiations on the minimum wage, the government did not undertake specific actions to improve working conditions. For example, many injured and diseased workers did

not receive compensation due to the lack of regulations for the 2008 Workman's Compensation Law. TUCTA officials complained that during the year government officials made no response to questions of when the regulations would be implemented.

Employers frequently ignored the restriction on employment of women during late night hours.

In traditionally dangerous industries such as construction, employees often worked without protective equipment such as helmets, gloves, or harnesses. TAMICO reported that in the mining industry, where accidents are common, disease leads to more death and disability than accidents. Mine workers were regularly exposed to polluted air and poisonous gases underground. TUCTA reported that women in the hotel industry were often the target of sexual assault and harassment. Due to the limited capacity of the Ministry of Labor's inspection system, there were no published statistics on sectors with working conditions violations.

The April-May LHRC newsletter reported that employees of Geita Gold Mine in Mwanza region complained their employers forced them to operate heavy-duty machinery for 12 hours, causing them back and knee injuries.

Newspapers reported the workplace accident of Mwombeki Joseph Barukaki, who fell, broke his arm, and injured his head and hip on August 31 while working on a construction project at Metro Steel Mills in Dar es Salaam. While he was hospitalized, company officials asked him to explain why he should not be fired for failure to report to work. Barukaki complained that company officials did not call an ambulance when he fell, so he asked other employees to pay for his taxi to a hospital. The company allegedly refused to pay his hospital bill and instead accused him of being drunk on duty.

TOGO

EXECUTIVE SUMMARY

Togo is a republic governed by President Faure Gnassingbe, who was reelected in March 2010 in a process characterized by international observers as generally free and fair. The ruling Rally of the Togolese People (RPT) party dominated politics and maintained firm control over all levels of the highly centralized government. Security forces reported to civilian authorities.

The main human rights problems reported during the year included security force use of excessive force, including torture; official impunity; and harsh and life-threatening prison conditions.

Other human rights abuses included arbitrary arrest and detention, including lengthy pretrial detention, and executive influence over the judiciary. The government infringed on citizens' privacy rights and restricted freedoms of press, assembly, and movement. Official corruption was pervasive. Discrimination and violence against women were problems. Child abuse, including female genital mutilation (FGM) and sexual exploitation, occurred. Trafficking in persons and societal discrimination against persons with disabilities were problems. Official and societal discrimination persisted against persons with disabilities; regional and ethnic groups; and members of the lesbian, gay, bisexual and transgender (LGBT) community. Societal discrimination against persons with HIV was significant. Child labor, including forced child labor, was a problem.

The government took few steps to prosecute or punish officials who committed abuses, and impunity—especially in the security services—was widespread.

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.

No action was taken against security forces that killed striking demonstrators in 2010.

Despite the 2009 establishment of the Truth, Justice, and Reconciliation Commission (TJRC) in response to public and international pressure to account for the complaints lodged by victims of political violence between 1958 and 2005, impunity remained the rule (see section 5).

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 criminal code contains no provision defining and criminalizing torture, and security force abuse, including torture, was a problem. Amnesty International (AI) and local human rights organiza-

tions reported that police and gendarmes abused detainees during interrogation, guards beat prisoners, and young persons and children were at risk of corporal punishment while in detention. The government did not prosecute officials for such abuses, and impunity remained a problem.

In March the Human Rights Committee of the U.N. High Commissioner for Human Rights released a report expressing concern about allegations of torture and mistreatment in detention, notably on the premises of the National Intelligence Agency (NIA). The report criticized the government for failing to investigate allegations of torture and failing to define and criminalize torture. Local journalists who covered the report were subsequently threatened with torture (see section 2.a.).

The 33 persons arrested in 2009 for suspected coup plotting, including the president's half brother Kpatcha Gnassingbe, were tried and convicted by the Supreme Court in September. Several of those convicted claimed they were tortured while in NIA custody. Kossi Adjinon, an army captain, said his hands were tied to a bar from which he was suspended for three days. Former police chief Olivier Amah Other, who suffered from hypertension, claimed he was kept in solitary confinement for three months and denied medical services. Other suspects claimed they were chained naked to walls, beaten, and denied food. Gnassingbe and former army chief Assani Tidjani were sentenced to 20 years' imprisonment. Sentences for the other suspects ranged from 12 months to 20 years.

Most of the detainees were held by the NIA and charged with offenses against the security of the state, conspiracy, rebellion, and "voluntary violence." According to AI, some of the detainees initially were held incommunicado, and several were denied family visits. Lawyers sometimes were denied access to their clients. The International Committee of the Red Cross (ICRC) and other human rights organizations were initially denied access to the detainees, but subsequently were granted access.

The allegations of NIA torture made by the prisoners at their trial subsequently were referred to the governmental National Commission for Human Rights, which published its report on February 17. The report confirmed most of the allegations and issued recommendations, including punishing the individuals responsible, compensating victims, and improving oversight of the NIA.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening with serious overcrowding, poor sanitation, and unhealthy food. At year's end the expanded Central Prison of Lome, which was built for 666 prisoners, held 1,964 prisoners. In 2009 the media reported that prisoners were dying of hunger and received typically one meal a day worth 150 CFA francs (\$0.31). In 2010 the warden of the central prison confirmed that adult prisoners received one meal a day, and juveniles were provided three. Prisoners had access to potable water, but medical facilities were inadequate, and disease and drug abuse were widespread. Sick prisoners reportedly had to pay 1,500 CFA francs (\$3.12) 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 confirmed 23 prisoner deaths during the year from various causes, including asthma, hypertension, and tuberculosis.

As of October 28, there were 4,334 prisoners in the country's 12 prisons and jails, of whom 92 were female. There were 30 juveniles held in the Brigade for Minors during the summer, six of whom were released at the start of the school year. Infants of female prisoners and detainees were placed in the care of private nurseries, which received government support. Pretrial detainees were held with convicted prisoners.

Prisoners and detainees were granted reasonable access to visitors and were permitted religious observance.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. However, authorities rarely investigated such complaints and did not publicly document such investigations. The government monitored and investigated prison and detention center conditions only rarely, and official impunity was a problem.

There were no ombudsmen who served on behalf of prisoners and detainees. There were no alternatives to incarceration, and no improvements were made to the status and circumstances of juvenile confinement, pretrial detention, or record-keeping procedures. However, the Ministry of Justice continued to work on ameliorating these problems through its multiyear reform program financed by the European Union.

Local nongovernmental organizations (NGOs) accredited by the Ministry of Justice could visit prisons anytime, although the accreditation process could take up to a year. International NGOs are required to negotiate an agreement with the government to gain similar access to prisons. During the year the ICRC and other international human rights organizations were allowed prison access. Only internationally recognized groups such as the Office of the U.N. High Commissioner for Refugees (UNHCR) and the ICRC were granted access to NIA detention facilities.

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 NIA is responsible for domestic and foreign intelligence and security, including criminal investigations. The police are under the direction of the Ministry of Security and Civil Protection, which reports to the prime minister. The Ministry of Defense, which reports directly to the president, oversees the military and the gendarmerie. Police and gendarmes are responsible for law enforcement and maintenance of order. The army is in charge of external security. Approximately 80 percent of the army's officers and soldiers were from the Kabye ethnic group, which constituted 23 percent of the population and to which the current and previous presidents belonged.

Police generally were ineffective and corrupt, and impunity was a problem. Abuses by security forces were subject to internal disciplinary investigations and criminal prosecution by the Ministry of Justice, but this rarely occurred. The government generally neither investigated nor punished effectively those who committed abuses. Police often failed to respond to societal violence.

In June the army created a special unit of military police to enforce discipline among soldiers in Lome. Although no official figures were published, numerous soldiers were jailed for various infractions.

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 without warrants 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.

Arbitrary Arrest.—Security forces arbitrarily arrested persons during the year. For example, on December 10, security forces arrested Adou Seibou, the president of MEET (a University of Lome student group leading demonstrations) and 10 other students. Seibou and the other 10 were released the same day.

Demonstrators were arbitrarily arrested during the year (see section 2.b.).

The law prohibits arrest for civil debt; however, according to the Togolese League of Human Rights, an unknown number of persons were arrested for outstanding debts and detained in gendarmeries and police stations for more than 48 hours.

The 33 persons arrested in 2009 for suspected coup plotting, including Kpatcha Gnassingbe, one of the president's half brothers and a national assembly member, were convicted and sentenced during the year (see section 1.e.).

Pretrial Detention.—A shortage of judges and other qualified personnel, as well as official inaction, resulted in lengthy pretrial detention 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.

Amnesty.—On January 5, the president pardoned 270 prisoners, most of whom were pretrial detainees who had served the same time in prison or longer than they would have served if convicted.

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 mem-

bers were supporters of the ruling RPT party and 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.

A military tribunal exists for crimes committed by security forces, and 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 sometimes provided attorneys for the indigent in criminal cases. Defendants may confront witnesses and present witnesses and evidence on their own behalf. The preceding rights were respected in practice. Defendants have the right to access government-held evidence relevant to their cases, but in practice that right was not respected.

The law did not extend these rights to persons tried in the military court. 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 may take their cases to the regular court system, which is the starting point for cases in urban areas.

Political Prisoners and Detainees.—The 33 persons arrested in 2009 for suspected coup plotting, including the president's half brother Kpatcha Gnassingbe, were tried and convicted by the Supreme Court in September (see section 1.e.). Several of those convicted claimed they were tortured while in NIA custody (see section 1.c.).

Regional Human Rights Court Decisions.—In November 2010 the Constitutional Court ruled that nine parliamentary deputies were properly stripped of their seats for changing political party affiliation from the Union for Forces of Change (UFC) to the National Alliance for Change (ANC). The nine deputies, including prominent opposition leader Jean-Pierre Fabre, appealed the decision to the Inter-Parliamentary Union and the court of the Economic Community of West African States, both of which ruled in favor of the ANC during the year. However, neither the government nor the Constitutional Court had reinstated any of the nine by year's end.

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.—*Status of Freedom of Speech and Press.*—Although the constitution provides for freedom of speech and press, the law imposes severe penalties on journalists responsible for “serious errors.” The government restricted these rights in practice, although less so than in previous years. Impunity for past crimes against journalists and defamation suits encouraged self-censorship.

Freedom of Speech.—Unlike in previous years, there were no reports that persons were reluctant to criticize the government publicly or privately due to past violent reprisals by government agents and the possibility of civil liability.

Freedom of Press.—The government owned and operated one daily newspaper, and there were two independent dailies. Approximately 30 privately owned newspapers were published with some regularity. There was a lively independent press, most of which was heavily politicized, with some newspapers highly critical of the government.

Violence and Harassment.—During the year journalists formed a group called “SOS Journalists in Danger” after receiving an anonymous note—allegedly from the government—threatening 10 prominent journalists because of their critical reporting on the government and the NIA. The note, which was widely reported in the local press, quoted a senior official as saying that the 10 journalists were under surveillance and would “soon come to taste the torture they are talking about.” The

note added that the journalists would be physically harmed by “faked accidents, poisoning, and made-up stories.” The 10 journalists cited had covered a March report by the Human Rights Committee of the U.N. High Commissioner for Human Rights expressing concern about allegations of torture and mistreatment in detention, particularly at the premises of the NIA. Colonel Dokisime Gnana Latta, the minister of security and civil protection, said the allegations in the note represented “an outrageous campaign” of “fantastic cock-and-bull stories” and called the list “fictitious.” None of the journalists threatened had been harmed by year’s end.

Information surfaced during the year that in August 2010 gendarmes assaulted Didier Ledoux, a journalist with the daily *Liberte Hebdo*, while he was photographing the main Lome law courts, where defamation suits were being heard against two newspapers. According to Ledoux, the gendarmes dragged him to one of their vehicles, beat him, forced him into the vehicle, and took him to a nearby gendarmerie barracks. Within minutes of the arrest, the Union of Independent Journalists of Togo and the Committee of Newspaper Owners telephoned the head of the gendarmerie, who subsequently released Ledoux.

In November 2010, plain-clothes gendarmes shot cameraman Tony Sodiji with a tear gas grenade at close range. Sodiji was filming a demonstration. In September 2010 gendarmes stabbed Sodji while he was covering a demonstration.

Censorship or Content Restrictions.—The High Authority of Audiovisuals and Communications (HAAC) was established 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 the government’s censorship arm. The HAAC has the power to impose severe penalties—including suspending publications for up to six months, withdrawing press cards, and seizing equipment from journalists—for vaguely defined “crimes.” Unlike in the previous year, the HAAC did not suspend any publications or withdraw press cards.

On August 29, the *Tribune d’Afrique*, a newspaper based in Benin but with a bureau in Lome, resumed distribution after it had been banned. In August 2010 a criminal court judge banned indefinitely the distribution of the newspaper, which had published an investigative series on the alleged involvement of Mey Gnassingbe, a half brother of the president, in drug trafficking. Regarded as a critic of the government, *Tribune d’Afrique* often has been targeted by government authorities in recent years and has been summoned by the HAAC approximately 20 times since it published a 2009 article on the president’s weekend palace in Agou. The resumption of distribution in Togo was the result of a July 14 decision by a Lome appeal court reducing the damages against the newspaper from 60 million CFA francs (\$125,000) to 10 million CFA francs (\$20,800) and limiting the distribution ban to a period of three months, which expired in November 2010.

Libel Laws/National Security.—On November 2, a Lome criminal court ordered the privately owned weekly *L’Independant Express* to pay 200 million CFA francs (\$415,000) in damages and a fine of 800,000 CFA francs (\$1,663) to Julie Beguedou, the CEO of the rice-import company Elisee Cotrane. On August 16, an article in the newspaper accused Beguedou of planning to flood the local market with toxic rice. In a letter to the justice minister, Reporters without Borders (RSF) characterized the story as harsh and damaging, but said the damages were exorbitant and likely to bankrupt the newspaper. RSF underscored that lawsuits against the media should not be motivated by the goal of intimidating journalists into self-censorship.

Radio remained the most important medium of mass communication, and there were approximately 100 radio stations, most of which were privately owned.

On February 2, the National Press Owners Committee, the Togo Union of Independent Journalists, and the Togolese Media Monitoring Center launched a campaign to draw attention to the November 2010 closure of three independent radio stations by the Posts and Telecommunications Regulation Agency (ART&P). The campaign included “Togo without media” days of action, sit-ins outside government agencies, and protest marches in various cities. The three stations—Providence, Metropolis, and X-Solaire—were closed for not having proper operating permits or meeting technical requirements. On March 16, the ART&P ordered the closure of Carre Jeune, a community radio station, on the grounds of “nonrespect for professional standards.” By year’s end, Providence, Metropolis, and Carre Jeune radio stations had obtained the required documentation and were permitted to resume broadcasting. Radio X-Solaire, however, remained closed.

The government-owned Togo Television was the only major television station. Eight smaller television stations operated during the year.

Internet Freedom.—There were no known 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.

Academic Freedom and Cultural Events.—The government intimidated academics by maintaining a security force presence at the University of Lome. According to students and professors, a government informant 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. The government prevented opposition supporters from meeting and forcibly dispersed demonstrations on several occasions during the year.

On May 16, the National Assembly passed a law to strengthen the right to peaceful protest. The law extends the advance notification requirement to obtain a permit to demonstrate from 48 hours to 72 hours, but provides for default permission to demonstrate in the absence of a governmental response and provides the right to appeal any denial of permission to a court. While originally supportive of the law, the ANC subsequently charged that the law was a maneuver to stifle the right to demonstrate because of a provision holding protest organizers responsible for any damage to property resulting from the protest. Observers noted that although the law strengthened the right to protest and reduced the prospect of violent government crackdowns on demonstrators, it was not widely understood or applied, particularly outside of the capital.

On March 17, security forces in Lome fired rubber bullets and canisters of tear gas at supporters of ANC leader Jean-Pierre Fabre, who had called for a demonstration against the government's attempt to regulate public protests. Several demonstrators were injured and some were arrested. Colonel Yark Damehane, commander of the National Gendarmerie, said the demonstrations were "unauthorized and therefore illegal."

Several times during the year, government security forces prevented Jean-Pierre Fabre from leaving his home to join ANC protest marches.

In May and June, gendarmes at the University of Lome used tear gas to break up peaceful student demonstrations against changes to the curriculum. Some students were injured.

The results of an inquiry into the violent dispersion of a June 2010 demonstration to protest rising fuel prices were not released by year's end. The gendarmerie used live ammunition, batons, and tear gas to disperse demonstrators, resulting in several deaths and numerous injuries.

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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. The government cooperated 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.

In-country Movement.—Checkpoints with armed security personnel and arbitrary searches of vehicles and individuals were common. There were four official checkpoints in the country as well as numerous unofficial checkpoints where security forces solicited bribes and impeded movement.

Exile.—The constitution prohibits forced exile, and the government did not employ it. Several opposition and human rights workers remained in self-imposed exile, claiming they feared arrest. However, many who fled in the early 1990s returned, including the current foreign minister.

Protection of Refugees.—The country's laws do not provide for the granting of asylum or refugee status, but the government has established a system for providing protection to refugees.

More than 7,000 Ivoirian refugees entered Togo to flee the political violence following presidential elections in Cote d'Ivoire in December 2010. The government initially granted automatic refugee status and built a camp at the site of a former hotel outside Lome. As the number of new arrivals slowed and others returned to Cote d'Ivoire, the government began screening new arrivals during the year to determine refugee status.

In March and again in April of 2010, approximately 300 Ghanaian refugees fled a violent land dispute in northeast Ghana and crossed the border into Togo. Many of the refugees initially lived in schools and other public buildings or stayed in tents provided by the government. The refugees remained in Togo and by year's end had settled in tents and more permanent shelters constructed with UNHCR and government support.

Temporary Protection.—The government continued to provide temporary protection to approximately 521 individuals who may not qualify as refugees under the 1951 Convention relating to the Status of Refugees 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 in the March 2010 presidential election. The government remained highly centralized.

Elections and Political Participation.—Recent Elections.—In March 2010 president and ruling RPT candidate Faure Gnassingbe was reelected with 61 percent of votes cast. The Constitutional Court rejected opposition claims of fraud and vote buying, citing lack of evidence. International and national observers monitoring the election declared it generally free, fair, transparent, and peaceful. Unlike the 2005 presidential election, which resulted in approximately 400 deaths and the flight from the country of an estimated 40,000 persons, the March election occurred with minimal violence.

The national government appointed officials and controlled the budgets of government entities at all levels, including prefectures and municipalities, and influenced the selection of traditional chiefs.

Political Parties.—The RPT party dominated politics and maintained firm control over all levels of government. RPT membership conferred advantages, such as better access to government jobs. While the legal restrictions on demonstrations nominally applied to all parties, they were enforced primarily on opposition parties. Security forces banned and dispersed opposition demonstrations and arrested participants (see section 2.b.).

During the year the government refused to reinstate nine opposition parliamentary deputies who were stripped of their seats for changing political party affiliation in 2010 (see section 1.e.).

Participation of Women and Minorities.—There were eight female members in the 81-seat National Assembly and seven female ministers in the 32-member cabinet.

Members of the southern ethnic groups remained underrepresented in both the government and military.

Section 4. Official Corruption and Government Transparency

Although the law provides criminal penalties for official corruption, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. According to the World Bank's Worldwide Governance Indicators for 2010, government corruption was a severe problem.

Corruption was common among prison officials, police officers, and members of the judiciary.

During the year a former prime minister and two former ministers were convicted in absentia of embezzlement.

In July 2010 a disciplinary committee was established to investigate corruption in the customs administration, and investigations and disciplinary actions were conducted during the year, although statistics were unavailable.

An independent court with an autonomous budget to oversee public expenditures began operations in July 2010 and continued its audit of government expenditures in previous years, working its way to the present.

Officials were not subject to financial disclosure laws.

Although the press code provides for public access to government information, the government in the past did not permit access for either citizens or noncitizens, including foreign media; however, the government provided some information during the year, including postings on its Web site.

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 cooperated, but typically were not responsive to NGO recommendations.

There were several domestic 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.

Information surfaced during the year that in November 2010, security forces forcibly dispersed a march organized by several human rights organizations to protest the government's repeated violations of the right to peaceful assembly. Several demonstrators were injured.

U.N. and Other International Bodies.—The government generally cooperated with international governmental organizations and permitted visits by U.N. representatives or other organizations such as the ICRC (see section 1.c.).

The TJRC, which has no power to prosecute or grant amnesty, was established in 2009 in response to public and international pressure to address the complaints lodged by victims of political violence between 1958 and 2005. By the end of 2011, the TJRC had collected more than 20,000 statements, opened 7,936 case files, and held numerous public hearings around the country. Although the commission can recommend prosecutions, no such recommendations had been issued by year's end, nor had the commission issued its recommendations concerning reparations. The commission held public hearings and continued taking individual statements during the year, but no victims of human rights violations received any reparations.

Government Human Rights Bodies.—A permanent human rights committee exists within the National Assembly, but it did not play any significant role in policy-making or exercise independent judgment.

The governmental National Commission for Human Rights investigated numerous allegations of human rights abuses, including torture at the NIA.

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.—Rape and Domestic Violence.—The law criminalizes rape and provides for prison terms of five to 10 years for those convicted. 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 reports of rape and prosecuting suspects, victims were reluctant to report rape due to the social stigma associated with being raped and fear of reprisal. Rape was thought to be a widespread problem throughout the country. During the year more than 50 persons were arrested for rape. At year's end 46 were in prison awaiting trial, awaiting convictions to be formalized, or serving sentences.

The law does not specifically prohibit domestic violence, and domestic violence against women continued to be a widespread problem. Police generally did not intervene in abusive situations, and women were not 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 educating women on their rights.

Female Genital Mutilation (FGM).—(see section 6, Children).

Sexual Harassment.—A 1984 presidential decree prohibits sexual harassment and specifically mentions harassment of female students; however, authorities did not enforce the decree, and sexual harassment was a problem. While the law states that harassment is illegal and can be taken to court, no specific punishment is prescribed.

Reproductive Rights.—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 according to estimates from the U.N. Population Fund, only 11 percent of women between 15 and 49 years old used a modern method of contraception. Approximately 62 percent of births were attended by skilled healthcare personnel. In May the government began providing free cesarean sections in response to the high mortality rate of mothers and babies in cesarean births. However, the government did not provide free childbirth services generally, and the lack of sufficient doctors meant most women only used midwives for childbirth as well as for prenatal and postnatal care, unless the mother or child suffered serious health complications. Maternal mortality was estimated at 350 deaths per 100,000 live births in 2008, according to U.N. statistics from 2010. Only heterosexual men and women received equal access to diagnosis and treatment for sexually transmitted infections, but women were more likely than men to seek treatment and refer their partners.

Discrimination.—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 applied 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.

The Ministry of Social Action and National Solidarity, along with independent women's groups and concerned NGOs, campaigned to inform women of their rights. In September 2010 President Faure launched a campaign to improve women's health and reduce infant mortality. The president also increased financial support to the effort, although at a lower level than originally promised.

Children.—Birth Registration.—Citizenship is derived either from birth within the country's borders or from the parents.

Education.—School attendance is compulsory for both boys and girls until the age of 15, and the government provides tuition-free public education from nursery through primary school; however, parents were required to pay for books, supplies, uniforms, and other expenses. According to 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. 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.—Child abuse was a widespread problem. Although the law explicitly prohibits sexual exploitation of children and child prostitution, the law was not effectively enforced. There was no statutory rape law. The government continued to work with local NGOs on public awareness campaigns to prevent exploitation of children.

The government maintained a toll-free line for persons to report cases of child abuse and to seek help. The line provides free information on the rights of the child and legal procedures. The government also established school curricula to educate children on human rights and, working with UNICEF, trained teachers on children's rights.

Child Marriage.—According to several international organizations, child marriage, especially in the north and among Muslims, existed on a small scale. Cases often were not reported as parents willingly gave their children in marriage.

Harmful Traditional Practices.—The law prohibits FGM, which was perpetrated on approximately 1 percent of girls, according to UNICEF. It was believed the practice had decreased significantly in urban 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 ranged 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 educational seminars against FGM. Several NGOs, with international assistance, organized campaigns to educate women of their rights and on how to care for victims of FGM. NGOs also worked to create alternative labor opportunities for former practitioners.

Sexual Exploitation of Children.—The law prohibits the sexual exploitation of children and provides penalties of between one to five years' imprisonment and fines from 100,000 to one million CFA francs (\$208 to \$2,080) for offenders. For violations involving children under 15, prison sentences can be up to 10 years. The minimum age of consensual sex is 16. The law prohibits child pornography and provides for penalties of five to 10 years in prison. Minors engaged in prostitution.

Displaced Children.—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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community was very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical, mental, and sensory 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 such persons 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 had ramps. While the law nominally obliges 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 and National Solidarity, is responsible for protecting the rights of persons with disabilities. During the year the ministry held awareness campaigns to fight discrimination and to promote equality; it also distributed food and clothing and provided some skills training to persons with disabilities.

National/Racial/Ethnic Minorities.—The dominance in private sector commerce, professions, and public/ military service of members of southern ethnic groups of the former and current presidents' ethnic group 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.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law provides that a person who engages in a consensual same-sex sexual act may be punished by one to three years' imprisonment and fined 100,000 to 500,000 CFA francs (\$208 to \$1,041). There were no prosecutions for homosexuality or the often related charge of indecent assault. The eight persons arrested for same-sex sexual conduct in 2010 remained incarcerated.

Societal discrimination based on sexual orientation and gender identity occurred, and there were no known lesbian, gay, bisexual, and transgender organizations.

Other Societal Violence or Discrimination.—The law prohibits discrimination against persons infected with HIV/AIDS, and 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. Freedom of Association and the Right to Collective Bargaining.—The constitution and law provide workers, except security forces (including firefighters and police), with the right to form and join unions and bargain collectively. Workers have the right to strike, including government health workers, although striking health care workers may be ordered back to work as necessary for the personal security and wellbeing of the population. The law prohibits retribution against strikers by employers, and antiunion discrimination was prohibited. The law provides exemptions from some provisions of the labor code. For example, the law does not recognize the trade union rights of workers in the export processing zones (EPZs). Unions generally are not allowed free access to EPZs or the freedom to organize workers. The law does not provide EPZ workers with protection against antiunion discrimination, notably with regard to hiring and firing.

The right to collective bargaining is recognized by law, but is limited to a single nationwide agreement, 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.

While freedom of association and the right to organize were generally respected, particularly outside the EPZs, the Ministry of Labor, Employment, and Social Security often failed to enforce the prohibition against antiunion discrimination. Employees of EPZ firms did not enjoy the same protection against antiunion discrimination

as did other workers, although two unions representing EPZ workers were created in late 2009.

Worker organizations were independent of the government and political parties.

b. Prohibition of Forced or Compulsory Labor.—The labor code prohibits all forms of forced or compulsory labor, including by children; however, the government did not enforce the law effectively.

Forced labor occurred in practice. Children sometimes were subjected to forced labor, primarily as domestic servants, porters, and roadside sellers. Children were also forced to perform agricultural work and beg. Women and girls were subject to forced labor as domestic servants. Children were trafficked into indentured servitude.

According to government statistics, 278 victims of trafficking were removed during the year. In 2010 the government doubled the number of workplace inspectors to 62. During the year the government conducted training and awareness activities with various officials, such as police and customs inspectors as well as private businesses. In addition, work increased with local committees that serve both to raise awareness of trafficking and forced labor and to report instances of either. With help from UNICEF, during the year the government began providing funds to poor families with very young children considered at risk for trafficking.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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 or type of work, prohibits the employment of children under age 18 from working at night, and requires a daily rest period of at least 12 hours for all working children. For some types of industrial and technical employment, the minimum age is 18. The child code of 2007 prohibits the employment of children in the worst forms of child labor, including trafficking, prostitution, pornography, and the use of children in armed conflict. However, the law also authorizes the employment of children 16 years and older in sectors likely to harm their health, safety, or morals.

The Ministry of Social Action and National Solidarity was responsible for enforcing the prohibition against the worst forms of child labor. However, the government did not effectively enforce child labor laws. Ministry inspectors enforced these age requirements, but only in the formal sector in urban areas. Due to limited resources, the enforcement of child labor laws was weak, and penalties were insufficient to deter violations. 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, ILO, NGOs, labor unions, and other partners to raise awareness of child labor in general and forced labor in particular.

Child labor was a problem. According to UNICEF, 29 percent of children between the ages of five and 14 years were engaged in work. 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 porters and domestic servants. In some cases children worked in factories. In agricultural sectors, children assisted their parents with the harvesting of cotton, cocoa, and coffee. Children were involved in the production of foodstuffs, such as beans and corn, for consumption by the family.

The most dangerous activity involving child labor was in the quarries, where children assisted their parents in crushing rock by hand and carrying buckets of gravel on their heads. Such labor was not sanctioned by the government and occurred only in small, privately-owned quarries. Reputable local NGOs reported that while quarry work was strictly a weekend and holiday activity for most children, others dropped out of school to work full time in the quarries.

In both urban and rural areas, particularly in farming and small scale trading, very young children traditionally assisted their families. 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 (\$26 to \$36).

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The government sets minimum wages for different labor categories, ranging from unskilled through professional positions. During the year the minimum wage was raised to 35,000 CFA francs (\$73) per month. The Ministry of Labor, Employment, and Social Security is responsible for enforcement of the minimum wage system, especially in the private sectors.

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. 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. Workers have the legal right to remove themselves from unsafe conditions without fear of losing their jobs. Labor laws also provide protection for legal foreign workers. Workers in the informal sector and EPZ workers, however, were not covered by these laws.

The Ministry of Labor, Employment, and Social Security, which had 62 labor inspectors, did not effectively enforce the law.

Employers often ignored applicable laws. Employers often paid less than the official minimum wage, mostly to unskilled workers. Many workers supplemented their incomes through second jobs or subsistence farming.

In October the government implemented for the first time a health insurance plan for public sector employees. 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.

UGANDA

EXECUTIVE SUMMARY

Uganda is a constitutional republic led since 1986 by President Yoweri Museveni of the ruling National Resistance Movement (NRM) party. Voters reelected Museveni to another five-year term in February. While the elections marked an improvement over previous elections, they were marred by irregularities. State security forces (SSF) generally reported to civilian authorities.

The three most important human rights problems in the country were lack of respect for the integrity of the person (including unlawful killings, torture, and other abuse of suspects and detainees); unwarranted restrictions on civil liberties (freedom of assembly, the media, and association); and violence and discrimination against marginalized groups (women, including female genital mutilation victims; children, including victims of sexual abuse and ritual killing; persons with disabilities; and the lesbian, gay, bisexual, and transgender community).

Other human rights problems included mob violence; harsh prison conditions; official corruption; arbitrary and politically motivated arrest and detention; incommunicado and lengthy pretrial detention; restrictions on the right to a fair trial; electoral irregularities; trafficking in persons; and forced labor, including child labor.

The Lord's Resistance Army (LRA), driven out of the country in 2005, continued to hold children forcibly abducted from the country. The governments of Uganda, South Sudan, the Central African Republic (CAR), and the Democratic Republic of the Congo (DRC) continued military actions against the LRA.

SSF and other government agents committed human rights abuses, generally with impunity. The government took minimal steps to hold perpetrators accountable.

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 or unlawful killings, as SSF killed opposition party demonstrators and other citizens.

SSF's use of excessive force and live ammunition to disperse antigovernment demonstrations in April and May resulted in at least 10 deaths, including a two-year-old girl in Masaka. Authorities arrested reserve police officer Paul Mugenyi for the April 20 killing of the two-year-old girl but held no one accountable for the nine other killings. Police also arrested police officers Aggrey Arineitwe and James Babaranda for the April 11 killing of a 16-year-old-girl in Kabale, who was shot and killed by police using live ammunition to disrupt a strike at a secondary school. Arineitwe was released for lack of evidence, and charges against Mugenyi and Babaranda were pending at year's end.

Excessive force and the indiscriminate use of live ammunition by SSF, including the Uganda People's Defense Forces (UPDF), resulted in deaths during cattle recovery and disarmament operations in the Karamoja Region in the East. For example, on September 5, the UPDF killed six Karamojong cattle rustlers in two operations to recover stolen cattle in Kaabong District.

There were developments in some cases from previous years involving deaths caused by government security forces.

During the year an internal police investigation into the death of Henry Bakasamba, who died in May 2010 in the custody of the Police Rapid Response Unit (RRU) in Kampala, exonerated RRU officers Disinga Abangu and David Mulwanira. In 2010 RRU officers Abangu, Mulwanira, Alex “Eddy” Muhiirwe, David Osaulo, and Famba Suli were arrested for allegedly murdering Bakasamba. Police claimed Suli remained in jail but were unable to provide the date or location of his incarceration. The whereabouts of Muhiirwe and Osaulo were unknown. During the year police also released on bail three RRU officers—Dhikusoka Ramadan, Mohamed Kavuma, and Zikusoka Hussein—who were arrested in 2010 for allegedly killing suspect Frank Ssekanjako in August 2010 while in RRU custody.

No terrorist attacks occurred during the year. On September 12, the government commenced legal proceedings against 14 suspects accused of orchestrating the July 2010 terrorist bombings in Kampala that killed 76 people. That same day the government dropped pending terrorism charges against Kenyan human rights activist Al Amin Kimathi and four others who had been arrested in connection with those same bombings and released them from custody. On September 16, the High Court convicted and sentenced two July bombing suspects who pled guilty, Idris Nsubuga and Mahmood Mugisha, to 25 years for terrorism and five years for conspiracy. The case against the remaining 12 suspects was pending at year’s end.

b. Disappearance.—There were reports of politically motivated abductions or kidnappings. For instance, on January 18, opposition Democratic Party (DP) mobilizer Annette Namwanga was kidnapped by unidentified individuals from her job at Mulago Hospital. On January 25, the Chieftaincy of Military Intelligence (CMI) acknowledged arresting Namwanga. On February 6, Namwanga and nine others were charged with terrorism and remanded to prison. On April 1, the High Court released Namwanga on bail. Charges against her remained pending.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices. Nevertheless, there were credible reports that SSF tortured and beat suspects (see section 1.a.).

The Uganda Human Rights Commission (UHRC) and international and local human rights organizations reported incidents of torture by SSF, including caning, severe beating, squeezing of private parts, stabbing, kicking, tying of limbs in contorted positions, forced marching, rape, water torture, tearing off of fingernails, burning with molten plastic, and cutting off of body parts. From January to June, the African Center for Treatment and Rehabilitation of Torture Victims (ACTV) registered 214 allegations of torture against the police, 24 against the UPDF, three against military police, 46 against the RRU, 14 against unspecified security personnel, and 17 against prison officials.

There were numerous reports of torture and abuse in detention facilities operated by CMI, CMI’s Joint Antiterrorism Taskforce (JATT), and the RRU. On March 23, Human Rights Watch (HRW) published a report on extrajudicial killings, torture, and illegal detention by the RRU. HRW accused the RRU of committing six extrajudicial killings in 2010 and criticized the government for failing to investigate or prosecute abusive officers. The report heightened concerns that the RRU, CMI, and JATT operated under unclear mandates and committed serious abuses with impunity. In December police acknowledged the RRU’s record of human rights abuses and disbanded the unit.

SSF’s use of excessive force resulted in injuries during arrests and law enforcement operations. In April and May, for instance, SSF beat and injured numerous civilians during antigovernment walk-to-work protests. On April 14, SSF’s use of live ammunition to disrupt walk-to-work protests seriously wounded a pregnant woman and one student. On April 29 and May 12, dozens of people, including some journalists, were beaten by SSF during protests in Kampala and Entebbe. On April 28, SSF arrested opposition Forum for Democratic Change (FDC) party leader Kizza Besigye by breaking a window of Besigye’s car and spraying him with large amounts of a noxious chemical at point-blank range. Besigye suffered temporary damage to his eyes. Police took no action against officer Gilbert Arinaitwe and other SSF members who used excessive force to arrest Besigye.

In August a British national accused CMI and JATT of abducting him on May 21, holding him incommunicado for 28 days, and torturing him.

During the year the UHRC awarded 1.1 billion Uganda shillings (\$400,000) to victims of torture and other abuses. In its 2010 annual report, the UHRC reported registering 797 human rights complaints against 743 individuals, including 84 UPDF members, 305 police officers, 93 personnel of other security agencies, 30 prison warders, and 231 private citizens. Of the 797 complaints, 28 percent involved allegations of torture or cruel, inhuman, or degrading treatment and punishment. During the year the Police Disciplinary Court issued a written reprimand to RRU officer

Nathan Byona and senior police officers Nixon Karuhanga and Julius Kwikirizi for torture, extortion, and mismanagement and reduced their pay.

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 brutalized their victims (see sections 1.a. and 6).

Prison and Detention Center Conditions.—Prison conditions remained poor and, in some cases, life threatening. There were reports that SSF tortured inmates, particularly in military facilities and unregistered detention centers. Abusive forced labor in prisons countrywide remained a problem.

Serious problems in prisons included long remand periods, overcrowding, and inadequate staff. Prison conditions came closest to meeting international standards in Kampala, where medical care, running water, and sanitation were provided. However, these prisons were among the most overcrowded. Prisons outside Kampala lacked food, water, medical care, and bedding. In March HRW and the NGO Advocates Without Borders (AWB) released detailed reports on prison conditions. HRW described prison conditions as bordering on inhuman, with degrading treatment and torture. HRW cited overcrowding, long remand periods, and reports of prisoners being beaten by prison warders. HRW also reported that prison officials often subjected prisoners to hard labor and routine abuse. The AWB report alleged inmates were held in places that did not meet international human rights standards for food, water, medical care, and basic hygiene. Prison authorities estimated more than half the prison population was on remand or pretrial detention and had not been convicted. In 2010 the Ministry of Justice reported that the average remand period for prisoners was reduced from 27 months in 2009 to 15 months. Data for 2011 was unavailable.

The Uganda Prisons Service reported 31,749 prisoners in the system at the end of August. The approved holding capacity of prisons is 13,670 prisoners. Severe overcrowding was also a problem at juvenile detention facilities and in female wings of prisons. The Kampala Remand Home, designed for 45 children, held 194. The Naguru Reception Center, designed for 30 children, held 180 juveniles. The Prisons Service recorded 84 prisoner deaths nationwide from January to August from torture, overcrowding, malnutrition, poor sanitation, disease, overwork, or lack of medical care.

Information was unavailable on conditions in unregistered and illegal detention facilities, although SSF allowed the UHRC and some international NGOs access to selected unregistered facilities. Observers reported poor conditions and numerous cases of abuse in illegal detention facilities or “safe houses.”

Although female prisoners in central prisons were held in separate facilities, services and facilities for female prisoners in local prisons, including separate cells, were lacking in some areas. The Prisons Service had no budget for accommodating pregnant women or mothers with infants, and the number of infants in women’s prisons increased during the year. 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. Elsewhere they were sometimes held together. Local NGOs reported that prisoners and detainees had reasonable access to visitors and were allowed to submit complaints. Prison authorities acknowledged a backlog in the investigation of complaints. Authorities allowed international NGOs, foreign diplomats, and local NGOs to conduct prison visits during the year but required advance notification.

Prison authorities reported improvements in recordkeeping by the introduction of computers up to the regional level, provision of plastic water tanks, and adoption of a new sanitation system at several prison facilities. Community service is statutorily available as a sentencing option. Prison authorities reported that more than 100,000 persons were sentenced to community service during the year.

d. Arbitrary Arrest or Detention.—Although the constitution and law prohibit such practices, SSF sometimes arrested and detained persons arbitrarily. For instance, from February 5 to 7, police in Kampala arrested and later released without charge 16 civil society activists for distributing anticorruption leaflets. In March and April, SSF arbitrarily arrested hundreds of civilians, including many main opposition party leaders, for participating in a “walk-to-work” campaign against rising prices (see section 1.e.). On July 13, in Lira, SSF arrested and held radio journalist Augustine Okello incommunicado for two weeks. He was brought to court and charged with treason after the Human Rights Network for Journalists (HRNJ) sued the police, the chief of the defense forces, and CMI. In August a British national accused CMI and JATT of abducting him on May 21, holding him incommunicado for 28 days, torturing him, and extorting money. On June 17, he was released from cus-

tody without having been charged (see section 1.b.). On several occasions during the year, police placed opposition FDC party president Kizza Besigye under “preventive arrest” by surrounding his home and prohibiting him from leaving.

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 charged with external security but also had significant responsibility for implementing the disarmament campaign in Karamoja, providing election-related security, and responding to walk-to-work protests. The Internal Security Organization (ISO) and External Security Organization (ESO), security agencies and intelligence-gathering entities under the Minister of Security, occasionally detained civilians. CMI is legally under UPDF authority, although it often acted as a semi-autonomous unit in detaining civilians suspected of rebel and terrorist activity, as did the ISO and ESO. The JATT, an interagency paramilitary group under CMI, has no codified mandate but illegally detained civilians suspected of rebel and terrorist activity. The JATT is a joint command whose members are drawn from the UPDF, UPF, ISO, and ESO.

The UPF were constrained by limited resources, including low pay and lack of vehicles, equipment, and training. The UPF’s Professional Standards Unit (PSU) investigated complaints of police abuses, including torture, harassment, unlawful arrest and detention, abuse of office, irregular or discreditable conduct, mismanagement of case papers, and corrupt practices. From January to November, the PSU received 218 reports of human rights violations and unprofessional conduct. The PSU was unable to provide information on the number of cases acted upon during the year.

The UPDF continued efforts to transfer responsibility for law enforcement in the North and in the Karamoja region to UPF. In 2010 the UPF deployed an estimated 2,000 additional police officers to Karamoja.

In conjunction with the UHRC and international organizations including the International Committee of the Red Cross (ICRC) and the Office of the High Commissioner for Human Rights (OHCHR), the UPDF and UPF continued to train officers on internationally recognized human rights standards. During the year 1,057 police officers attended human rights and constitutional workshops. The UPF, 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 arrest warrants before arrests are made. However, in practice suspects were often arrested without warrants. The law requires suspects to be charged within 48 hours of arrest, but suspects frequently were held longer. While suspects arrested under the Antiterrorism Law must be brought to trial or released on bail within 120 days (360 days if charged with a capital offense), if the case is presented to the court before the expiration of this period, there is no limit on further 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, albeit with stringent conditions. Detainees are required by law to have access to a lawyer, but many were denied their legal right to representation. According to the law, the government provides attorneys for indigent defendants charged with capital offenses, but in practice funds were rarely available to retain counsel.

Incommunicado detention remained a problem, particularly with regard to CMI, JATT, and the RRU. Local and international human rights groups reported that the government detained civilians in military facilities and unregistered detention facilities known as “safe houses,” where detainees often were held incommunicado and abused.

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.).

Arbitrary Arrest.—Arbitrary arrests during police sweeps remained a problem, as did arbitrary arrests based on alleged sedition, treason, promoting sectarianism, incitement of violence, or terrorism charges. During the year several hundred people were also arbitrarily arrested for participating in, or being in proximity to, protests organized by opposition parties and civil society (see section 1.e.). The government paid compensation to some victims of arbitrary arrest, but compensation was often paid slowly.

Pretrial Detention.—Persons suspected of sedition, treason, incitement of violence, or terrorism were subjected to numerous abuses, such as detention without charge, detention in unofficial locations, and mistreatment, including torture (see sections 1.a., 1.b., and 1.c.). Case backlogs in the judicial system routinely contributed to pre-

trial detentions of two to three years but sometimes as long as seven years. The Prisons Service reported that more than half of its approximately 31,749 inmates were pretrial detainees. The UHRC heard several cases brought by prisoners challenging the length of their detention.

Amnesty.—Since 2000 the government has offered blanket amnesty to former LRA and Allied Democratic Forces rebel combatants to encourage defections. More than 26,000 individuals have received amnesty since 2000, and more than half of these are former LRA combatants. During the year the government approved 29 amnesty cases. On September 22, the Constitutional Court upheld the constitutionality of the Amnesty Act, ruled that the Department of Public Prosecutions (DPP) illegally denied LRA Colonel Thomas Kwoyelo's request for amnesty, awarded Kwoyelo amnesty, and ordered his release from prison. Kwoyelo was captured by the UPDF in the DRC in 2009 and is accused of dozens of murders, mutilations, and abductions. The government claimed Kwoyelo's alleged crimes make him ineligible for amnesty and refused to release him from prison. Kwoyelo remained in custody at year's end.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the government generally respected this provision in practice. 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 military court system often did not assure the right to a fair trial. The law establishes a court martial appeals process. Sentences, including the death penalty, can be appealed only to the senior UPDF leadership. Under circumstances deemed exigent, a field court martial can be convened at the scene of an alleged crime. The law does not permit appeal of a conviction under a field court-martial. Despite a 2006 court ruling prohibiting the military from trying civilians in military tribunals, this practice continued. In July HRW issued a report documenting the prosecution of civilians in military courts and reported that at least 1,000 civilians had been court-martialed since 2000. In September the UPDF announced that it would end the practice of trying civilians in military tribunals.

Trial Procedures.—An inadequate system of judicial administration and a lack of resources resulted in a serious backlog of cases and impaired the right to a fair trial. There is a presumption of innocence. All nonmilitary trials are public, but juries are not used. Defendants have the right to be present and consult with an attorney in a timely manner. The law requires that the government provide an attorney for indigent defendants accused of capital offenses, but funds were rarely available to provide counsel. By law defendants may confront or question witnesses against them and present witnesses and evidence on their behalf, but this right was sometimes not respected in practice. In 2008 the Constitutional Court ruled that defendants have the right to obtain documentary evidence the state intends to use against them before trial starts. However, the ruling stated that the right of disclosure is not absolute in highly sensitive cases. Defendants have the right of appeal.

Suspects complained of long remand periods. For instance, in June the UPDF released three soldiers—Emmy Namanya, Moses Keriri, and Yason Babishanga—who were arrested between 2002 and 2004 on suspicion of murder but never formally charged.

In September authorities reported 60,649 criminal cases disposed of and 60,986 criminal cases filed during the year.

Political Prisoners and Detainees.—While there were no reports of political prisoners during the year, hundreds of opposition politicians, supporters, civil society activists, journalists, or others critical of the government were detained on politically motivated grounds for short periods. Many of these individuals were released without charge. Others were released after being charged with crimes such as treason, inciting violence, and promoting sectarianism. None of the hundreds of people arrested for protesting rising prices during the walk-to-work campaign were convicted of an offense, and courts dismissed all walk-to-work related cases brought to trial by the DPP for lack of evidence.

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. Victims may report cases of human rights violations through the regular court system or the UHRC, which has judicial powers under the constitution. These powers include the authority to order the release of detainees, payment of compensation to victims, and other legal and administrative remedies such as mediation. Victims can appeal their cases to the Court of Appeal and

eventually the Supreme Court, but not to an international regional court. Civil courts and the UHRC have no ability to hold perpetrators of human rights abuses criminally liable, and enforcement of judgments for financial compensation was hampered by bureaucratic delays.

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 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 Regulation of Interception of Communication Bill authorizes government security agencies to legally tap private conversations as part of wider efforts to combat terrorism-related offenses. The government utilized both statutes to monitor telephone conversations.

The government continued to encourage university students and government officials to attend NRM political education and military science courses known as “chaka mchaka.” While the government claimed the courses were not compulsory, human rights activists reported that civil servants and students were pressured to attend.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press. The government at times restricted these rights.

Freedom of Speech.—SSF and government officials occasionally interrogated and detained radio presenters and political leaders who made public statements critical of the government and used libel laws and national security as grounds to restrict freedom of speech (see section 3). During the February presidential and parliamentary election campaign period, for instance, opposition FDC party president Kizza Besigye was denied access to numerous state-run and privately owned radio stations. On February 17, police in Gulu arrested and later released opposition Member of Parliament Christopher Achire for allegedly defaming President Museveni. Achire was charged with inciting violence and granted bail. Hearing of the case was pending at year’s end.

Freedom of the Press.—The independent media were active and expressed a wide variety of views. Nevertheless, the government and SSF imposed some restrictions. The UPF’s Media Crimes Unit closely monitored all radio, television, and print media, and SSF subjected numerous journalists to harassment, intimidation, and arrest. As a result many print and broadcast media journalists practiced self-censorship, particularly with regard to reporting on President Museveni, the first family, senior members of the ruling NRM party, and the SSF. Although there are a number of private rural radio stations, many of these were owned by government officials and ruling party members who imposed reporting restrictions.

On January 11, for instance, police arrested the director and editor of a monthly magazine for publishing a cartoon of President Museveni. The two were later released without charge. In April and May, SSF prevented journalists from covering walk-to-work protests and in some cases threatened journalists, assaulted them, and confiscated camera equipment. In July CMI and the RRU illegally detained radio presenter Augustine Okello. Okello was charged with treason in August and remained in custody at year’s end.

Authorities interfered with the publication of several books critical of President Museveni. For instance, on September 17, the RRU arrested Vincent Nzaramba for publishing a book about Museveni’s 25 years in power entitled *People Power—Battle the Mighty General—He is Finished*. Police claimed the book incited violence, detained Nzaramba at RRU’s Kireka detention facility, and released him without charge on September 22.

Violence and Harassment.—SSF arrested, assaulted, harassed, and intimidated journalists during the year. During the February 18 presidential and parliamentary elections, SSF in Mbale shot and injured freelance journalist Julius Odeke. The police suspended the divisional commander and his deputy over the violence (see section 3). In August the HRNJ reported that 55 journalists were subjected to different forms of violence from November 2010 to April 2011 and urged the UHRC to investigate 32 alleged acts of SSF violence against journalists. On May 12, SSF assaulted local and international journalists covering walk-to-work protests and confiscated camera equipment. On May 17, President Museveni publicly described several media outlets—including the Daily Monitor, NTV, the BBC, and al Jazeera—as “enemies of Uganda’s recovery.” On May 24, SSF raided the offices of the local-language Ggwanga newspaper, arrested several newspaper officials, and then released

them without charge. On December 17, SSF allegedly assaulted Daily Monitor newspaper journalist Emmanuel Opio in Lira.

On December 1, Rwandan journalist Charles Ingabire was shot to death in Kampala. Police made no arrests, and the investigation continued at year's end.

Media-related charges against several journalists from prior years remained pending at year's end. In January police dropped a case against Radio Hoima FM reporter Frederick Makuru Muhamba for allegedly inciting violence. Muhamba was arrested in November 2010 after criticizing the ruling NRM party and was later released on bail.

There were no developments in the investigation of freelance journalist Paul Kiggundu's killing. Kiggundu was beaten to death in September 2010. Police arrested five suspects and remanded them to prison. Their cases were pending at year's end. There were no developments in the investigation of Prime Radio news presenter Dickson Ssentongo's death. Ssentongo was killed in September 2010 on his way to work in Mukono District. No arrests were made.

Censorship or Content Restrictions.—Many journalists practiced self-censorship to avoid government intimidation or harassment. Many rural radio stations claimed they were ordered by unnamed government officials to deny airtime to opposition politicians, and several radio presenters who hosted opposition members were questioned by police. The government prevented some independent and government-owned television and radio stations from hosting opposition political candidates critical of the government. On April 14, the Uganda Communications Commission (UCC) pressured local media to ban live broadcasts of walk-to-work protests.

Libel Laws/National Security.—Libel laws and purported concerns about national security were used to suppress criticism. According to local NGOs, 14 journalists, civil society activists, and opposition politicians continued to face pending sedition charges despite the Constitutional Court's 2010 ruling declaring the sedition law unconstitutional. On June 1, police charged Timothy Kalyegira, the editor of online publication Uganda Record, with criminal libel for the 2010 online publication of a conspiracy theory blaming the military for the July 2010 terrorist attacks in Kampala. At year's end hearing of the case was pending. In October police accused opposition FDC party women's leader Ingrid Turinawe and two others of trying to overthrow the government through walk-to-work related activities, charged them with the capital offense of treason, and remanded them to jail. Turinawe and the two co-accused were released on bail on December 12. Charges remained pending at year's end.

Internet Freedom.—Individuals and groups could generally engage in the expression of views via the Internet, including by e-mail. However, at times the government attempted to restrict access. For example, during walk-to-work protests on April 13, the UCC directed Internet service providers to block access to Facebook and Twitter for 24 hours. Only one government-owned Internet service provider complied. On May 31, police arrested Timothy Kalyegira, the editor of Uganda Record, for the 2010 online publication of a conspiracy theory blaming the military for the July 2010 terrorist attacks in Kampala. Kalyegira, who had been arrested in August 2010 and charged with sedition for the same article, was this time charged with criminal libel and released on bail. At year's end hearing of the case was pending.

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.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—While the constitution provides for freedoms of assembly and association, the government did not respect these rights in practice. The UPF continued to require advance notification and approval for public gatherings, despite a 2008 Constitutional Court decision nullifying section 32(2) of the Police Act and the requirement to obtain written police approval for any assembly of 25 persons or more.

During the year the UPF routinely restricted the right to assemble freely. Opposition parties and civil society organizations critical of the government that sought UPF authorization for public gatherings either received no official response or were instructed not to assemble. Police often met attempts to assemble by these groups with excessive and brutal force. For example, SSF killed at least 10 people while trying to disrupt protests over rising prices in April and May. Many others were wounded by rubber bullets, live ammunition, and tear gas. Police claimed harsh tactics were warranted because walk-to-work participants refused to obtain police authorization and were inciting violence, obstructing traffic, and adversely impacting local businesses. During the year none of the hundreds of protesters arrested during walk-to-work events was convicted of committing an offense.

Freedom of Association.—While the constitution and law provide for freedom of association, the government did not always respect this right in practice. The 2006 NGO Registration Act limits some NGO activity and requires NGOs seeking registration to obtain letters of approval from local government and community officials. The NGO Board, which approves NGO registrations, reports to the Ministry of Internal Affairs and is composed of representatives from various government ministries, including the security services. Discriminatory aspects of the NGO Act prevented lesbian, gay, bisexual, and transgender (LGBT) organizations from registering as NGOs. Official registration affords some legal protections and enables NGOs to open local bank accounts.

Police blocked meetings of members of labor unions (see section 7).

c. Freedom of Religion.—See the International Religious Freedom Report at <http://state.gov/jdrl/irf/rpt>.

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. The government at times limited these rights in practice.

The government 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, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In-Country Movement.—Refugees were free to move without restriction. However, for security reasons, refugees living in camps were required to obtain an exit permit from the camp commandant. Refugees can apply for an identification card provided by the government. The government cooperated with the UNHCR to provide travel documents to qualified refugees wishing to travel abroad.

Foreign Travel.—A married woman must obtain her husband's written permission on her passport application if children are to be listed on her passport.

Internally Displaced Persons (IDPs).—According to the UNHCR, only 30,000 IDPs, or about 1.6 percent of the 1.8 million persons internally displaced by the 20-year LRA conflict, remained in four camps in the North at year's end as the vast majority of IDPs continued a difficult reintegration into their original communities. Authorities continued the process of closing IDP camps, 247 of which have been closed in recent years. Conditions in IDP camps improved as a result of the lowered IDP population. Many who remained in IDP camps were considered "extremely vulnerable individuals" due to age or disabilities, according to international humanitarian organizations.

IDPs returning to their homes continued to encounter serious challenges, including lack of basic services such as potable water, health care, and schools, as well as disputes over land tenure. According to a December 2010 Internal Displacement Monitoring Center report, recovery programs coordinated by the government, U.N., and development partners failed to keep pace with IDP returns because of a lack of coordination. Although the government adopted a national IDP policy in 2004 and became the first African country to ratify the African Union's Convention for the Protection and Assistance of IDPs in 2010, the government continued to struggle to implement those commitments during the year.

Protection of Refugees.—Access to Asylum.—The laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. As of September the UNHCR registered 156,477 refugees and asylum seekers. The government provides temporary protection to individuals who may not qualify as refugees under the 1951 Refugee Convention and its 1967 Protocol. No individuals received such protection during the year. The UNHCR reported that the government was reluctant to grant refugee status to Rwandans pending the UNHCR cessation clause scheduled to be implemented in 2012. The cessation clause would require Rwandan refugees who cannot prove continuing claims of individual persecution either to return home or apply for permanent residency in their country of residence. There were no reports of refoulement during the year.

In 2010 a local NGO filed a case with the Constitutional Court seeking to clarify whether the constitution provides for the naturalization of refugees. A decision remained pending at year's end. Between January and July, the government assisted the UNHCR in the voluntary repatriation of 586 refugees to South Sudan.

During the year a local NGO reported attacks on Congolese LGBT refugees by other Congolese refugees but indicated that the police reacted in an appropriate manner.

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. The February presidential and parliamentary elections marked an improvement over previous elections but were nonetheless marred by serious irregularities.

Elections and Political Participation.—Recent Elections.—On February 18, the country held its fourth (second multiparty) presidential and parliamentary election since President Museveni came to power in 1986. President Museveni won reelection with 68 percent of the vote. FDC president Besigye finished second with 26 percent. The ruling NRM party captured approximately 75 percent of seats in the 375-member parliament. While the elections and campaign period were generally peaceful, domestic and international election observers noted several serious irregularities. These included the diversion of government resources for partisan gain, unfair access to the media for NRM candidates and lack of access for opposition candidates, the heavy deployment of SSF on election day, government intimidation, disorganized polling stations, and the absence of many voters' names from voter rolls. Observers claimed that many of these irregularities could have been avoided through the appointment of a more representative and independent Electoral Commission.

On February 23, the Electoral Commission postponed Kampala's mayoral election after voting was disrupted by members of the Kiboko Squad, a government-tolerated vigilante group that assaulted civilians and some journalists with nail-studded sticks. On February 28, police arrested the leader of the Kiboko Squad, Juma Ssemakula, but later released him without charge. The mayoral election was rerun without incident on March 14.

Political Parties.—Approximately 38 parties were registered. The ruling NRM party operated without restriction, regularly holding rallies and conducting political activities. Authorities occasionally restricted the activities of the main opposition parties by refusing permission for them to hold public demonstrations and preventing opposition leaders from appearing on local radio stations. Police arbitrarily arrested several opposition leaders during the year. For instance, on April 18, police arrested opposition leaders Besigye, Norbert Mao, and Olara Otunnu for their role in walk-to-work protests. Mao spent approximately two weeks in prison. Besigye was arrested again on April 21, charged with unlawful assembly, and imprisoned. Besigye and Mao were released on April 28, and charges against them were later dismissed. In March and April, SSF killed at least 10 people when it used rubber bullets, tear gas, live ammunition, batons, and water cannons to disperse walk-to-work protests led by opposition parties and civil society organizations (see section 2.c.).

Participation of Women and Minorities.—There were 127 women in the 375-member parliament. Of these, 112 held seats designated for women. There were 22 female ministers in the president's 75-member cabinet. The speaker of parliament 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: 112 seats were reserved for women, five for organized labor, five for persons with disabilities, five for youth, and 10 for UPDF. However, the five persons with disabilities were selected via an opaque "electoral college" process organized by a single government-supported NGO.

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 most recent Worldwide Governance Indicators reflected that corruption was a severe problem. The government selectively enforced financial disclosure laws. An estimated 22,000 public officials are subject to biannual reporting requirements under financial disclosure laws. According to the inspector general for government (IGG), 17,949 officials reported for the 2010-11 cycle, but these reports were not made public. The law provides for public access to government information, but the government rarely provided such access to citizens or noncitizens. On June 2, the government passed the Access to Information Act regulations, which allow individuals to petition any government department to access information.

Government agencies responsible for combating corruption include the IGG, DPP, Anticorruption Division (ACD) of the High Court, parliamentary Public Accounts Committee, police Criminal Investigation Division, Office of the Auditor General, and Directorate for Ethics and Integrity. Political will to combat corruption at the highest levels of government remained weak, and many corruption cases remained

pending for years. The ACD has two judges and three magistrates and has heard more than 200 corruption cases since its inception in 2009. Almost none of these cases, however, involved senior level officials.

During the year the IGG charged former vice president Gilbert Bukenya, current Foreign Minister Sam Kutesa, NRM Chief Whip John Nasasira, and Labor Minister Rukutana Mwesigwa with corruption-related offences. In October Kutesa, Nasasira, and Mwesigwa took administrative leave from their respective ministries pending resolution of these corruption allegations. At year's end the cases against Kutesa, Nasasira, and Mwesigwa were pending a ruling by the Constitutional Court on whether acting IGG Raphael Baku has the authority to indict ministers. In November the IGG "discontinued" prosecution of one count of corruption against Bukenya, and in December the ACD acquitted Bukenya of the remaining corruption charge.

Corruption in the police force and judiciary was a problem. Police arrested several officers implicated in bribery and corruption. Several magistrates were arrested for soliciting and receiving bribes.

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, with the exception of LGBT-related NGOs, which were denied the ability to obtain official status due to the discriminatory NGO Act (see section 2.b.). In March the government denied entry to four Kenyan human rights activists who traveled to Uganda to follow up on the case of Al-Amin Kimathi, a Kenyan citizen who was arrested and charged in September 2010 for the July 2010 bombings and then released from custody in September 2011.

The government was responsive to some of the concerns of local and international human rights organizations. For instance, the government discontinued the practice of trying civilians in military tribunals after a report by an international NGO, and the government disbanded the RRU in response to allegations of human rights abuses. However, the government was not responsive to many allegations of torture, government corruption, and electoral accountability.

UN and other International Bodies.—The government cooperated with international governmental organizations and permitted visits by the U.N., OHCHR, ICRC, and other international organizations.

Government Human Rights Bodies.—The UHRC is a constitutionally mandated institution with quasi-judicial powers to investigate allegations of human rights abuses and award compensation to abuse victims. Although the UHRC operates independently, the president appoints its seven-member board. Under the law the UHRC may subpoena information, order the release of detainees, and order the payment of compensation for abuses. The UHRC pursued suspected human rights abusers, including in the military and police forces, and had branches countrywide. Its resources were inadequate to investigate all complaints received.

In its 2010 annual report, released in June 2011, the UHRC reported registering 797 human rights complaints against 845 individuals, including 84 UPDF members, 305 police officers, 69 other security agencies, 30 prison wardens, and 231 private citizens. Of the 797 complaints, 28 percent involved allegations of torture or cruel, inhuman, or degrading treatment and punishment. The report urged the government to pass pending anti-torture legislation; improve prison conditions, particularly for women and children; eliminate illegal detention and prolonged pretrial detention practices; and provide SSF with increased human rights training.

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

The law prohibits discrimination based on race, gender, disability, language, or social status. 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.—Rape and Domestic Violence.—The law criminalizes rape, including spousal rape. 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, the crime was seriously underreported, and most cases were not investigated. Police lacked the criminal forensic capacity to collect evidence, which hampered prosecution and conviction. The 2010 police crime report registered 709 rape cases, of which 252 were tried.

The law criminalizes domestic violence and provides penalties for abusers ranging from fines to two years' imprisonment. However, women's activists were concerned that regulations enforcing the law were not in place. Although the 2010 UPF annual crime report listed 159 reported cases of domestic violence, compared with 165 re-

ported cases in 2009, a decrease of 3.6 percent, these statistics substantially underestimated the extent of the problem. Domestic violence against women remained widespread. For instance, in November 2010 the United Nations Population Fund reported that 60 percent of women ages 15 and above experienced physical violence, 15 percent of pregnant women experienced physical violence, and the first sexual encounter of 24 percent of women was violent.

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. Between January and August, the government arrested five persons for domestic violence offenses. For example, on August 21, police in Jinja arrested Captain Charles Ogwal for killing his wife Jane Asimo following a family argument. A police investigation continued at year's end.

On September 9, a military court martial investigating a December 2010 rape of a woman in Moroto acquitted UPDF Corporal Naleo Oyo Okulo and Lance Corporal Machat Kakuru; convicted Private James Manana of torture, gave him a dishonorable discharge, and sentenced him to five years in jail; and cautioned Major James Kasule, and Lieutenants Walter Olum and Sanyu Kaserebe for neglect of duty and failing to monitor the activities of troops under their command.

Female Genital Mutilation (FGM).—The law and constitution prohibit FGM and establish a maximum penalty of life imprisonment. Neither culture, religion, nor the consent of the victim is an allowable defense. 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. Nevertheless, the Sabiny ethnic group in rural Kapchorwa District and the Pokot ethnic group along the northeastern border with Kenya continued to practice FGM.

A local NGO that monitors the prevalence of FGM reported that 92 girls were subjected to FGM from January to June in the districts of Kapchorwa, Bukwo, Kween, and Amudat. On June 25, police arrested Kam-Kosike Lonete for her involvement in FGM practices. Lonete was released on bail in July, and the case was pending at year's end.

Reproductive Rights.—There are no laws restricting couples or individuals from deciding freely and responsibly the number, spacing, and timing of their children. However, family planning information and assistance were difficult to obtain, particularly in rural areas, where there were few health clinics. There was no indication of discrimination against women in diagnosis or treatment of sexually transmitted infections, including HIV/AIDS. A January 2010 U.N. Development Program report cited maternal mortality at 550 deaths per 100,000 live births.

Discrimination.—The law invests women with the same legal status and rights as men. However, discrimination against women continued to be widespread, especially in rural areas. 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. Polygamy 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, a June 2010 study conducted by local NGO Actionaid found that although women did most of the agricultural work, they owned only 7 percent of the agricultural land. Women also experienced economic discrimination in access to employment, credit, income, business ownership, and senior or managerial positions.

Eliminating gender inequality remained a high priority for the government, which, in conjunction with NGOs and women's rights groups, sponsored workshops and training sessions throughout the country to increase awareness of women's rights.

Children.—Birth Registration.—Citizenship is afforded to children born in or outside 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 Ugandan citizens, as are children under the age of 18 adopted by Ugandan parents.

According to the most recent information provided by the 2006 Uganda Demographic and Health Survey, only 21 percent of rural and 24 percent of urban births were registered. However, lack of registration generally did not result in denial of public services. On September 13, the Uganda Registration Services Bureau (URSB), the government agency responsible for recording births and deaths, launched a computerized system that uses mobile telephones to deliver timely and

accurate records. The system enables officials to send details of births and deaths as a text message to the central server at URSB headquarters in Kampala.

Education.—The law 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 most underprivileged, had to pay for school supplies and some school operating costs, and many parents could not afford these fees. According to the Ministry of Education's statistics for 2009-10, 96 percent of primary school aged children were enrolled in school, with 62 percent of children reaching grade five and 32 percent reaching grade seven. Fewer girls complete primary school than boys by a difference of four percent.

Medical Care.—Health experts reported that 51 per cent of the population did not have access to state-provided health-care facilities. Where it is available, both girls and boys have equal access.

Child Abuse.—Child abuse remained a serious problem, particularly rape and sexual abuse of girls, and recorded cases greatly underestimated the true pervasiveness of abuse.

According to the 2010 annual police crime report, defilement (akin to statutory rape) remained the most common crime committed against children, with 7,564 cases recorded. The report also registered 709 cases of rape, 14 of child trafficking, 14 of child sacrifice, 9,293 of child neglect, 1,732 of child desertion, 1,315 of child abuse and torture, 301 of kidnapping, 46 of infanticide, and 274 of other sexual-related offences, including assault and incest. The government worked with UNICEF and NGOs, including Save the Children and African Network for the Prevention and Protection against Child Abuse and Neglect (APCAN), to combat child abuse in the country.

In March APCAN reported that corporal punishment remained a problem, with 81 per cent of students beaten at school despite a directive from the government.

There were numerous reports of ritual sacrifice of children during the year. The government took some steps to address this problem. For example, in April police in Namayingo District arrested three traditional leaders for the ritual murder of 10-year-old Rachael Nafula. Hearing of the case was pending.

Perpetrators of sexual abuse often were family members, neighbors, or teachers. In February 2009 the UPF began providing free rape and defilement medical examinations throughout the country to assist investigations. An estimated 10,000 victims of rape and defilement have since received free medical examinations at Mulago Hospital in Kampala.

Child Marriage.—The legal age for marriage is 18. Marriage of underage girls by parental arrangement was common, particularly in rural areas. Local NGOs and the Police Family and Children Unit reported that acute poverty forced some parents to give away their children, including girls as young as 14, for early marriage and sexual arrangements. A March 2009 U.N. report stated that 32 percent of marriages involved underage girls.

Sexual contact outside marriage with girls less than 18 years of age, regardless of consent or age of the perpetrator is considered "defilement" under the law and carries a maximum sentence of death. Nevertheless, such cases often were settled by a payment to the girl's parents.

Sexual Exploitation of Children.—Commercial sexual exploitation of children was a problem. According to a study conducted by the local NGO Uganda Youth Development Link during the year, the number of children affected by commercial sexual exploitation (most 14-17 years old) between 2004 and 2011 increased from 12,000 to an estimated 18,000, the majority of whom were Ugandan girls but also included children from the DRC, Rwanda, Burundi, Kenya, and Tanzania. The NGO identified parental neglect and abandonment as a major factor resulting in exploitation of children. While the law prohibits sexual exploitation of children, the government did not enforce the law effectively. The law does not prohibit child pornography. The minimum age of consensual sex is 18 years.

Child Soldiers.—As in the past six years, there were no reports that the LRA abducted or conscripted children within the country. According to UNICEF, an estimated 5,000 of the 40,000 Ugandan children abducted by the LRA in previous years for use as laborers, soldiers, guards, and sex slaves were still missing. There were numerous reports of LRA abductions of children in the DRC, CAR, and South Sudan.

Displaced Children.—Many children from the farming regions of Karamoja came to Kampala during the dry season to find food and work, and most of them ended up on the streets begging. Police routinely rounded up street children and relocated them to a remand home for juvenile delinquents where staff attempted to locate the

children's families and return them to their homes. For example, on June 28, authorities rounded up 292 street children and took them to Kampiringisa National Rehabilitation Centre in Mpigi. The remand center, understaffed and underfunded, was often unable to accommodate the influx of children from these roundups, and many children eventually returned to the streets of Kampala.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community was small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip/>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical, sensory, or mental disabilities in employment, education, access to health care, and the provision of other state services. The government did not enforce the law effectively, and persons with disabilities faced societal discrimination and limited job and educational opportunities. The UHRC also received complaints of discrimination in employment and access to transport and other public services. Most schools in the country did not accommodate persons with disabilities. There was no statutory requirement that buildings be accessible to persons with disabilities. While the law requires that children with disabilities be given necessary special facilities, a September survey conducted by the National Council on Disability showed that 80 percent of hospitals and health centers lacked access ramps.

The law reserves five seats in parliament for representatives of persons with disabilities. However, a government-sponsored NGO managed elections to these five seats in a process that was not transparent. Government agencies responsible for protecting the rights of persons with disabilities included the Ministry of State for Disabled Persons and the Ministry of Gender, Labor, and Social Development, but both agencies lacked sufficient funding to undertake any significant initiatives.

National/Racial/Ethnic Minorities.—There were isolated reports of violence between ethnic minorities in some parts of the country. For example, on June 19, interclan clashes between Pabwo and Lapyem over a disputed piece of land injured 15 people. A total of 120 persons from the Pabwo clan were displaced and eight huts burned.

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 had limited access to education, health care, land, and 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 renewed its demands for special recognition and compensation from the government for the land that had been nationalized.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—LGBT persons faced discrimination and legal restrictions. It is illegal to engage in homosexual acts, based on a law from the colonial era that criminalizes "carnal knowledge of any person against the order of nature" and provides a penalty up to life imprisonment. While no persons were convicted under the law, the government arrested persons for related offenses. For example, in July police arrested an individual for "attempting" to engage in homosexual activities. On July 15, a court in Entebbe charged him with "indecent practices" and released him on bail. Hearing of the case was pending at year's end.

LGBT persons were subject to societal harassment, discrimination, intimidation, and threats to their well-being and were denied access to health services. Discriminatory practices also prevented local LGBT NGOs from registering with the NGO Board and obtaining official NGO status (see section 2.b.).

On January 3, the High Court ruled that an obscure local tabloid had violated three LGBT persons' constitutional rights to privacy and human dignity in 2010 by publishing their pictures, identities, and addresses under the headline "Hang Them." This was the second High Court ruling upholding the rights of LGBT individuals. In 2008 the High Court affirmed LGBT individuals' constitutional right to human dignity, protection from inhuman treatment, and privacy in *Victor Juliet Mukasa and Yvonne Oyo v. Attorney General*.

On January 26, LGBT activist David Kato, who had successfully sued the local tabloid discussed above for the 2010 publication of his picture under the headline "Hang Them," was bludgeoned to death at his home outside Kampala. On February

2, police arrested Sidney Enock Nsubuga for Kato's murder. On November 9, Nsubuga pled guilty and was sentenced to 30 years' imprisonment.

On May 6, parliament's Parliamentary and Legal Affairs Committee held hearings on a draft "antihomosexuality" bill submitted to parliament in September 2009 by parliamentarian David Bahati. The draft legislation sought to impose punishments ranging from imprisonment to death for individuals twice convicted of "homosexuality" or "related offenses," including "aiding and abetting homosexuality," "conspiracy to engage in homosexuality," the "promotion of homosexuality," or "failure to disclose the offense" of homosexuality" to authorities within 24 hours. The committee heard testimony from local human rights and LGBT activists, the UHRC, the Uganda Prison Service, and "antihomosexuality" proponents. The draft bill expired when parliament adjourned on May 13. On October 25, the new parliament voted to "save and retain" two dozen expired bills from the previous session, including the draft "antihomosexuality" bill but took no further action. During the year several senior government officials stated they did not support the bill, and in 2010 the UHRC determined that the bill violates the constitution and international law.

On October 3, the Constitutional Court heard oral arguments on a 2009 petition filed by a local human rights and LGBT activists challenging the constitutionality of Section 15(6)(d) of the Equal Opportunities Commission Act. Section 15(6)(d) prevents the Equal Opportunities Commission from investigating "any matter involving behavior which is considered to be (i) immoral and socially harmful, or (ii) unacceptable by the majority of the cultural and social communities in Uganda." The petitioner argued that this clause is discriminatory and violates the constitutional rights of minority populations. A decision was pending at year's end.

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 HIV/AIDS. Persons with HIV/AIDS formed support groups to promote awareness in their communities.

NGOs reported that many HIV-positive inmates in the prisons did not have adequate access to antiretroviral medication, especially in rural areas, and that HIV-positive inmates were sometimes subjected to hard labor (see section 7).

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows workers, except for "essential" government employees including police, army, and management-level officials, to form and join independent unions. 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 activities without interference, prohibits antiunion discrimination by an employer, and provides for reinstatement of workers dismissed for union activity, the right to strike, freedom of association, and the right to bargain collectively. However, the government did not always protect these rights. Labor activists reported that government oversight of labor practices was poor and that the Ministry of Labor was underfunded and understaffed. Labor inspectors were present in only 44 of 112 districts. Most employees were not given written contracts of employment and had no job security or union representation.

Worker organizations were independent of the government and political parties. However, the five seats set aside in parliament for workers were filled by ruling NRM party members, and there were instances of government interference in union activity. For example, on August 25, police in Koboko District blocked branch elections for the district National Teacher's Union, citing security concerns.

As of October local media reported 24 strikes over low salaries, wages, and poor working conditions. Police occasionally arrested persons engaged in strikes or used tear gas to disrupt striking workers. For instance, on May 13, police arrested 27 workers for participating in a strike over low wages and poor working conditions at Kakira Sugar Factory in Lugazi.

There were some developments in previous cases of police arrested for using excessive force to disrupt striking workers. In August Police Constables Augustine Kasangaki, Luke Mbusa, and Romeo Ojara were tried and convicted for neglect of duty, cowardice, and discreditable conduct for using live ammunition to disrupt a September 2010 strike at British American Tobacco Uganda, resulting in the deaths of Dennis Bazara and Bernard Byabasaija. The defendants were fined shillings 30,000 (\$12) and demoted. Their appeal of the ruling was pending at year's end.

Antiunion discrimination occurred in practice, and labor activists accused several companies of preventing employees from joining unions by denying promotions, not

renewing work contracts, and sometimes refusing to recognize unions. In September the Uganda National Teacher's Union reported that it received 26 complaints of government officials harassing union members who took part in a teacher's strike that occurred in early September and in October, and that the government allegedly dismissed teachers for participating in the strike.

Public service unions, including medical staff and teachers, were able to negotiate their salaries and employment terms through their unions; however, salaries for "essential government employees" including the police, military, and management-level officials were fixed by the government. Labor activists reported that some employers ignored the legal requirement to enter into Collective Bargaining Agreements (CBA) with registered unions. Labor activists also reported that some employers resorted to subcontracting and outsourcing services or hired workers temporarily in order to avoid CBAs. A total of 133 CBAs were signed during the reporting period.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but does not expressly prohibit prison labor, as 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." The government did not always enforce the law, and there were reports that forced labor practices occurred, particularly in prisons (see section 1.c.). Prison officials allegedly hired out prisoners to work on private farms and construction sites, where prisoners were often overworked. Male prisoners performed arduous physical labor, while female prisoners produced marketable handicrafts such as woven basketry. Compensation, when paid, generally was very low. Prisoners did not have savings accounts, but prison accounting staff recorded wages owed in a book.

Exploitive and/or forced child labor predominantly occurred in agriculture, transport, mining, street vending/begging, scrap collecting, stone quarrying, brick making, road construction and repair, car washing, fishing, domestic nanny and housekeeper service, bar/club service work, and border smuggling. International organizations reported that programs in collaboration with the government removed 6,599 children from child labor in Wakiso, Rakai, and Mbale districts during the year. In addition, the government, through its National Steering Committee on Child Labor, worked with international organizations to implement strategies to prevent new cases of forced labor that included support to education, awareness-raising campaigns, and village savings and loan associations.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits employers from hiring workers below the age of 18. However, regulations of the Ministry of Gender, Labor, and Social Development (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. The law prohibits children from working between the hours of 7 p.m. and 7 a.m. and does not allow children to be employed in work that is "injurious to his or her health, dangerous or hazardous or otherwise unsuitable." In addition, the law provides for inspection of workplaces, identification of hazards at the workplace, and other related matters for all workers, including children. However, the MGLSD, tasked with providing social services to children workers, was inadequately funded and had not conducted child labor inspections since 2004.

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 Ministry of Gender, Labor, and Social Development. Financial constraints limited efforts. For instance, because the Industrial Court lacks judges, labor disputes were handled by the High Court or the Magistrates' Court. The Ministry of Gender, Labor, and Social Development provided social services to children working in the worst forms of child labor and other target groups and conducted training for staff, local leaders, and district labor inspectors. Sixty of its district labor officers were responsible for reporting on child labor issues. However, due to lack of funds and logistical support, district labor officials had not conducted child labor inspections since 2004. The government coordinated its efforts to stop child labor through the National Steering Committee on Child Labor, which included representatives of the MGLSD, Ministry of Education and Sports, Ministry of Local Government, Federation of Uganda Employers, National Organization of Trade Unions (NOTU), NGOs, journalists, and academics. The steering committee last met in February.

The government cooperated with the International Labor Organization (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. The government, with the support of the ILO, was implementing a Support to National Action Plan for the elimination of the worst forms of child labor. The project was jointly implemented by civil society organizations, trade unions, the Federation of Uganda Employers, and the MGLSD.

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. According to UNICEF'S State of the World's Children 2011 report, 36 percent of children 5 to 14 years old were forced to work under poor conditions and health and safety standards. In urban areas children sold small items on the street, worked in shops, begged for money, and were exploited 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.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda>.

d. Acceptable Conditions of Work.—The minimum legal wage was set in 1984 at 6,000 shillings (\$2.18) per month. In 2003 the government and the private sector negotiated a new rate of 54,000 shillings (\$19.64) per month, which had not been implemented by year's end.

In industries that employed workers on an hourly basis, the normal workweek was 40 hours. The legal maximum workweek is 48 hours, but 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. 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. Many industries paid workers annual bonuses in lieu of overtime.

The law establishes occupational safety and health standards, and the MGLSD's Department of Occupational Health is responsible for enforcement of those regulations. The law also provides workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment. All workers, including foreign and migrant workers, are covered under the law. 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."

In practice the law was not effectively enforced due to the lack of vehicles and financial constraints, and as a result no inspections were carried out during the year. There were reports that workers were dismissed for their refusal to perform dangerous work. Workers in the agriculture and flower industry carried out strikes during the year because of delays in the payment of wages. Workers in the informal sector were subject to hazardous working conditions.

NOTU officials recorded nine deaths and 11 injuries during the year due to poor safety practices at several construction projects.

ZAMBIA

EXECUTIVE SUMMARY

Zambia is a republic governed by a democratically elected president and a unicameral national assembly. In multiparty general elections on September 20 that were considered generally free and fair by international and local observers, leader of the opposition Patriotic Front (PF) Michael Chilufya Sata was elected president. The previous ruling party, the Movement for Multiparty Democracy (MMD), had exerted considerable influence through its patronage and allotment of government resources. Security forces reported to civilian authorities.

Serious human rights abuses occurred during the year. The most important were security force attacks on the physical integrity of persons, including unlawful

killings, torture, beatings, and abuse; life-threatening prison conditions; and arbitrary arrests and prolonged pretrial detention.

Other serious human rights problems included 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.

The government generally did not take steps to prosecute or punish officials who committed abuses, and impunity remained a problem.

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

a. Arbitrary or Unlawful Deprivation of Life.—Unlike the previous year, there were a few reports that the government or its agents committed arbitrary or unlawful killings.

For example, on January 14, police killed two persons and injured several others during a violent crackdown on protests in Mongu and Limilunga, Western Province. Protesters had gathered in Limilunga to demand the restoration of the 1964 Barotseland Agreement (see section 6). The new government, which assumed power in September, appointed a commission of inquiry to look into the killings. By year's end, the commission had not issued a report.

The government rarely punished perpetrators. 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 retrain police on the use of force.

There were no further developments in the following killings in 2010: the September shooting of a suspect by three police officers in Chipata, and the unconfirmed October reports of police killing of two persons in Mongu.

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 irregular immigrants. The government's Human Rights Commission (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.

For example, on May 27, police arrested Edwin Kambia and allegedly undressed him, soaked him in water, locked him in the trunk of a vehicle, and in the trunk set off a tear-gas canister from which he received multiple burns on his face and body. No action was taken against the perpetrators.

There were no further developments in the following 2010 reports of inhuman and degrading treatment: the September report by Human Rights Watch (HRW) noting that dozens of prisoners had been beaten or tortured with electricity in six prisons, or a November report that police tortured a man who died while in police custody in Lusaka.

According to human rights groups, there were reports of police demanding sex from female detainees as a condition for their release. There also were reports that police officers raped women and girls while they were in custody.

Prison and Detention Center Conditions.—Prison conditions were poor and life threatening. An inefficient judiciary delayed court proceedings, which contributed to the holding of large numbers of pretrial detainees in prison for extended periods and exacerbated overcrowding. The country's prisons, which were built to hold 5,500 inmates, held 16,670 prisoners and detainees in April 2010, according to the Prisons Service. For example, Lusaka Central Prison, which was designed to accommodate 200 prisoners, held more than 1,500. By law police can detain suspects up to 24 hours in holding cells before transferring them to one of the "remand prisons," which are supposed to house detainees prior to conviction exclusively but, in practice, were also used to hold convicted prisoners. Conditions in remand prisons did not generally differ from those in other prisons.

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. Prisons generally had inadequate provisions for ventilation, temperature, lighting, and basic and emergency medical care.

Prisoners routinely complained that authorities denied them access to medical care as provided 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 deaths of prisoners. The supply of tuberculosis drugs 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. Antiretroviral treatment was available to some prisoners with HIV/AIDS, but poor nutrition often rendered the treatment ineffective. Authorities denied many prisoners access to condoms. From 1995 to 2000, approximately 2,400 inmates and 260 prison staff died of AIDS-related illnesses. The percentage of prisoners infected with HIV/AIDS was significantly higher than the general population. Approximately 27 percent of men and 33 percent of women in prison were infected, while about 14.3 percent of the general population was HIV positive.

Juveniles often were not held separately from adults. Women and men were generally held separately. Prison conditions for women were somewhat better than for men. In a 2010 report HRW estimated that women made up 18 percent and juveniles 10 percent of all prisoners. Incarcerated women who had no alternative for childcare could choose to have their infants and children under the age of four with them in prison. However, prisons provided no food or medical services to such children, and mothers had to share their meager rations with them in an environment that often exposed the children to disease without appropriate medical care. Pretrial detainees were not held separately from convicted prisoners.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. The government did not actively investigate or monitor prison and detention center conditions. Prisoners and detainees generally could not submit complaints to judicial authorities or request investigation of credible allegations of inhumane conditions.

The government permitted prison visits by both domestic and international nongovernmental organizations (NGOs) during the year, including by religious institutions, and the Legal Resources Foundation. There were no ombudsmen who could serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate inhumane overcrowding; address the status and circumstances of confinement of juvenile offenders; or improve pretrial detention, bail, and recordkeeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offense.

d. Arbitrary Arrest or Detention.—Although the constitution and law prohibit arbitrary arrest and detention, the government did not respect these prohibitions in some instances.

On August 18, the High Court freed Mateo Mfula Kapotwe, who had been detained without trial for more than 10 years on charges of murder.

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 countrywide. Although the government identified a need for 27,000 police officers and hired approximately 1,500 new officers during the year, only an estimated 15,000 police were on duty at year’s end.

The approximately 21,600-member defense forces, divided into the army, air force, and national service, have primary responsibility for national defense and cooperation with the appropriate civilian authority in times of natural disasters and other emergencies. 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, counterfeiting, and money laundering. The DEC employs approximately 300 agents to oversee illegal drug enforcement.

Lack of professionalism, poor investigatory skills, and inadequate discipline in the security forces remained serious problems. Low salaries and substandard government housing exacerbated police corruption, as did poor working conditions.

In an effort to address these issues, the Police Public Complaints Authority (PPCA) encouraged aggrieved members of the public to report cases of human rights abuse by police. The PPCA met during the year to review complaints regarding police conduct that were not resolved through internal police channels. However, many cases of abuse went unreported due to citizen ignorance of the PPCA and fear of retribution.

Civilian authorities maintained control over security forces, and the government generally investigated credible reports of corruption or abuse by security forces.

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. 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, or unlawful assembly. 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. Although the law provides that indigents should have a state-provided attorney when they face serious charges, public defenders were overwhelmed, and many of the defendants had no legal counsel. Despite the law's providing that persons arrested must appear before a court within 24 hours of their arrest, detainees frequently were held for much longer periods because prosecutors routinely required that officers collect additional evidence before presenting cases to court. 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.

Although there was a functioning bail system, 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 murder, aggravated robbery, and violations of narcotics laws. In practice police generally did not respect a prisoner's 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.—Arbitrary arrest and detention remained problems. Police arbitrarily arrested family members of criminal suspects. Criminal suspects were arrested in some instances 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 via suspensions and written reprimands, although dismissals for extortion were rare.

Pretrial Detention.—Prolonged pretrial detention was a problem, and some defendants awaited trial for 10 years or even longer. Approximately one-third of persons incarcerated in remand and other 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.

Amnesty.—During the year at least 1, 275 prisoners were granted amnesty. On March 9, then president Banda remitted the sentences of 574 inmates and ordered their immediate release from prisons across the country. On September 29, newly elected President Sata pardoned at least 28 prisoners who were involved in the January riots in Mongu, Western Province, and on October 23, he pardoned a further 673 prisoners from across the country.

e. Denial of Fair Public Trial.—While the constitution and law provide for an independent judiciary, 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. At the same time, during the year the courts in some instances 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.

Trial Procedures.—Defendants are considered innocent until proven guilty. Trials in the 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, but many defendants lacked the resources to retain

a lawyer. The law provides for free legal counsel when indigent defendants face serious charges. Public defenders, however, were overwhelmed with cases and assisted few detainees. 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.

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

Civil Judicial Procedures and Remedies.—There is a largely 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. At the same time, 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, but 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, ZSIS, and police authority to monitor communications using wiretaps on the basis of a warrant issued on probable cause.

Authorities sometimes detained, interrogated, and physically abused family members of criminal suspects to obtain their cooperation in identifying or locating suspects.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—Although the constitution and law provide for freedom of speech and press, the government restricted these rights in practice. The law includes provisions that may be interpreted broadly to restrict these freedoms.

Freedom of Speech.—The government generally allowed but sometimes attempted by intimidation to impede individuals' right to criticize the government. For example, on January 18, police detained The Post's journalist Mwala Kalaluka for allegedly discussing the January 14 Barotseland Agreement riots over the cell phone.

Freedom of Press.—Two of the most widely circulated newspapers were government-run. Until the September 20 national elections, the ruling party 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.

The independent media were active and expressed a wide variety of views. A number of privately owned newspapers questioned government actions and policies. Although these circulated without government interference, officials used the law to suppress criticism of political or other leaders. For example, on September 8, law enforcement officers briefly detained The Post's photojournalist Thomas Nsama for allegedly taking pictures of accused prisoners outside the court and deleted the pictures from his camera, on grounds what he did amounted to espionage.

In addition to a government-controlled radio station, numerous private radio stations existed. The government-owned Zambia National Broadcasting Corporation (ZNBC) was the principal local-content television station. Several private television stations, including foreign-owned media, also broadcasted locally.

Violence and Harassment.—Government officials and ruling party supporters repeatedly targeted the leading independent newspaper with threats and litigation for publishing information critical of the government.

On July 18, more than 100 supporters of the then-ruling MMD beat a Muvi-TV crew and seized media equipment and cell phones while the crew interviewed a woman whose land was allegedly confiscated by MMD supporters in Lusaka. At least 11 suspects were reportedly arrested and charged for their part in the violence. Their cases remained pending at year's end.

The government detained and censured individuals responsible for programs the government deemed offensive.

The law permits presidential investigative tribunals to call as witnesses journalists and media managers who printed 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 infringements of freedom of the press and claimed they were means for parliamentar-

ians, some of whom concurrently served in cabinet positions, to bypass the court system.

Censorship or Content Restrictions.—Journalists in the government-controlled media generally practiced self-censorship.

On January 14, police closed down Radio Lyambai for allegedly inciting violence during the Barotseland riots in Mongu; it remained closed by year's end.

Internet Freedom.—There were no government restrictions on access to the Internet or credible 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.

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 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 may be held and who may address participants. The government on occasion used the law's broad mandate to change arbitrarily the time and date of rallies, particularly of opposition political parties and NGOs, and did so during the year, including during by-election campaigns.

There were cases of police using violence to disperse protests (see section 6 National/Racial/Ethnic Minorities).

For example, on April 18, police used violence to quell riots in Mansa, which led to the death of four persons and injured several others. Police arrested more than 220 protesters.

Freedom of Association.—The law provides for freedom of association, but the government has placed some limits on this right. All organizations must formally apply for registration to the Ministry of Home Affairs' Registrar of Societies. The registration process was long and permitted considerable discretion on the part of the registrar. Unlike previous years, there were no known cases in which the registrar refused to register an organization.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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 in practice.

The government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern. Refugees were required to have permission from the government to move or live outside refugee camps. Such permission was frequently granted.

In-country Movement.—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.

Protection of Refugees.—*Access to Asylum.*—The law provides for the granting of asylum or refugee status, and the government has established a system 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.

According to the UNHCR, by year's end, the country hosted 32, 242 refugees, mainly from Angola and the Democratic Republic of Congo (DRC). Approximately 27,000 resided in the refugee settlements of Meheba and Mayukwayukwa, and about 5,255 were living in urban areas.

Refugee Abuse.—The law prohibits physical and sexual abuse of anyone within the country, including refugees. Although cases of sexual and gender violence against refugees were known to occur, no specific cases were reported during the year.

Access to Basic Services.—Refugees were provided access to basic services, education, police, and courts. Government policy limited refugees' legal employment options to refugee camps, unless refugees obtained specific government authorization to work outside camps.

Durable Solutions.—The government cooperated with the UNHCR in facilitating durable solutions for refugees. Over 2,000 Angolans voluntarily repatriated during

the year along with smaller number of refugees from the DRC, Rwanda, and Burundi. The government announced that it would offer legal integration, including citizenship and permanent residence status, to at least 10,000 Angolans who wished to remain in Zambia. However, by year's end, no official steps had been taken to implement this offer formally.

Temporary Protection.—The government also provided temporary protection to individuals who may not qualify as refugees. However, there were reports during the year the government expelled Zimbabweans and other foreign nationals who could not provide evidence they were refugees and were therefore considered irregular migrants.

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.—Recent Elections.—On September 20, Michael Chilufya Sata of the PF was elected president with 41.9 percent of the vote. Former president and MMD candidate Rupiah Banda received 35.4 percent, and Hakainde Hichilema of the United Party for National Development (UPND) 18.17 per cent. The rest of the votes were shared by seven other contenders who each obtained less than 1 percent. Of the 150 constituency-based parliamentary seats, the PF won 60, the MMD 55, the UPND 28, the Alliance for Democracy and Development (ADD) one, and the Forum for Democracy and Development (FDD) one; three candidates were elected as independent members. The three remaining seats were contested on November 28; two went to the PF and one to the UPND. Although the then-ruling MMD campaign was characterized by abuse of public resources and a progovernment public media campaign, several local and international observers concluded that the elections were generally free and credible.

Political Parties.—Political parties could operate generally without restriction or outside interference, and individuals could independently run for election. However, many observers believed that the then ruling MMD, in the lead-up to the general elections, exerted considerable influence over the electoral process by using government resources to conduct political campaigns. In the aftermath of the September 20 elections, several MMD officials faced victimization at the hands of the PF government and supporters. For example, on December 21, police arrested William Banda, a prominent MMD leader, for “unlawful assembly” while he held a meeting with 19 other MMD members at a restaurant in Lusaka. He was subsequently released.

Participation of Women and Minorities.—During the September 20 general election, female candidates for parliament won 17 of 150 constituency-based seats. Two women were appointed to the 20-member cabinet, and five to the 11-member Supreme Court. There was one minority member of parliament who was subsequently appointed vice president. No laws or traditions directly prevent women from voting or participating in political life on the same basis as men.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government attempted to implement the law. Nevertheless, some officials engaged in corrupt practices with impunity. Petty corruption among police and other public authorities was particularly problematic. Police, who enjoyed a high degree of impunity, released prisoners for bribes, extorted money from victims, and required “document processing fees,” or “gas money” to commence investigations.

The World Bank's latest Worldwide Governance Indicators reflected that corruption was a serious problem. There remained a widespread public perception that corruption was pervasive in almost all government institutions.

The government has a National Anti-Corruption Policy and National Anti-Corruption Implementation Plan. The Anti-Corruption Commission (ACC), which reports independently to the president, is responsible for combating government corruption. The government continued its collaboration with the international community to improve its capacity to investigate and prevent corruption. Parliamentary committees sustained their scrutiny of operations of the executive branch and corrected some irregularities reported by the Office of the Auditor General. The ACC continued its prosecutions and public educational activities.

Upon assuming office on September 23, President Sata ordered investigations into alleged corruption in the procurement of oil by the Energy Regulation Board and the sale of the former parastatal Zamtel and the Zambia Revenue Authority. Presi-

dent Sata also dismissed several senior government officials from the former regime, including Director General for the ACC Colonel Godfrey Kayukwa, DEC Commissioner Aaron Zulu, Police Inspector General Francis Kabonde, and Attorney-General Abyudi Shonga, on suspicion of being corrupt or compromised.

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 handling evidence in corruption cases, and the process to liquidate assets seized in these cases was not transparent.

During the year the government investigated and prosecuted corruption cases.

On November 16, former Minister of Mines Maxwell Mwale was arrested and charged with possession of more than 260 bicycles suspected to have been unlawfully obtained. The case was pending in court at year's end.

On November 30, police arrested and charged former Minister of Labor Austin Liato with receiving property suspected to have been stolen, following the unearthing of 2.1 billion kwacha (\$410,000) from his farm. The case was pending in court at year's end.

In a February 2011 report for the year which ended December 2009, the auditor-general revealed financial irregularities in all the ministries and Zambia's foreign missions totaling 318 billion kwacha (\$62 million). The irregularities included petty cash abuse, unauthorized or wasteful expenditures, irregular payments, undelivered materials, overpayments, and revenue not properly accounted for.

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. Disclosures are made to the chief justice, but members of the public have a right to inspect the records.

The law does not provide for public access to government information; nonetheless, the government provided information to media and other interested parties, including foreign media, on an informal 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.

Although the government enacted a law to regulate NGOs in 2009, it had not officially implemented the law by year's end. The ministry tasked with implementing the law lacked the necessary resources and technical capacity. 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 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.

U.N. and Other International Bodies.—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 U.N. representatives and other organizations.

Government Human Rights Bodies.—The HRC monitored human rights conditions, interceded on behalf of persons whose rights it believed the government denied, 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. At the same time, independent human rights groups noted that the HRC was understaffed, underfinanced, and relied on the goodwill of police and other government agencies to enforce its recommendations.

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 children, discrimination based on sexual orientation, trafficking in persons, and discrimination against persons with disabilities remained problems.

Women.—Rape and Domestic Violence.—The law prohibits rape, and courts have discretion to sentence convicted rapists to life imprisonment with hard labor. Rape

is nonetheless widespread. The government did not enforce the law effectively and obtained few rape convictions.

In 2010 the ZPS's Victim Support Unit (VSU) recorded 254 cases of rape, 35 cases of attempted rape, and 170 cases of indecent assault; 45 defendants were convicted of rape, 17 were acquitted, and 10 cases were withdrawn. However, these totals greatly understated the actual extent of the problem. 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. On April 12, former president Banda signed the Anti-Gender Based Violence Act and an amended penal code into law to protect women from gender-based violence. The law provides for protection orders for victims of domestic and gender violence. Most of the gender-based crimes are prosecuted under the revised penal code, and penalties for assault range from a fine 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 a deceased husband's relatives. In practice the police were often reluctant to pursue reports of domestic violence and preferred to encourage reconciliation.

Harmful Traditional Practices.—Polygamy is legally permitted under customary law. 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 in a few rural areas. However, many local leaders banned the practice. The penal code prohibits "sexual cleansing" of children under the age of 16.

Sexual Harassment.—Sexual harassment was common. Although the law only prohibits sexual harassment of children, the penal code contains provisions under which some forms of sexual harassment of women could be prosecuted. Although the government has sometimes successfully prosecuted persons for such actions, no such case was reported during the year.

Sex Tourism.—Sex tourism occurred but was not prevalent.

Reproductive Rights.—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. Scarcity of information 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 prenatal, obstetric, and postpartum care. According to a 2010 U.N. estimate, 27 percent of women aged 15 to 49 used a modern method of contraception and 47 percent of births were attended by skilled health personnel. A 2010 U.N. report estimated that in 2008 the maternal mortality ratio was 470 per 100,000 live births and a woman's lifetime risk of maternal death was one in 38 in 2008. Barriers that limited access to reproductive health services included limited information, cost implications, religious reasons, and some myths surrounding contraceptives, as well as lack of access to health facilities.

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.

Discrimination.—The law generally entitles women to equality with men. At the same time the government did not adequately enforce the law, and women experienced discrimination in employment, education, and land and property ownership. Employed women 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, although some financial institutions allowed women to sign independently for loans. As a result, few women owned their own homes or businesses. The Gender and Child Development Division is the government's primary agency 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.

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 deceased's parents 20 percent, and other dependents 10 percent. In a polygamous marriage, the widow's share must be divided

proportionally with other wives, based on the length of time each has stayed in the marriage. Property grabbing from widows remained widespread. The courts generally considered property grabbing a criminal offense and mandated up to three years' imprisonment for these cases. However, most property grabbing cases were decided in local courts, which administer customary law and do not have the power to impose prison sentences. The fines the local courts imposed were low.

Children.—Birth Registration.—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.

Education.—Although government policy calls for tuition-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.

Child Abuse.—Although the law prohibits sexual harassment of children, child abuse and violence against children were common problems. The punishment for assault or battery on a child causing bodily harm is imprisonment for five to 10 years, and the law was generally enforced. For example, on June 22, a teacher reportedly beat and stripped a student for allegedly refusing to water flowers on school grounds. Ministry of Education officials publicly condemned the teacher's act.

Child Marriage.—The 2007 Zambian Demographic and Health Survey published by the Central Statistical Office indicated that 46 percent of women between the ages of 20 and 49 were married by age 18, including 11.6 percent who were married by age 15. Child marriage was more common in rural areas than in urban centers. UNICEF estimated that 42 per cent of women aged 20-24 were married before the age of 18. Although a person must be at least 16 years old to marry under formal law, there is no minimum age under customary law. Some local leaders spoke against child marriage and took steps to discourage it; most, however, condoned the practice.

Harmful Traditional Practices.—Female genital mutilation (FGM) is prohibited under the country's penal code and rarely occurred in practice. Most cases of FGM were limited to small communities of immigrants from other parts of Africa. There were no cases of FGM reported during the year.

Sexual Exploitation of Children.—Defilement, which the law defines as the unlawful carnal knowledge of a child under the age of 18, was particularly common. The police's VSU recorded 2,419 defilement cases in 2010, a total thought to understate the true prevalence greatly; prosecutions resulted in 240 convictions and 162 acquittals.

The police and magistrates' courts intervened in cases of gross child abuse. The law criminalizes child prostitution and child pornography, with penalties of up to life imprisonment for perpetrators. Child victims of prostitution are not charged unless they are also pimps over 12 years of age. 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.

Displaced Children.—There were a large number of displaced and institutionalized children. According to the 2007 Zambian Demographic and Health Survey, the country had approximately 1.1 million orphaned children under age 17, including an estimated 600,000 children orphaned as a result of HIV/AIDS. Orphaned children faced greater risks of child abuse, sexual abuse, and child labor. The survey estimated four in 10 children under age 18 were not living with both parents, one in five was not living with either parent, and 15 percent were orphaned. Across the country about 200 children's care homes, accommodated approximately 5,000 children.

An estimated 20,000 to 30,000 children lived on the streets, often begging or prostituting themselves to survive. The Ministry of Education, Science, and Vocation Training; Community Development, Mother and Child Health; and ZPS Child Protection Unit (CPU) worked jointly with the police to identify and assist street children. The ministry's District Street Children Committee authorized the CPU to place children, including orphans and neglected children, in government- and NGO-operated shelters. The CPU reintegrated street children with their families, sent them to school, and placed others in shelters. The Ministry of Community Develop-

ment, Mother, and Child Health also maintained a cash-transfer scheme to target vulnerable families who might otherwise send minors into the streets to beg or work. The Ministry of Labor, Sport, and Youth 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 were placed in youth resource centers throughout the country, where they received training in carpentry, tailoring, farming, and other trades.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were approximately 35 persons in the Jewish community; there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The law prohibits discrimination in general, but there is no law that specifically prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, access to health care, the provision of other state services or in other areas. Although the government did not restrict persons with physical or mental disabilities from voting or participating in civic affairs, the law prohibits those with mental disabilities from holding public office. Persons with disabilities faced significant societal discrimination in employment and education.

The Ministry of Education, Science and Vocational Training, and the Ministry of Community Development, Mother and Child Health have responsibility for ensuring the welfare of persons with disabilities. However, 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. No patterns of abuse of persons with disabilities in prisons were reported.

National/Racial/Ethnic Minorities.—The country's seven major ethnic groups—Bemba, Kaonde, Lozi, Lunda, Luvale, Ngoni, and Tonga—are divided into 73 ethnic subgroups. The government protected their civil and political rights and any rights under the law to share in revenue from the exploitation of natural resources on tribal lands. The government generally permitted autonomy for ethnic minorities and encouraged the practice of local customary law. Some political parties maintained political and historical connections to tribal groups and promoted their interests.

The government grants special recognition to traditional leaders, including the Barotse Royal Establishment (BRE) as the political authority of the Lozi ethnic group. However, the government does not recognize the 1964 Barotseland Agreement signed by the United Kingdom, Northern Rhodesia, and the BRE immediately prior to Zambia's independence that granted the Lozi political autonomy. Some Lozi groups have demanded official recognition of Barotseland Agreement.

On January 14, police killed two persons, injured more than 20, and arrested 129 who gathered in Limilunga to demand the restoration of the Barotseland Agreement. The protests spread to Mongu when police cracked down on protesters. Those arrested were charged with offenses ranging from treason to conduct likely to cause breach of peace. Upon assuming office on September 23, President Sata pardoned and released all the Barotse detainees and appointed a commission of inquiry to investigate the January disturbances (see section 2.b.).

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law criminalizes consensual same-sex sexual activity and provides penalties of 15 years to life imprisonment for individuals who engage in "unnatural" acts. A lesser charge of "gross indecency" carries penalties of up to 14 years imprisonment. The government enforced the law against same-sex sexual activity and did not respond to societal discrimination. Societal violence against gay men occurred, as did societal discrimination in employment, housing, and access to education or health care. Some groups actively promoted the rights of lesbian, gay, bisexual and transgender (LGBT) persons, but none was formally registered. Groups held social gatherings but did not participate in open demonstrations or marches, due to societal discrimination against LGBT persons.

On March 17, Magistrate Mwaka Mikalile convicted three male students at Kabulonga Boys High School in Lusaka of committing indecent practices against other male students and sentenced them to 12 months in a reformatory school with counseling. Two other students were acquitted.

Other Societal Violence or 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 they 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.

Individuals increasingly sought free access to HIV/AIDS counseling and testing, and more than 380,000 HIV patients, including more than 23,000 children, were receiving antiretroviral treatment by year's end.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides for the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively. The law allows workers to form and belong to trade unions of their choice without previous authorization or excessive requirements, but police officers and military personnel were not permitted to form unions. The law allows unions to conduct their activities without interference.

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, but the law provides for notice, reconsideration, and right of appeal to an industrial relations court.

The law provides 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 and health services, 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. The process of exhausting other legal alternatives to striking is lengthy. The law does not limit the scope of collective bargaining.

The law also prohibits antiunion discrimination and employer interference in union functions, and provides remedies for workers dismissed for union activity.

The government generally protected unions' right to conduct their activities without interference in practice. The government enforced the law prohibiting antiunion discrimination and employer interference in union functions.

Freedom of association and the right to collective bargaining were generally respected.

Workers exercised most of these rights in practice. Workers' organizations were independent of government and political parties. Although there were no reports of antiunion discrimination or other forms of employer interference in union functions, there were reports of violence against labor protesters. For example, on January 18, a security guard shot and killed National Pensions Scheme Authority (NAPSA) worker John Phiri on site during a protest by NAPSA workers demanding better working conditions.

On April 2, prosecutors discontinued the case against two Chinese managers at the Chinese Collum Coal Mine (CCM) in Sinazongwe, following compensation of the 13 victims who were shot and wounded during a protest. The government took some steps to improve working conditions at the mine.

Some employers reportedly frequently refused to bargain with workers' unions and often employed casual workers or workers on short-term contracts in order to avoid hiring workers on long-term basis and consequently empowering them with more bargaining power.

While the law provides for the right to strike, due to lengthy procedural requirements, most unions chose to strike illegally. Workers who engaged in illegal strikes can be dismissed by their employers; the government at times intervened for political reasons when such dismissals occurred.

For example, on March 27, workers at the Shoprite grocery chain went on strike for health benefits. The strike lasted more than three days. Although management dismissed all striking workers, the government and trade unions intervened, and all were reinstated.

There are no known special laws or exemptions from regular labor laws in the Lusaka and Chambishi Multi-Facility Economic Zones.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. 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. The government largely effectively enforced such laws.

There were reports that such practices occurred in labor-intensive, informal-sector work, particularly in domestic service, hospitality, agriculture, and construction.

Forced labor also occurred in the agriculture and mining sectors but was not common. Although forced labor most commonly involved Zambian women and children, Asians and South Asians continued to be brought to and through Zambia for forced labor in the mining and construction industries. An increasing number of Chinese and Indian men recruited to work in Chinese or Indian owned mines in the Copperbelt region were reportedly kept in conditions of forced labor by mining companies.

Also see the Department of State's Trafficking in Persons Report at <http://www.state.gov/j/tip>.

There were no reports of the government's calling on citizens to perform traditionally obligatory communal work during the year.

c. 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. The minimum age for employment is 15; for hazardous work, it is 18. The act makes no specific references to children. Restrictions on child labor relate to prohibiting work that harms a child's health and development, or work that prejudices a child's attendance at school. The law also prohibits slavery and the procurement or offering of a child for illicit activities. Although required by its international obligations, Zambia had not promulgated a list of occupations considered the worst forms of child labor. Among the worst forms prohibited by law are child prostitution, slavery in all its forms, forced military conscription of children, and work that is harmful to the safety, health, or morals of children and young persons.

The Ministry of Labor, Youth, and Sport serves as chair of the National Steering Committee on Child Labor, which is responsible for the implementation and enforcement of child labor laws and regulations, with penalties for violations ranging from a fine to a maximum of 25 years' imprisonment, or both. Labor inspectors may also enter family homesteads and agricultural fields to check for child labor violations.

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. Because more than 92 percent of child labor occurred in the agricultural sector, most often with the consent of families, inspectors from the Ministry of Labor, Youth, and Sport focused on counseling and educating families that employed 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. Local governments maintained 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, to mobilize communities to eliminate the worst forms of child labor, and to monitor the implementation of child labor programs at the district and village levels. The government continued to provide awareness and training activities for officials charged with enforcing child labor laws, but the Ministry of Labor, Youth, and Sport reported that resource constraints prevented it from providing all required training. The government participated in several projects to combat child labor and has generally been supportive.

Nevertheless, child labor was a problem in subsistence agriculture, domestic service, construction, farming, transportation, prostitution, quarrying, mining, and other informal sectors, where children under the age of 15 often were employed, and the law was not always effectively enforced. According to the Zambia Labor Force Survey released in August, over one-third of children aged 7-14 years, some 950,000 children in absolute terms, were at work in 2008. This was down from nearly 48 percent of children employed in 2005. Of those employed, nearly 92 percent worked in agriculture.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/llab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The minimum wage (basic pay, excluding other allowances) was raised in January from 268,000 kwacha (\$52) per month to 419,000 kwacha (\$82) 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 cat-

egory of employment. 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. Most minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on extended family. The minimum wage statutory instrument did not apply to domestic servants. The Ministry of Labor, Youth, and Sport is responsible for enforcing the minimum wage, and its inspectors received and resolved complaints.

According to the law, the normal weekly hours should not exceed 48 hours. The standard workweek is 40 hours for office workers and 45 hours for factory workers. There were limits on excessive compulsory overtime, depending on the category of work. The law requires 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 law also regulates minimum occupational safety and health (OSH) standards in industry. The law protects the right of workers to remove themselves from work situations that endangered health or safety without jeopardy to their continued employment. City and district councils were responsible for enforcement. The inspector of factories under the minister of labor handled factory safety. The Ministry of Labor, Youth, and Sport Youth continued to conduct labor inspections during the year and ordered businesses to close when it found significant violations of labor laws. Some small-scale employers and mining firms did not abide by the law on minimum wages.

The government effectively enforced the workweek standards. However, due to staffing shortages, the government enforcement of the OSH standards was limited.

An HRW report on Chinese mines released in November indicated that miners worked long hours without sufficient overtime pay, were often victims of preventable accidents, and worked under threat of being fired for refusing to work in areas reasonably perceived to be dangerous. Across these mines, workers reportedly developed serious lung disease, such as silicosis, due to poor ventilation and constant exposure to dust and chemicals. The government throughout the year engaged mining companies and took some steps to improve working conditions in the mines.

Despite the legal protection, workers did not exercise the right to remove themselves from work situations that endangered their safety and health in practice. The government acted when well known occupational health problems existed, such as by requiring that underground mine workers receive annual medical examinations. However, the November HRW report stated that many mine accidents were not reported to the government and estimated that on average 15 fatalities were recorded each year since 2001.

On April 25, a contractor employee working for Avantech at Lumwana Mine in North Western Province was crushed to death by a grader.

ZIMBABWE

EXECUTIVE SUMMARY

Zimbabwe is constitutionally a republic, but its authoritarian government was not freely elected and has been dominated by President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) since independence in 1980. Presidential and parliamentary elections held in 2008 were neither free nor fair. While the March 2008 election was generally peaceful—and two factions of the opposition Movement for Democratic Change (MDC) gained a parliamentary majority—violence and intimidation perpetrated by security forces and nonstate actors loyal to ZANU-PF in the months leading up to the June presidential runoff resulted in more than 270 confirmed deaths, thousands of injuries, and the displacement of tens of thousands of persons. Opposing presidential candidate Morgan Tsvangirai withdrew from the runoff contest, and President Mugabe was declared the winner. International condemnation of the presidential runoff election resulted in a mediated solution outlined in the 2008 Global Political Agreement (GPA) signed by ZANU-PF and the two MDC factions led by Morgan Tsvangirai (MDC-T) and Arthur Mutambara (MDC-M). Mugabe retained the presidency, Tsvangirai became prime minister, and Mutambara became deputy prime minister. In January the MDC-M elected Welshman Ncube as its new president at the party's congress, changing the

party's acronym to MDC-N. Mutambara retained his seat as the deputy prime minister. There were instances in which elements of the security forces acted independently of civilian control.

The most important human rights problems in the country remained the government's targeting for harassment, arrest, abuse, and torture of members of non-ZANU-PF parties and civil society activists, widespread disregard for the rule of law among security forces and the judiciary, and restrictions on civil liberties.

ZANU-PF's control and manipulation of the political process effectively negated the right of citizens to change their government. Prison conditions were harsh. Lengthy pretrial detention was a problem. Executive influence and interference in the judiciary continued, and the government infringed on citizens' privacy rights. Freedoms of speech, press, assembly, association, and movement were restricted, and the government continued to evict citizens, invade farms, and demolish homes and informal marketplaces. The government impeded nongovernmental organization (NGO) efforts to assist those displaced and other vulnerable populations. The government arrested, detained, and harassed NGO members. Government corruption remained widespread, particularly at the local level. Violence and discrimination against women; child abuse; trafficking of women and children; and discrimination against persons with disabilities, racial and ethnic minorities, the lesbian, gay, bisexual, and transgender (LGBT) community, and persons with HIV/AIDS were problems. Government interference with labor-related events occurred. Child labor, including the worst forms of child labor, was a problem.

The government did not take steps to prosecute or punish security force or ZANU-PF supporters who committed abuses, and impunity continued to be a serious problem.

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. Police units sometimes organized or participated in political violence. Perpetrators were rarely punished.

On September 23, private security guards took four individuals suspected of being illegal diamond panners to the local police base in the Chiadzwa diamond field. The four individuals—Tsorosai Kusena, Onesai Kusena, Pikirai Kusena, and John Gwite—were subsequently beaten by Joseph Chani, the police officer in charge. Tsorosai Kusena died later that night due to traumatic shock from assault, according to a postmortem exam. The next day police took the three survivors to the Mutare Central Police Station, where they were interrogated until late that night before being released without charge. All three survivors suffered injuries to their backs, knees, and buttocks. The police opened a criminal investigation, and the security guards who brought the four to the police base were witnesses in the case. An investigation was pending at year's end.

Supporters of both ZANU-PF and MDC-T were responsible for killings during the year.

On August 5, suspected ZANU-PF supporters abducted Maxwell Ncube, a director of elections for the MDC-M in Midlands Province. On August 8, Ncube's body was found with an injury to the head apparently inflicted by an axe. According to witnesses the perpetrators were known ZANU-PF members who had previously attacked Ncube in 2008. An investigation was pending at year's end.

On May 29, alleged MDC-T youths attacked and killed police inspector Petros Mutedza at a bar in a high-density township in Harare. Police arrested 28 individuals in connection with the killing and charged them with murder. Most of the arrestees were members of the MDC-T, including a member of the MDC-T National Executive Council, several employees of the Harare City Council, and a number of local party officials. During interrogation police beat the detainees' knees with batons and subsequently refused to comply with a court order to provide victims with medical treatment. By July 28, the High Court had released 17 of the 24 individuals on bail. Bail was repeatedly denied for the remaining seven detainees, who remained in remand prison at year's end. On September 7, police arrested two more MDC-T members in connection with the killing, both of whom were released on bail on September 21. On October 4 and 5, police arrested MDC Youth Assembly chair Solomon Madzore and Lovemore Taruvinga Magaya in connection with the killing. Magaya was released on bail on October 20; Madzore was denied bail despite multiple appeals. A total of eight persons remained in custody, and a police investigation continued at year's end.

No action was taken against ZANU-PF party activists responsible for numerous killings in 2010. For example, no action was taken against ZANU-PF party activists and war veterans (veterans of the liberation war in the 1960s and 1970s against the government of Ian Smith) who in April 2010 beat Memory Chaduka and 25

other informal traders in Masvingo for failing to contribute money toward Independence Day celebrations. Those who failed to make such contributions were accused of being MDC supporters. Chaduka died from complications resulting from her injuries.

During the year trials for a few politically motivated killings from 2009 were heard in court. For example, on September 19, a magistrate's court in Gweru opened the trial of four ZANU-PF activists and two soldiers accused of the 2009 killing of MDC activist Moses Chokuda, who was abducted from his home and beaten to death. On September 26, the High Court convicted the four activists of murder and sentenced each to 18 years in prison. The High Court acquitted the two soldiers of the murder but convicted them of assault; the two received a suspended 18-month sentence.

In 2009 at least 19 citizens 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 270 who died in 2008. The MDC-T released a statement in July 2010 that named approximately 11,000 perpetrators and catalogued them by province. Mashonaland East had the largest number of perpetrators—an estimated 3,700. The killings were primarily committed by members of ZANU-PF, including the party's youth militia; individuals identifying themselves as war veterans; and, to a lesser extent, members of the military and police. At year's end no one had been held legally accountable for the killings.

In August the BBC reported the existence in 2008 of a torture camp run by police and military personnel in the Marange diamond fields. Police and military personnel reportedly recruited civilian workers to illegally dig for diamonds. According to witnesses workers who were caught mining for themselves or who demanded too large a share of the profits were tortured, raped, and sometimes killed. In addition to beatings and sexual abuse, prisoners were mauled by dogs, and at least one woman reportedly died after such a mauling.

On March 8, Human Rights Watch (HRW) released the report *Perpetual Fear: Impunity and Cycles of Violence in Zimbabwe*. The report examined the lack of justice in several cases of political killings, torture, and abductions by government security forces and their allies during and after the presidential election run-off in 2008. In 2008 HRW charged that the ZANU-PF government was responsible, at the highest levels, for widespread and systematic abuses that led to the killing of up to 200 people, the beating and torture of an estimated 5,000 others, and the displacement of approximately 36,000 people.

b. Disappearance.—There were several credible reports of politically motivated abductions and attempted abductions during the year. Leaders of both MDC factions reported that state security agents and ZANU-PF party supporters abducted and tortured MDC-T and MDC-M members, civil society members, and student leaders as part of an effort to intimidate them. Perpetrators were rarely punished.

For example, on June 24, police abducted Jameson Timba, the MDC-T minister of state in the Office of the Prime Minister, as he departed his government office. Timba had published a June 19 editorial that accused ZANU-PF of distorting the outcome of the Southern Africa Development Community (SADC) Extraordinary Summit in early May. Police did not confirm either the detention or Timba's whereabouts for more than 24 hours after his detention. On June 26, High Court Judge Joseph Musakwa found no grounds for Timba's detention and ordered his immediate release. Police furnished Timba with a "warned and caution statement" for allegedly undermining the Office of the President in his editorial. The case was pending at year's end.

According to the Students Solidarity Trust, a local NGO that provides assistance to student activists, there were three cases in which activist students were abducted and tortured during the year.

No action was taken against Masvingo security agents who in May 2010 abducted and tortured Alec Tabe and Godfrey Kuraune, two leaders of the Zimbabwe National Students Union. Tabe and Kuraune were organizing a demonstration against high examination fees at Masvingo Polytechnic. They were picked up by Central Intelligence Organization (CIO) agents, who then tortured them on their chests and genitals with a pair of pliers before leaving them at a nearby police station. Tabe and Kuraune were released after paying an admission-of-guilt fine to the police.

The government investigated none of the numerous 2010 abductions perpetrated by unidentified assailants who interrogated, assaulted, or tortured victims, some of whom were located in police custody days or weeks later.

On September 15, the Supreme Court held the first hearing in connection with the 2008 abduction and torture by state security agents of 18 individuals, including 14 MDC-T members, three human rights activists, and one journalist. In 2008 multiple court cases were brought against the 18 for sabotage and bombing. The Su-

preme Court hearing responded to a challenge filed by seven of the defendants, who requested a ruling before the next court proceeding on the violation of their constitutional rights. The Supreme Court postponed its ruling to an undermined date.

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 with impunity and with the implicit support of officials affiliated with ZANU-PF. Police used excessive force in apprehending and detaining criminal suspects. Security forces assaulted and tortured citizens in custody, particularly perceived opponents of ZANU-PF. In some cases police arrested the victims of violence and charged them with inciting public violence. Police units also organized and participated in political violence affiliated with ZANU-PF.

Human rights groups reported that physical and psychological torture perpetrated by security agents and ZANU-PF supporters continued. Torture methods included beating victims with sticks, clubs, whips, and cables; burning; falanga (beating the soles of the feet); solitary confinement; and sleep deprivation.

From January through December, according to one NGO, 549 persons sought treatment for injuries and trauma sustained from security force abuse, compared with 5,051 victims who sought treatment in 2010. Observers attributed the dramatic reduction in violence to a reduction in national political events. Nearly 70 percent of the cases took place in Harare, and approximately 65 percent of the victims were affiliated with the MDC.

Police harassed and assaulted citizens for minor offenses. For example, on February 9, police arrested MDC-T member of parliament (MP) Costin Muguti and nine others for inciting public violence. The group had allegedly parked their car on the road and danced to MDC music. A lawyer provided by Zimbabwe Lawyers for Human Rights (ZLHR) was charged with acting violently toward the police when he attempted to gain access to the detainees. On February 14, the magistrate released the group on \$50 bail each (the U.S. dollar is among foreign currencies used for transactions). Muguti was arrested at least three more times for politically motivated reasons during the year and faced concurrent multiple charges in court. A trial continued at year's end.

No action was taken against security forces who used excessive force on detainees in 2010. For example, no investigation was conducted against police involved in the September 2010 arrest and abuse of Choga Njiva, who was hospitalized with lacerations to the eye and back, swollen genitals, a swollen chest, and fractured ribs. Njiva was arrested on allegations of armed robbery and killing a senior police officer. An investigation had not taken place by year's end.

Police use of excessive force to disperse demonstrators resulted in injuries (see section 2.b.).

Security forces raped women during the year (see section 1.a.).

According to media reports, Franco Ndambakuwa, a ZANU-PF MP from Magunje, was arrested on July 1 for allegedly raping a 15-year-old girl. After news of the incident was released, other victims made similar charges against Ndambakuwa, who was accused in 2010 of impregnating a 17-year-old girl who subsequently committed suicide.

On September 19, a magistrate's court in Masvingo sentenced Gilbert Mavhenyengwa, a war veteran, to 20 years in jail for leading a group of ZANU-PF-affiliated youth who assaulted and raped an MDC-T supporter in the 2008 presidential runoff. Mavhenyengwa and the ZANU-PF youths abducted the victim from her home and marched her to their base, where the rape occurred.

ZANU-PF supporters—often with support from police—continued to assault and torture 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-T continued, particularly in urban areas. Supporters of both parties instigated such incidents.

During the year ZANU-PF youth attacked scores of people, mainly MDC supporters, in the high-density neighborhoods of Harare, as well as in areas outside the capital such as Chitungwiza, Mbare, and Bikita. Police arrested the victims of the violence rather than the perpetrators.

In a similar case, in early February several MDC-T supporters were injured and some hospitalized as a result of attacks by alleged ZANU-PF youth in Mbare. Police later arrested 19 MDC-T supporters and accused them of inciting the violence. They were eventually released on bail.

On February 28, ZANU-PF supporters, including youth and individuals identifying themselves as war veterans, abducted MDC-T supporter Sibongile Ncube in Gwanda and tortured him with an iron bar. On February 29, Ncube was released. An investigation was pending at year's end.

No investigation was conducted into October 2010 attacks by ZANU-PF supporters in Harare. In one incident ZANU-PF supporters stabbed MDC-T member Jonsaya Manyere after a constitutional outreach meeting in Harare. Manyere suffered a head wound and was discharged from the hospital in November. In a separate incident, ZANU-PF sympathizers beat MDC-T member Peter Garanewako, who had participated in another constitutional outreach meeting in Harare the same day.

Reports surfaced during the year that security forces in 2008 beat and abused illegal miners in the Marange diamond fields (see section 1.a.).

Prison and Detention Center Conditions.—Conditions in the 46 main prisons and 22 satellite prisons were harsh, although there were some improvements during the year. Prison guards beat and abused prisoners. While prisons operated below capacity, NGOs reported that overcrowding continued due to dilapidated infrastructure, lengthy pretrial detentions, and prolonged trials. The occupation of cells in each prison by prison guards also contributed to overcrowding.

Poor sanitary conditions resulted in disease, including diarrhea, measles, tuberculosis, and HIV/AIDS-related illnesses. Medical care, lighting, and ventilation were inadequate. There were insufficient mattresses, warm clothing, sanitary supplies, and hygiene products. In marked improvement from previous years, however, prisoners received at least two meals a day as a result of the revitalization of the country's 23 prison farms; prisoners received one daily meal the previous year. Like most citizens of the country, prisoners had no access to potable water. The sale of prison farm products allowed authorities to address some shortages, and each prisoner was provided with two uniforms during the year.

The Zimbabwe Prison Service (ZPS) tested prisoners for HIV only when requested by the prisoners or prison doctors. Due to inadequate facilities, outdated regulations, and the lack of medical personnel and medication, prisoners suffered from routine medical conditions such as hypertension, tuberculosis, diabetes, asthma, and respiratory diseases. NGOs also reported isolated cases of pellagra, an illness caused by a deficiency in protein and aggravated by poor lighting and ventilation.

Neither the ZPS nor NGOs provided information on the prisoner death rate during the year. NGOs confirmed that they no longer tracked death rates given the dramatic decrease in prisoner deaths since 2009, when an estimated 40 prisoners died monthly as a result of malnutrition and disease, particularly HIV/AIDS.

There were approximately 14,000 prisoners, including 340 women and 130 juveniles; the prison system was designed for a maximum of 17,000 prisoners. Between 20-30 children under the age of three lived with their incarcerated mothers. NGOs reported that female prisoners generally fared better than males, were held in separate prison wings, and were guarded by female officials. Women generally received more food from their families than male prisoners, but children living with their incarcerated mothers were required to share their mothers' food allocation. 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. NGOs suggested that female guards may have been more diligent about protecting female prisoners from abuse or that female prisoners may not have reported abuse. Prisons, with support from NGOs, provided sanitary supplies for women. Pregnant and nursing mothers were not provided additional care or food rations, but the ZPS solicited donations from NGOs and donors for additional provisions.

There was one juvenile prison, but juveniles were also held in adult prisons throughout the country. Officials generally tried to place juvenile inmates in separate cells. Juveniles were generally sent to prison instead of to reformatory homes, as stipulated in the Children's Act. Juveniles were particularly vulnerable to abuse by prison officials and prisoners, and one church group confirmed two cases of abuse against juveniles by year's end. In both cases the Department of Social Services took over the investigation.

According to the ZPS, remand prisons were overcrowded and conditions were harsh. Pretrial detainees were often held with convicted prisoners until their bail hearings. Unlike in previous years, lack of fuel no longer impeded the transport of detainees to court to attend their trials.

Many detainees were held in severely overcrowded police facilities. Police used cruel, inhuman, or degrading treatment or punishment against those in custody. Those detained for politically motivated reasons were kept at police stations for days, weeks, or months while their court dates or bail hearings were pending.

Due to a lack of health care professionals and medications, prisoners with confirmed mental disabilities were generally sent to prison rather than mental institutions (see section 6).

Prisoners were permitted religious observance, and all prisons engaged locally based chaplains to provide basic services. Church groups trained chaplains to provide religious services and life skills classes to prisoners. Churches also conducted spiritual programs in prisons.

Authorities permitted prisoners to submit complaints, but investigations rarely were conducted. The ZPS continued to assess prison conditions periodically, but no results of such assessments were released.

Prisoners and detainees had relatively unrestricted access to visitors, except in maximum security prisons.

The law provides international human rights monitors the right to visit prisons, but government requirements made it difficult to do so. The ZPS was more accommodating with local groups. Church groups seeking to provide humanitarian assistance were able to gain access. Organizations reported that their meetings with prisoners occurred without third parties present, and there were few restrictions on how they operated within the prisons.

There was no ombudsman or other mechanism to consider alternatives to incarceration for nonviolent offenders; address the status and circumstances of confinement for juvenile offenders; improve pretrial detention, bail, and recordkeeping procedures; or ensure that prisoners did not serve beyond the maximum sentence for the charged offense.

Local NGOs continued to lobby the government for institutional reforms to relieve overcrowding, including alternative mechanisms to settle allegations out of court and to release prisoners who had committed only misdemeanors. The government adopted guidelines developed for a pretrial diversion program for prisoners under the age of 21 who committed minor offenses. Under the program juveniles would receive training from diversion officers, prosecuting officers, and the police.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention, although some laws effectively weakened these prohibitions. Despite the law security forces arbitrarily arrested and detained persons, particularly political and civil society activists perceived to oppose the ZANU-PF party.

Role of the Police and Security Apparatus.—The Zimbabwe Republic Police (ZRP) is responsible for maintaining law and order. Although the ZRP is officially under the authority of the Ministry of Home Affairs, in practice the Office of the President controlled some roles and missions. The Zimbabwe National Army and Air Force, under the Ministry of Defense, are responsible for external security, but the government sometimes used them for domestic operations. The CIO, under the Ministry of State for National Security, is responsible for internal and external security.

Police were ill equipped, underpaid, and poorly trained, particularly at the lower levels. Although prison authorities had sufficient fuel, police did not, and the lack of fuel and other resources further reduced police effectiveness. Poor working conditions, low salaries, and high rates of dismissal in the ZRP resulted in corruption and high turnover. De facto assurances of impunity and a culture of disregard for human rights contributed to police use of excessive force in apprehending and detaining criminal suspects.

Security forces were rarely held accountable for abuses. Allegations of excessive force and torture were often dismissed by senior government officials, who claimed that such actions were necessary to maintain public order. Court orders compelling investigations into allegations of abuse were routinely ignored by authorities. ZRP leadership loyal to ZANU-PF stifled, derailed, or did not authorize the efforts of those police who sought to investigate political violence. For example, police were reluctant or refused to record reports of politically motivated violence or property destruction perpetrated by ZANU-PF-aligned individuals against political opponents.

The continued politicization of the ZRP's upper echelons, mostly composed of war veterans loyal to ZANU-PF, made it difficult for lower ranking police to remain politically impartial or to show support for non-ZANU-PF parties. Police and army personnel suspected of being sympathetic to the MDC or other political parties were threatened with demotion, suspension, incarceration, or transfer to remote areas. Most low-ranking personnel lived in ZRP-provided housing, which allowed the monitoring of their votes during election years in certain districts.

On July 15, Assistant Inspector Tedious Chisango was fired from the police force allegedly for playing an MDC song on his personal cell phone while on duty. He was formally charged for actively participating in politics while in the police force. Chisango and his family were expelled from a police camp near Bulawayo.

There were numerous reports of corrupt police officials investigated and arrested for criminal activity during the year.

Nevertheless, government efforts to reform the security forces were minimal, and there were no reports of disciplinary actions taken against security officers who erred in ZANU-PF's favor in their official conduct. Training on nonpartisan implementation of the rule of law was rarely provided.

There were no internal or external entities to investigate security force abuse. In 2009 the National Security Council (NSC) was established to replace the Joint Operation Command (JOC) in ensuring accountability of the country's security sector. The JOC consists of the army, police, prisons, and CIO. The NSC consists of representatives from the three political parties that constitute the transitional unity government, including President Mugabe as chair, Prime Minister Tsvangirai, the two deputy prime ministers, six ministers, and the security chiefs. The NSC met during the year, but President Mugabe reportedly continued to meet with the JOC outside the NSC.

In March the ZRP relaunched an unsuccessful program begun in 2007 to recruit 20,000 additional members. ZRP officials reserved set quotas for different ethnic groups to ensure equal representation in the police force.

In November 2010 the Standard newspaper published an article linking the cancellation of the annual police examination to a ploy by police to hire war veterans and retired police officers ahead of the next round of presidential elections, which had not been scheduled by year's end. The recruitment was not meant to appear as new recruitment, but as a transfer of war veterans and retired officers from one post to another. Two journalists from the Standard were arrested and charged with criminal defamation after the article appeared (see section 2.a.).

Police stood by without intervening on numerous occasions in which ZANU-PF-aligned individuals engaged in political violence. For example, at the September 6 opening of parliament, ZANU-PF brought in by bus hundreds of supporters a few hours prior to the official opening. Donning party regalia and singing pro-ZANU-PF songs, the group made its way to Unity Square, near parliament, where the crowd swelled to an estimated 4,000 people. ZANU-PF supporters used sticks and iron bars to assault suspected MDC supporters, and police took no immediate action to quell the disruption. ZANU-PF supporters also threw stones at the crowd that had assembled to observe the opening of parliament. More than 14 individuals were seriously injured.

In November police did not intervene when ZANU-PF youths violently disrupted two MDC-T rallies in Harare's high-density neighborhoods in early November.

Arrest Procedures and Treatment While in Detention.—The law stipulates that arrests require a warrant issued either by the court or a senior police officer and that police inform an arrested person of the charges before taking the individual into custody, but these rights were not respected in practice. The law requires a preliminary hearing before a magistrate within 48 hours of an arrest (or 96 hours over a weekend). Police typically made arrests on Fridays, which permitted legal detention until Monday. There were numerous reports that security forces arbitrarily arrested political and civil society activists, interrogated and beat them for information about their organizations' activities, and then released them the next day without charge.

The law provides for bail, although the attorney general has the power to suspend bail while an appeal is lodged. High court judges at times granted bail independently. The law allows police to hold persons suspected of committing financial crimes for up to four weeks without bail. 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.

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 MDC members and civil society activists. Often detainees were moved overnight or on weekends from one police station or prison to another, and police refused to disclose the new location to their families and lawyers. Family members sometimes were denied access unless accompanied by an attorney, and even then were at times denied access in political cases. Detainees, particularly those of high profile, were often held incommunicado. The government also continued to harass and intimidate human rights lawyers when they attempted to gain access to their clients in police custody.

For example, on July 9, the chief superintendent of the Harare Central Police Station attempted to seize the cell phone of ZLHR lawyer David Hofisi to download information about a case that he was representing. Hofisi refused to hand over his phone, citing privacy and the need to protect attorney-client privilege. On July 10, Hofisi was ordered to return to the police station and was threatened with arrest for obstruction of justice if he did not hand over the phone. On the same day, High Court Justice Francis Bere granted the provisional order sought by the ZLHR to

interdict the police from seizing Hofisi's phone and any other information related to his legal practice.

Arbitrary Arrest.—The government continued to use arbitrary arrest and detention as tools of intimidation and harassment, especially against non-ZANU-PF government officials, political activists, civil society members, student activists, and journalists. For example, on February 19, police arrested and detained 46 labor union and student activists who had gathered for a video presentation and discussion of popular protests in Egypt and Tunisia. The activists were charged with attempting to overthrow the government by unconstitutional means. During their first two nights in detention, unidentified individuals reportedly beat eight of the detainees. On February 24, the 46 detainees appeared in court and were charged with treason, which carries a maximum penalty of death. On March 7, a magistrate's court dismissed treason charges against 39 of the 46 defendants but found there was a *prima facie* case against six others and referred their bail application to the High Court; the seventh activist was released for unknown reasons. On March 16, the High Court granted bail to the remaining defendants and noted in its ruling the weakness of the state's case. In May the state changed its charge against the six remaining defendants from treason to subverting a constitutional government. On July 18, the state altered its charges for the second time to conspiring to commit public violence, which is punishable by a fine or imprisonment. The trial was postponed multiple times, and the case was pending at year's end.

The nullification of the 2008 election of MDC-T's Lovemore Moyo as speaker of parliament in early March prompted a series of arrests of MDC-T MPs during the year in what appeared to be a coordinated effort to influence the vote in the weeks leading up to the new election on March 29. In the week before the new election, for example, Douglas Mwonzora—MDC-T spokesperson and cochair of the Constitutional Parliamentary Committee—was arrested for allegedly instigating violence at a rally in his constituency on February 15. Mwonzora was subsequently released. Police had previously arrested Mwonzora and kept him in detention for 25 days on the same charge.

According to the local NGO Students Solidarity Trust, approximately 30 students were arrested or detained, and approximately seven students were expelled or suspended, for engaging in student activism between January and August. The NGO also reported three cases of torture and abduction during the same time period.

The government on occasion restricted human rights activists from using cultural platforms. For example, on January 5, police in Manicaland Province arrested nine artists and a driver with Rooftop Promotion and charged them with criminal nuisance, allegedly for holding a theater performance that could incite the audience to public violence. The play, called *Rituals*, focused on the theme of healing and reconciliation and was to be performed throughout the country. The group was detained for two nights and released on January 7. On March 22, a magistrate's court acquitted the group due to lack of credible evidence. On February 18, police in Mashonaland Central Province arrested three members of the same group and released them the next day without charge.

There were no developments in the March 2010 arrest of Bulawayo artist Owen Maseko following the launch of his exhibition on the Gukurahundi massacres (see section 2.a.).

Pretrial Detention.—Prolonged pretrial detention remained a problem, and some detainees were incarcerated for several months before trial or sentencing due to a critical shortage of magistrates and court interpreters, poor bureaucratic procedures, and political reasons. Other prisoners remained in prison because they could not afford to pay bail, which remained exorbitant given economic conditions in the country. Lawyers 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, and 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, but the judiciary lacked independence and was under intense pressure to conform to government policies. The government repeatedly refused to abide by judicial decisions and routinely delayed payment of court costs or judgments awarded against it in civil cases. Judicial corruption was widespread.

For example, in a three-to-two ruling on March 10, the Supreme Court nullified the 2008 election of MDC-T member Lovemore Moyo as the country's first non-ZANU-PF speaker of parliament. The Supreme Court's decision to nullify the election of Moyo was widely perceived as politically motivated, and Moyo was reelected to the speaker position on March 29 in a process that was not legally contested.

On March 10, police arrested Elton Mangoma, the MDC-T deputy treasurer general and minister of energy and power development, for alleged irregularities in procurement of fuel in early January. On March 11, a magistrate's court ruled that it had no jurisdiction to preside over the matter and referred the case to the High Court. On March 16, Mangoma was released on \$5,000 bail. On March 25, police rearrested Mangoma for allegedly cancelling a tender for the supply of prepaid electricity meters. Mangoma applied for bail at the High Court, and the Attorney General's Office consented to bail on condition that Mangoma stay away from his ministerial duties until the conclusion of his trial, which was scheduled to start on July 18. On April 4, the High Court granted bail and threw out the prosecution's request that Mangoma be barred from his ministerial duties. On June 28, the High Court acquitted Mangoma of the fuel procurement charge, and on July 18, the state withdrew criminal charges in connection with the electricity meter tender.

NGOs reported that senior government officials continued to undermine judicial independence by a variety of methods, including giving farms and homes to judges.

Magistrates heard the vast majority of cases. In June 2010 the Judicial Services Act (JSA) went into effect. The JSA transfers authority over judicial magistrates and their support staffs from the Public Service Commission to the Judicial Services Commission (JSC), provides that the JSC determine remuneration and other conditions of service for magistrates, and provides for greater independence of magistrates. Legal experts claimed that defendants in politically sensitive cases were more likely to receive a fair hearing in magistrates' courts than in higher courts, where justices were more likely to make political decisions. In practice, however, the JSA's impact was limited during the year, particularly in rural areas. ZANU-PF sympathizers continued to successfully use threats and intimidation to force magistrates, particularly rural magistrates, to rule in the government's favor. Some urban-based junior magistrates, however, demonstrated a greater degree of independence and granted MDC and civil society activists bail against the government's wishes. Other judicial officers not covered by the JSA, such as prosecutors and private attorneys, also faced political pressure in politically charged cases, including harassment and intimidation.

Trial Procedures.—The constitution provides for the right to a fair trial, but this right frequently was compromised in practice due to political pressure. Defendants enjoy a presumption of innocence under the law, although this right was not always respected in practice. Trials were held by magistrates or judges without juries and were open to the public, except in cases involving minors or state security matters. Assessors, in lieu of juries, could be appointed in cases in which the offense could result in a death penalty or lengthy prison sentence. 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 request 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 MDC members or civil society activists. Defendants have the right to present witnesses and evidence on their own behalf and to question witnesses against them. In practice these rights were not always observed. Defendants and their attorneys have the right to be furnished with all government-held evidence relevant to their cases, although this right was often not respected. Conviction requires proof beyond a reasonable doubt, and the prosecution bears the burden of proof. The right to appeal against both conviction and sentence exists in all cases, and it is automatic in cases in which the death penalty is imposed. Although these rights apply to all citizens, they often were not respected in politically sensitive cases. 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 reports of individuals arrested for political reasons throughout the year, including MDC officials, their supporters, NGO workers, and civil society activists. Many were held for one or two days and released, while others were held for weeks or months. Political prisoners and detainees were not given the same protections as other prisoners or detainees, and prison authorities arbitrarily denied access to political prisoners. During the year police beat and tortured numerous political and civil society activists and student leaders while in detention.

At year's end there were no known political prisoners in police custody or prison.

Regional Human Rights Court Decisions.—The African Commission on Human and People's Rights (an organization based in Banjul, The Gambia, and mandated

by the African Union) hears cases when member countries' internal remedies have been exhausted or do not exist. There were two pending cases from Zimbabwe before the commission at year's end.

In 2009 the country withdrew from the SADC Tribunal after it ruled that the government had undermined the rule of law by refusing to compensate nine victims of state-sponsored political violence and torture as ordered by the High Court in previous years. Complainants can bring a case after exhausting all available remedies or when unable to proceed under domestic jurisdiction. Although the tribunal's ruling against the government was not explicitly mentioned as a causative factor, SADC members decided in August 2010 to review the role, function, and terms of reference of the tribunal. On May 21, the SADC heads of state decided against reinstating the tribunal and gave its Council of Justice Ministers and Attorneys General until May 2012 to complete the review.

Civil Judicial Procedures and Remedies.—Civil judicial procedures allow for an independent and impartial judiciary, but the judiciary was subject to political influence and intimidation—particularly in cases involving high-ranking government officials, politically connected individuals, or violations of human rights. Cases for which all remedies have been exhausted may be appealed to the SADC. Lack of judicial and police resources contributed to problems enforcing domestic court orders.

Property Restitution.—The constitution stipulates that the government must compensate persons for improvements made on land subsequently taken by the government but does not set a timeline for the delivery of compensation. In practice the government seldom provided restitution or compensation for the taking of private property.

During the year more than 570 households were resettled from the allocated mining grounds in Chiadzwa to a government-owned agricultural estate outside Mutare. In 2010 more than 70 households were resettled in the same area. Each household received \$1,000 for relocation but faced numerous challenges, including lack of access to water, arable land, and employment opportunities. By year's end the government had not completed appraisal of the land and property lost by each family for the purpose of property restitution.

g. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, but the government did not respect these prohibitions in practice. Security forces searched homes and offices without warrants, senior government officials pressured local chiefs and ZANU-PF loyalists to monitor and report on persons suspected of supporting political parties other than ZANU-PF, and the government forcibly displaced persons from their homes. Government entities manipulated the distribution of food aid, agricultural products, and access to other government assistance programs to exclude suspected MDC supporters and to compel support for ZANU-PF.

For example, on June 10, police in Bulawayo raided a property belonging to the NGO Women of Zimbabwe Arise (WOZA) without a search warrant. Several WOZA members who were holding a meeting on the premises during the raid escaped. Police occupied the property until June 21, when the High Court ordered the police to vacate the premises. After police left WOZA members found the property in a state of disrepair with several household items missing. They also found several items believed to have been planted by the police, including two bullets and copies of a falsified document calling for an Arab Spring-style revolt in Zimbabwe on a bookshelf and in the document folders of members who were at the meeting at the time of the raid.

The law permits 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 claimed the government used the law to stifle freedom of speech and to target political and civil society activists.

According to local human rights and humanitarian NGOs, sporadic evictions continued during the year, especially of tenants and informal vendors suspected of supporting the MDC. ZANU-PF youths reportedly evicted owners and occupants and placed their party supporters in properties controlled by local councils without paying rent and leased out market stalls to ZANU-PF card holders only. By year's end ZANU-PF youth controlled almost all markets in Harare..

Land seizures remained a serious problem. A 2005 constitutional amendment 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. A 2006 law requires 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 approximately 4,500 large-scale and primarily white-owned farms in the country for seizure and redistribution to black Zimbabweans, particularly ZANU-PF supporters.

Some of the approximately 400 remaining white commercial farmers continued to be targeted, harassed, and threatened with eviction by farm beneficiaries, unemployed youth, and individuals hired by those who stood to benefit. Invasions also took place on privately owned wildlife conservancies in Masvingo Province, reportedly with the collusion of Titus Maluleke, the provincial governor. There were reports of farmers forced off their farms at gunpoint, despite being in possession of a court order allowing them to remain on the property, and denied the opportunity to collect their personal belongings. Black farm workers on white-owned farms were beaten, intimidated, or displaced (see section 2.d.). Police, in most cases, did not intervene while invaders and looters carried on their activities.

For example, on October 4, white Zimbabwean farmer Wayne Greaves left his farm along with 90 of his laborers after a High Court judge ruled that he had a week to vacate the property to allow Hudson Zhanda, a black farmer, to take over his property. Greaves, who was named tobacco farmer of the year in 1997, was forced to leave a tobacco crop worth \$700,000 in the ground.

On August 13, Onisimas Makwengura, a self-identified CIO agent, led a group in an attack on the farm of Dolf and Alida du Toit. The attackers surrounded the farm house and destroyed the windows and the roof to get into the house. On August 14, the mob used a tractor to pull off the security gates. One of the attackers hit Dolf du Toit in the head with a rock when he attempted to stop the looting. Police, who were informed of the planned invasion on August 12, did not arrive until August 14, when they escorted the du Toit family off the farm. The police, who said they could not guarantee the safety of the family, made no arrests. The du Toit family was the fourth family in the area to be forced off their farm by the same group since March.

Farmer unions and NGOs believed that invasions intensified after the SADC's May decision to suspend its tribunal until May 2012 (see section 1.e.). In previous years the tribunal found the government in contempt of a 2008 tribunal ruling by allowing ongoing invasions, arrests, and prosecutions of evicted commercial farmers.

No action was taken against perpetrators of land invasions, seizures of property, and attacks on farm owners and workers from previous years.

Section 2. Respect for Civil Liberties, Including:

*a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—*The constitution provides for freedom of speech and press, but legislation limits these freedoms in the “interest of defense, public safety, public order, state economic interests, public morality, and public health.” Making a false statement prejudicial to the government carries a maximum prison sentence of 20 years. The government continued to arrest, detain, and harass its critics, and journalists practiced self-censorship.

*Freedom of Speech.—*Security authorities continued to restrict freedom of speech and arrest individuals, particularly those who made or publicized comments critical of President Mugabe or made political statements opposing the government's agenda. CIO agents and informers routinely monitored political and other meetings. Persons deemed critical of the government were targeted for harassment, abduction, interrogation, and sometimes torture.

On December 19, MDC-T parliamentarian Lynette Karenzi was arrested for insulting the president at a political rally. Karenzi had criticized President Mugabe over his stand against homosexuality (see section 6). On December 28, Karenzi was released on bail, and her case continued at year's end.

During the year police instructed Prime Minister Tsvangirai to refrain from invoking hate speech or making derogatory remarks against other political parties during MDC rallies held in March. Many observers considered the police warning against the prime minister, who did not use hate speech, as a political tactic.

In November Magistrate Charles Murove referred the cases of Eliah Jemere, an MDC-T legislator, and Gilbert Kagodora, the provincial party treasurer for Mashonaland Central, to the Supreme Court. In June 2010 Jemere and Kagodora were arrested for insulting the Office of the President at an MDC-T rally. Both were subsequently released on bail. Kagodora filed an application challenging the constitutionality of the charge. The case was pending at year's end.

During the year a magistrate's court acquitted Teddy Chipere, MDC-T chairman of Makoni Central, on the grounds that the state took too long to bring the case

to trial. In June 2010 police in Mutare arrested Chipere for insulting the Office of the President. He was released on bail three days later.

The appeal remained pending of Gift Mafuka, who was released on bail pending appeal after being sentenced in September 2010 to one year in prison with hard labor for insulting President Mugabe.

Freedom of Press.—The government continued to restrict freedom of the press. The Ministry of Media Information and Publicity (MMIP) controlled the state-run media. High-ranking ZANU-PF officials, including President Mugabe, used the media to threaten violence against critics of the government. MMIP officials routinely threatened independent news organizations that criticized ZANU-PF and President Mugabe.

Despite threats and pressure from the government, the number of independent newspapers increased after the Zimbabwe Media Commission—which oversees media regulation, registration, and accreditation—granted publishing licenses in 2010. In March the Daily News, which was banned in 2003, resumed publishing. The Mail, another daily, also began publishing in March but ceased publication in July due to financial problems. Four independent weeklies continued to operate, and all independent newspapers continued to criticize the “inclusive” government and ZANU-PF. They also exercised self-censorship due to government intimidation and the continuing prospect of prosecution under criminal libel and security laws.

The government continued to use accreditation laws to prevent entry into the country of international media perceived to be critical of the government. Nevertheless, international media outlets such as CNN, Al Jazeera, and BBC continued to operate from within the country. Foreign journalists continued to report that government agents followed them and prevented them from covering certain news events.

In March the government denied accreditation to ETV reporter Robyn Kriel, who was born in the country but lived and worked in South Africa. No reason for the denial was given, but Kriel previously reported on human rights abuses committed by ZANU-PF supporters during the 2008 elections.

On April 25, CIO officials raided the headquarters of independent newspaper Newsday and confiscated hard disks and 11 computers. The office of Newsday editor Brian Mangwende was ransacked. A few days before the raid, the newspaper published an article that called on President Mugabe to step down. During the year Newsday vendors were threatened and copies of their newspapers confiscated.

On August 26, Zimbabwe Media Commission Chairperson Godfrey Majonga threatened to ban all foreign publications circulating in the country that had not been registered with the government-appointed regulatory body. Despite the threat several foreign-based newspapers published outside the country continued to circulate in the country, including the Sunday Times, Business Day, and the Zimbabwean. These publications continued to be critical of the government.

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. The government continued to jam news broadcasts by radio stations based in other countries, including the Voice of America’s Studio 7, SW Radio Africa, and Voice of the People.

In May MMIP minister Webster Shamu announced that the government had procured equipment to establish eight community radio stations with technical assistance from the Zimbabwean Broadcasting Corporation (ZBC). Nevertheless, no community radio stations had been established by September. In July the Broadcasting Authority of Zimbabwe, the regulatory body that licenses radio and television stations, invited applications for two national commercial radio broadcast licenses, but no new licenses were issued despite numerous applications submitted from independent prospective broadcasters. The Broadcasting Authority of Zimbabwe was not formally constituted by year’s end.

The government controlled ZBC, the only domestically based television broadcasting station, which operated two television channels. International satellite television broadcasts were available through private firms but were too expensive for most citizens.

Violence and Harassment.—Journalists were assaulted by MDC and ZANU-PF supporters during the year. For example, on March 24, supporters of Prime Minister Tsvangirai attacked Daily News reporter Xolisani Ncube, who was interviewing persons at MDC headquarters. One of the assailants hit Ncube in the face and stole his camera. The attack came two weeks after MDC spokesman Nelson Chamisa expelled freelance journalist Nkosana Dhlamini from a Tsvangirai news conference after Dhlamini asked Tsvangirai a question.

Security forces arbitrarily harassed and arrested local and foreign journalists who reported unfavorably on government policies or security force operations. Senior ZANU-PF officials also criticized local and foreign independent media outlets for allegedly biased reporting that discredited President Mugabe and misrepresented the country's political and economic conditions.

On May 10, police arrested independent journalist Mzwandile Ndlovu and charged him with reporting a fictitious story. On April 23, Ndlovu published an article noting that a scheduled meeting between the Organ on National Healing, Reconciliation, and Integration and a coalition of organizations had been cancelled because two of the main participants—including Vice President John Nkomo—had not arrived. The article also reported on the arrest of Moses Mzila Ndlovu, a government minister and a member of the MDC-N faction. Trial was pending at year's end.

On July 15, police in Ntabazinduna arrested and briefly detained journalists Nqobani Ndlovu of the *Standard*, Pindai Dube and Oscar Nkala of the *Daily News*, and freelance journalist Pamenos Tusso. The four journalists reported on the expulsion of Tedious Chisango, a police officer who was fired from the police force on July 15 allegedly for playing an MDC song on his personal cell phone while on duty. He was formally charged for actively participating in politics while in the police force. Chisango and his family were expelled from a police camp near Bulawayo.

On December 5, police in Gwanda arrested three members of the Media Monitoring Project of Zimbabwe (MMPZ), a media watchdog, for convening a meeting in October without police approval. The three were also charged with provoking a breach of peace in connection with MMPZ's production of a DVD. Although reliable reports indicated the DVD was about peace and reconciliation, police claimed it was on the Gukurahundi atrocities. (Approximately 20,000 persons were killed during the 1980s as a result of a government-sanctioned crackdown on perceived insurgents in Matabeleland and Midlands region.) A magistrate's court granted the three members bail on December 9, but they remained in jail until December 16 pending the state's appeal against bail. On December 7, police in Harare detained and questioned MMPZ national director Andrew Moyse for five hours and released him without charge. On December 28, police charged Moyse with publishing statements undermining the president and served him with a warned and cautioned statement. The case against the three members and Moyse continued at year's end.

Censorship or Content Restrictions.—The government continued to use the Access to Information and Protection of Privacy Act (AIPPA) 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."

The law grants the government a wide range of legal powers to prosecute persons for political and security crimes that are not clearly defined. For example, the extremely broad Official Secrets Act makes it a crime to divulge any information acquired in the course of official duties.

On August 29, police questioned Zimbabwe Independent editor Constantine Chimakure and reporter Wongai Zhangazha about a story published in the newspaper's July 8 edition. The story alleged that the MDC-T objected to attempts by Youth and Indigenization Minister Saviour Kasukuwere to reintroduce the National Youth Service training program because it was a ZANU-PF election strategy. The two were questioned on the sources of the story, which was alleged by the police to be based on cabinet deliberations, an offense under the Official Secrets Act.

Publishing Restrictions.—In April 2010 the government adopted new regulations for the accreditation of journalists and registration of media services and effectively instituted a new pricing regime for accreditation and registration. The new regulations significantly reduced the previously prohibitive fees. Practicing journalism without accreditation can incur a fine or maximum of two years' imprisonment.

Libel Laws/National Security.—Antidefamation laws criminalize libel of both public and private persons. The criminal code makes it an offense to publish or communicate false statements prejudicial to the state. The law allows 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." Any person who "insults the president or communicates falsehoods" is subject to imprisonment.

On June 29, police arrested *Standard* journalists Patience Nyangove and Nevanji Madanhire for criminal defamation and publication of falsehood prejudicial to the state. The journalists had published a story on the abduction of MDC-T Minister Jameson Timba in June (see section 1.b.). Nyangove was released the same day after questioning. Madanhire was released on \$100 bail after two nights in deten-

tion. On December 14, a magistrate's court dismissed the journalists' application to refer the court to the Supreme Court. A trial was pending at year's end.

Internet Freedom.—The law permits the government to monitor all communications in the country, including Internet transmissions, and the government restricted access to the Internet during the year.

For example, the government blocked Blackberry's Internet services, including its messaging service. Because these services are encrypted, they are not in compliance with the Interception of Communications Act, which allows the government to intercept and monitor communications.

On February 24, police arrested Vikas Mavhudzi for subversion after he allegedly posted a remark on Prime Minister Tsvangirai's Facebook wall allegedly suggesting that the prime minister emulate prodemocracy protests in Egypt. On March 16, a magistrate's court denied bail to Mavhudzi, citing public security considerations. On March 31, the High Court reversed the bail denial after an appeal. The trial was scheduled to start on August 3 but was postponed after police admitted they could not gain access to the page where the message was posted to use it as evidence in court. On September 20, the magistrate's court dismissed the case due to lack of evidence.

Academic Freedom and Cultural Events.—The government continued to restrict academic freedom. The president is the chancellor of all eight state-run universities and appoints all vice chancellors. The government has oversight of all higher education policy at public universities. The law restricts the independence of universities, subjecting them to government influence and extending the disciplinary powers of university authorities over staff and students.

CIO personnel at times assumed faculty and other positions and posed as students at public and some private universities to intimidate and gather intelligence on faculty and students who criticized government policies and actions. CIO officers regularly attended all classes where noted MDC activists were lecturers or students. In response both faculty and students often practiced self-censorship.

The government on occasion restricted human rights activists from using cultural platforms to criticize the ruling party or President Mugabe (see section 1.d.).

There were no developments in the case of Owen Maseko, who was arrested in March 2010 following the launch of his exhibition on the Gukurahundi massacres. Maseko was charged with undermining the authority of President Mugabe and was released on bail. Bulawayo Art Gallery director Voti Thebe was also summoned to court for displaying Maseko's exhibition. In September 2010 Magistrate Mazhandu granted an application to refer the matter to the Supreme Court for determination of whether Maseko's freedom of expression had been violated. The prosecution of Thebe's case was suspended pending outcome of the Supreme Court challenge in Maseko's case, which remained pending at year's end.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of assembly, but the government restricted this right in practice. The law requires that organizers notify the police of their intention to hold a public gathering—defined as 15 or more individuals—seven days in advance. Failure to do so results in criminal prosecution as well as civil liability. The law also allows police to prohibit a gathering based on security concerns but requires police to file an affidavit in a magistrate's court stating the reasons behind the denial. Although many groups that held meetings did not seek permits, other groups informed the police of their planned events and were denied permission or received no response.

Requests by civil society, trade unions, or political parties other than ZANU-PF to hold public events were routinely denied if the agenda contradicted ZANU-PF positions.

For example, in March police banned the MDC-T from holding rallies in Harare on three occasions, citing security concerns. Police also disbanded a March 20 MDC-N rally. In late October police disrupted and cancelled a series of MDC-T rallies by Prime Minister Tsvangirai in Matabeleland, North Province.

On April 13, police in Lupane arrested and detained Moses Ndlovu, the MDC-N cominister of the Organ on National Healing and Reconciliation and Integration, and Father Marko Mkandla, a Catholic priest, allegedly for convening a meeting without notifying police. Ndlovu and Mkandla, who had conducted a healing service at a primary school in the area, were released on April 19 on \$500 bail each. Their case continued at year's end.

Police forcibly dispersed demonstrations and gatherings during the year. For example, on April 6, police used tear gas to quell skirmishes between ZANU-PF and MDC-T youths at a burial memorial in Harare. On April 9, police disrupted a peace prayer session held at a church in Harare. Approximately 20 riot police fired tear

gas into the church and arrested 13 persons; 12 of the detainees were released on April 11 and the final detainee two days later. One detainee was charged with assault. On May 10, police in Bulawayo beat an estimated 40 WOZA members during a demonstration. Some women sustained mild injuries; none were arrested.

No action was taken against police who forcibly dispersed demonstrations in previous years.

ZANU-PF trained and deployed youths and war veterans to harass and disrupt the activities of MDC members, labor groups, student movement, civic groups, and journalists considered critical of ZANU-PF. For example, in July ZANU-PF supporters disrupted four public hearings conducted by a joint parliamentary committee on the Human Rights Commission Bill. On July 23, several hundred ZANU-PF supporters in Harare forced their way into parliament, where the final public hearing was being conducted. The group assaulted journalists who were covering the meeting, including Alpha Media photographer Aaron Ufumeli and Financial Gazette reporter Lev Mukarati. None of the assailants was arrested. The speaker of parliament ordered a report on the incident and commissioned a joint report from police and security; however, no report, investigation, or arrest was made by year's end.

Although the government harassed university student unions for protesting against increased tuition fees, arrests of student demonstrators declined significantly during the year.

Freedom of Association.—The constitution and law provide for freedom of association, but the government restricted this right in practice. Although the government did not restrict the formation of political parties or unions, security forces and ZANU-PF supporters continued to interfere with their activities during the year. ZANU-PF supporters, sometimes with government support or acquiescence, intimidated and abused members of organizations perceived to be associated with other political parties. Suspected security force members visited the offices and inquired into the activities of numerous NGOs and other organizations believed to oppose government policies. Organizations generally were free of governmental interference only if the government viewed their activities as apolitical.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://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; however, the government restricted these rights in practice. The government generally cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing assistance to refugees, asylum seekers, stateless persons, and other persons of concern, but it interfered with some humanitarian efforts directed at IDPs.

Foreign Travel.—The registrar general continued to deny passports to citizens based on his interpretation of the Citizenship Act, which 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 also revokes the citizenship of persons who fail to return to the country in any five-year period. In 2002 the High Court ruled that this interpretation did not take into account that persons are not automatically assured 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. The court further held that it is incorrect to presume that, when persons have a parent or parents born out of the country, they are citizens of the other country by descent. In addition some countries, including countries in southern Africa, do not have a means to renounce citizenship. Independent groups estimated that as many as two million citizens may have been disenfranchised by the law, including those perceived to have anti-ZANU-PF leanings, such as the more than 200,000 commercial farm workers from neighboring countries and approximately 30,000 mostly white dual nationals. During the 2008 elections, some persons were denied the right to vote—despite having voted previously—because they could not adequately demonstrate their citizenship.

Exile.—A number of persons, including former government officials, prominent businessmen, human rights activists, MDC-T/N members, and human rights lawyers, left the country and remained in self-imposed exile under fear of persecution.

Internally Displaced Persons (IDPs).—According to the Internal Displacement Monitoring Center's 2009 estimate, between 600,000 and one million persons remained displaced within the country as a result of government policies, including state-sponsored election-related violence, land reform, and Operation Murambatsvina (the government's evictions of citizens from nonfarming areas in

2005). According to a 2010 IDP assessment report, approximately one-third of the IDPs interviewed cited Murambatsvina as the cause of displacement. More recent estimates were unavailable due to the government's sensitivity on the issue; until 2009 the government denied the existence of any IDPs.

Most recent documented displacements were from disputed farming areas. Since 2010 approximately 2,180 new household displacements were documented. In September 2010 alone, the government evicted approximately 1,750 households from resettled former commercial farm lands. At year's end another estimated 15,000 households in disputed farming areas were at risk of displacement due to verifiable threats or eviction notices. Most of those displaced had resided on their land for years without formal offer letters or title deeds. Eviction notices were served often in the presence of police or army personnel.

On December 13, nearly 150 families were forcibly displaced from Bromley Farm, east of Harare, by police and hired gang members. Most of those displaced were former workers at the former tobacco processing farm. The families were left camping on the side of the road. After unsuccessful efforts by the local government to negotiate a settlement for the families, NGOs delivered the first round of food and shelter on December 23. The families remained displaced at year's end.

The government's campaign of forced evictions and the demolition of homes and businesses continued during the year under the land reform policy.

In August 2010 approximately 50 armed police raided and burned an informal settlement at a race course in Harare. Police burned shacks and tents, beat the few who resisted, and arrested nearly 55 individuals. Most of the victims were employees of the race course, but others were victims of Operation Murambatsvina. At year's end the ZLHR was assessing the property damage in order to file civil claims against the city of Harare, the police, and the Ministry of Home Affairs.

The government provided no resettlement assistance to families who were evicted. Since 2010 the International Organization for Migration (IOM) and the World Food Program provided food assistance to approximately 32,000 IDPs and temporary shelter to more than 2,780 IDPs.

While the central government did not impose formal restrictions on international agencies and NGOs providing humanitarian assistance during the year, restrictions occurred at the local level. In February the provincial administrator in Manicaland Province convened a meeting to warn international agencies and NGOs from meddling in politics. Between February and April, the district administrator of Harare instituted a moratorium on NGOs providing assistance to an IDP resettlement near Harare. Local officials charged that some NGOs advocated regime change. In a few cases, local authorities advised organizations against traveling to farms involved in ownership disputes, where workers might be at risk. Some local governments interfered with aid distribution, notably in ZANU-PF strongholds. There were also reports of security agents questioning the recipients of aid distribution on whether they were interviewed by aid workers during the process.

Projection of an early election in 2011 led to increasing politicization of humanitarian assistance at the community level during the year. There were credible reports that ZANU-PF local councilors and officials formed "committees" through which NGOs had to channel humanitarian assistance. As a result MDC-T/N supporters were excluded from receiving subsidized farm inputs, food aids, and medicine.

Protection of Refugees.—Access to Asylum.—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. According to the UNHCR, the country hosted approximately 5,500 refugees and asylum seekers during the year.

Refugee Abuse.—The government maintained a formal encampment policy requiring refugees to live at the Tongogara refugee camp. However, as many as one-fifth of refugees lived in Harare at year's end. Refugees living in urban areas without the permission of the government remained at risk of arrest and return to the refugee camp. There were reports of arrests and returns to the camp during the year and also of police extorting refugees with threats of arrest. There were also several cases of criminal allegations against other refugees. The UNHCR assisted such refugees in obtaining access to legal representation. The detention of asylum seekers at the border due to illegal entry was also a problem, since the government lacked the budget and capacity to transfer them to Tongogara camp.

Access to Basic Services.—Refugees in Tongogara camp were provided access to very basic services and accommodation. The UNHCR ran a transit center in Harare to host refugees from Tongogara with serious protection problems or those in the process of resettlement interviews. The government's encampment policy—which also applied to the UNHCR transit center—posed limitations on refugees' freedom

of movement and ability to earn a livelihood. In some cases the government informally allowed refugees with special needs to live in urban centers. The government granted work permits to a few refugees, primarily those with special skills.

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

Although the constitution provides citizens with the right to change their government peacefully, this right was restricted in practice. The political process continued to be biased heavily in favor of ZANU-PF, which has dominated politics and government since independence in 1980.

Elections and Political Participation.—Recent Elections.—International observers characterized the March 2008 harmonized presidential, parliamentary, and local elections and the June 2008 presidential run-off as neither free nor fair. The results of the March presidential race were not released for more than a month, calling into question the credibility and independence of the Zimbabwe Electoral Commission (ZEC). When the tally was released, Tsvangirai had obtained 47.9 percent of the vote, while Mugabe had obtained 43.2 percent. Since neither President Mugabe nor MDC-T candidate Morgan Tsvangirai secured the 50 percent-plus-one needed to win outright in the March 2008 presidential election, a run-off election was set for June. While the March election was generally peaceful, violence and intimidation perpetrated by ZANU-PF officials and supporters in the months leading up to the June runoff resulted in 270 confirmed deaths, thousands of injuries, and the displacement of tens of thousands of persons. 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 that Mugabe had won with more than 85 percent of the vote; he was inaugurated immediately. Following domestic and international protests over Mugabe's inauguration, ZANU-PF and both MDC factions resumed negotiations, with former South African president Thabo Mbeki as lead SADC mediator. In September 2008 Mugabe, Tsvangirai, and former MDC-M party leader Arthur Mutambara signed the GPA, a power-sharing agreement, to establish an "inclusive" government. Under the GPA Mugabe retained the presidency, Tsvangirai became prime minister, and Mutambara became deputy prime minister. In a significant shift, two MDC factions—the MDC-T led by Tsvangirai and the MDC-M led by Arthur Mutambara—gained a parliamentary majority. In January Welshman Ncube replaced Mutambara as the head of the MDC's smaller faction, and the previously denoted MDC-M became the MDC-N as a result of a party congress vote; however, Mutambara remained deputy prime minister.

In the weeks preceding the March 2008 elections, the registrar general and the ZEC did not ensure an open inspection of voter rolls until they were compelled to do so by a court order. According to a local NGO that examined voter rolls, there were numerous attempts to 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.

Numerous restrictions were imposed on non-ZANU-PF party candidates. Although Tsvangirai was allowed to campaign, police did not permit the MDC-T to hold all of its planned rallies, and some MDC-T activists were intimidated and beaten in the weeks before the March election. Foreign journalists were not granted permission to cover the March elections. The domestic media heavily favored Mugabe.

While the country did not allow citizens of most Western countries to observe the June elections, it allowed election observer missions from three African groups: the Pan African Parliament, SADC, and the African Union. Each group subsequently issued statements critical of the elections, as did the leaders of a number of neighboring countries, including Botswana and Zambia.

Due to a government policy shift from the first round, 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 reduction of accreditations was designed to curtail the ability of civil society to monitor the election, especially polling.

The GPA mandates the writing of a new constitution. The outreach process to solicit public input was completed in October 2010, despite reported intimidation, disruption, harassment, arrest of MDC-T supporters and MPs, and pre-coaching conducted by ZANU-PF supporters. The drafting of the new constitution continued at year's end.

President Mugabe continued to make unilateral decisions without consulting the other two principals in the government, as required by the GPA.

Political Parties.—Although the constitution allows for multiple parties, elements within ZANU-PF and the security forces intimidated and committed abuses against other parties and their supporters and obstructed their activities. The government routinely interfered with MDC-T-led local governments.

Participation of Women and Minorities.—Of the 270 elected positions in the House of Assembly and the Senate, 55 were filled by women, constituting 21 percent of the total. The president of the Senate was a woman, as well as one vice president, one deputy prime minister, five ministers, and two governors. 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 and Vice President John Nkomo. There were 46 members of minority groups in the House of Assembly, including three white members.

Section 4. Official Corruption and Government Transparency

Although the law provides criminal penalties for official corruption, the government did not implement the law effectively or impartially, and officials frequently engaged in corrupt practices with impunity. World Bank Worldwide Governance Indicators reflected that corruption was a severe problem.

Corruption occurred at every level of the police force but took different forms depending on position, rank, or location. At the lower levels, corrupt officers extorted nominal to exorbitant fines from the public for varying claimed offenses to augment their low salaries. Armed police routinely erected roadblocks, claiming to be looking for criminals, smuggled goods, and food. In many cases police arbitrarily seized goods for their own consumption or extracted bribes from commuters.

Implementation of the government's redistribution of expropriated white-owned commercial farms often favored ZANU-PF elite and continued to lack transparency. High-level ZANU-PF officials selected numerous farms and registered them in the names of family members to evade the government's policy of one farm per official. 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.

There were reports that ZANU-PF officials in the government removed persons perceived to be MDC-T/N supporters from the civil service and the military. There also were reports that the government assigned soldiers and youth service members to work in government ministries. It was common for the minister of local government to appoint ZANU-PF supporters to bureaucratic positions in MDC-T led local governments. City public administrators reportedly earned hugely inflated salaries. According to the most recent audit, approximately 75,000 of the 188,000 civil servants in the Public Service Commission did not have the requisite minimum qualifications, and only 86,000 civil servants possessed the requisite qualifications for their designated positions. Almost 14,000 who remained on the payroll were retired, deceased, had absconded, were transferred, or were otherwise absent from their office of employment. The audit also uncovered duplicate personally identifiable information and files missing required documentation.

Corruption was particularly pervasive in local government, where officials abused their positions and government resources openly and with impunity. Local councilors' control of the designation and allocation of new land lots for residential and commercial use led to numerous allegations of bribe attempts and rent-seeking opportunities. Local government officials also demanded bribes or excessive fees for "expediting" paperwork, including birth certificates, passports, and licenses. Councilors practiced nepotism in the hiring of general council workers and in the allocation of lands. Allegations of corruption continued regarding both ZANU-PF and MDC-T councilors.

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.

There were developments in corruption cases from previous years. On March 21, local government minister Ignatius Chombo (ZANU-PF) fired MDC-T Harare city councilors Casper Takura and Warship Dumba for fraud and mismanagement of council funds. In April 2010 police arrested Takura and Dumba for alleged criminal defamation for their involvement in a report that exposed illegal business dealings between Chombo and Phillip Chiyangwa. Many observers considered the dismissals of Takura and Dumba as punishment for their exposure of Chombo's corruption.

Citizens were generally unable to access government information. 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. Such groups were subject to government restrictions, interference, monitoring, and harassment. Major domestic independent human rights organizations included the Crisis in Zimbabwe Coalition, Zimbabwe Human Rights NGO Forum, ZESN, ZLHR, Zimbabwe Peace Project, the NGO Zimbabwe Human Rights Organization (ZimRights), National Constitutional Assembly, Students Solidarity Trust, and WOZA.

The government harassed NGOs it believed opposed government policies and continued to use government-controlled media to disparage and attack human rights groups. Articles typically dismissed the efforts and recommendations of NGOs that criticized the government and charged that their real agenda was regime change.

Police arrested or detained local NGO members and harassed their leaders, often in connection with NGO meetings or demonstrations. During the year several NGO members were beaten during arrest and tortured while in custody.

On February 8, police in Harare arrested two employees of the Zimbabwe Human Rights NGO Forum. The employees, who were conducting a survey on transitional justice, were later released without charge. The following day police summoned forum director Abel Chikomo and questioned him for six hours at Machipisa and Harare Central police stations about the organization's activities. Police also raided and searched the group's offices.

On May 23, police arrested ZimRights members Walter Dube and Florence Ndlovu after disrupting a meeting they held near Bulawayo earlier in the day. ZimRights had obtained a court order on May 20 to hold the meeting. Dube was released on May 26 without charge, and Ndlovu was released on May 27 on \$50 bail. On October 3, a magistrate's court acquitted Ndlovu due to lack of evidence.

On September 10, unidentified security agents at the airport confiscated personal property belonging to Farai Maguwu, director of the NGO Center for Research and Development, as he was leaving for an international conference. The agents conducted a body search on Maguwu and confiscated his laptop, boarding passes, travel documents, and other personal belongings. Maguwu's passport was then restamped for entry back into the country. On September 11, lawyers filed an urgent application at the High Court seeking the return of the seized items. In response the Attorney General's Office sought to postpone the hearing to verify the identity of the security agents involved. On September 12, the High Court ordered the minister of state security in the President's Office to return all the seized property and cease interfering with Maguwu's movement. In May 2010 Maguwu was arrested and detained for almost two months before being acquitted after the government withdrew its case.

There were no developments in the case of four ZimRights employees who were arrested in April 2010 for organizing a photograph exhibit of the 2008 elections. The four were subsequently released.

The government also arrested and harassed the representatives of foreign NGOs. For example, on March 25, police arrested a German NGO employee who was in Harare for a conference. She was deported the following day.

On November 10, police and immigration officials in Harare, seeking to investigate the travel and visa documents of nine foreign participants, disrupted a meeting hosted by Oxfam. The officials took the passports of the visiting participants to the immigration office for verification and returned them two hours later.

Unlike in previous years, there were no reports that police seized radios. In October 2010 police in Gweru raided the office of the NGO Democratic Councils Forum (Demcof), seized 862 solar radios, and arrested and charged the Demcof training coordinator with a customs violation. The case was pending at year's end.

Government Human Rights Bodies.—Although members of the parliamentary Human Rights Commission were appointed in 2010, the commission was not operational because the required enabling legislation for its establishment had not been passed 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. Neverthe-

less, 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.—Rape and Domestic Violence.—The law criminalizes rape, including spousal rape; however, the law was not effectively enforced, and rape remained a widespread problem. Sexual offenses, including rape, are punishable by life imprisonment. However, few cases of rape were reported due to social stigma, and rape victims seldom received protection in court. Even fewer cases of spousal rape were reported, due to victims’ fear of losing economic support, fear of reprisal, unawareness that spousal rape was a crime, police reluctance to interfere in domestic disputes, and bureaucratic hurdles involved.

The government media frequently published stories denouncing rape and reporting convictions. However, police seldom acted on reported rape cases if the perpetrators were aligned with ZANU-PF or if the rape was used as a political tool against non-ZANU-PF members, as occurred during the 2008 election.

Children born from rape suffered stigmatization and marginalization. The mothers of children resulting from rape were sometimes reluctant to register the births, and such children were denied access to social services.

For example, in July Wallen Chiwawa, a law officer in the Attorney General’s Office, allegedly burned his wife with a hot iron before raping her six times because he suspected her of having an affair. The wife reported the rape and assault to the police, and Chiwawa was arrested and detained briefly before being released on bail. He subsequently appeared before a magistrate, and the case was postponed. In cases of marital rape, the prosecution needs authorization from the Attorney General’s Office to press charges, and the Attorney General’s Office reportedly was reluctant to do so in Chiwawa’s case. Chiwawa’s wife subsequently withdrew charges.

In 2010 two adult rape clinics were set up in public hospitals in Harare and Mutare. The clinics were designed to receive referrals from the police and NGOs and to administer HIV tests and provide medicines to prevent HIV infection, other sexually transmitted diseases, and pregnancy. The clinics could collect evidence and give medical examinations that could be used for court processes.

The law criminalizes domestic violence, but it was a serious problem, especially wife beating. Domestic violence is punishable by a fine and a maximum prison sentence of 10 years, but authorities generally considered domestic violence to be a private matter and usually arrested an offender only if there was physical evidence of abuse. Most cases of domestic violence went unreported, due to traditional sensitivities, victims’ fear of abandonment without support, and police reluctance to intervene. There were newspaper reports of wife killings, and there were a few reports of prosecutions and convictions for such crimes.

An Anti-Domestic Violence Council was created in 2009 to educate women about their legal rights and to protect victims of abuse. The council was ineffective due to lack of funding and the unavailability of statistics and information on prevailing trends of domestic violence.

The government continued a public awareness campaign against domestic violence. 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. However, the high turnover rate within the police force demanded a continuous level of training that could not be met. While public awareness increased, other problems emerged. For example, the police form required to report domestic violence was difficult to complete, and victims were often required to make their own photocopies due to police budgetary constraints.

Sexual Harassment.—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.

Reproductive Rights.—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. Inadequate medical facilities, including a lack of electricity and medication, contributed to a high maternal mortality ratio of 880 deaths per 100,000 live births. HIV/AIDS disproportionately affected females and was the major contributing factor to maternal deaths in the context of a weakened health delivery system. According to UNICEF’s 2009 Multiple Indicators Monitoring Survey (MIMS), 65 percent of

women who were married or in a domestic union used modern methods of contraception. Approximately 60 percent of births were attended by skilled attendants, while 40 percent of women gave birth at home. Half of mothers between the ages of 15 and 19 delivered their babies at home. Approximately 93 percent of women received prenatal care during pregnancy at least once. No information was available on whether women were equally diagnosed and treated for sexually transmitted infections.

Discrimination.—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 a woman's right to own property, but many women were unaware of their property and inheritance rights. Divorce and maintenance laws were equitable, but many women lacked awareness of their rights. Women have the right to register their children's births, although in practice either the fathers or male relatives must be present.

Women and children continued to be adversely affected by the government's forced evictions, demolition of homes and businesses, and takeover of commercial farms. Many widows who earned their income in the informal economy or by renting 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.

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 armed forces 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.

NGOs reported anecdotal evidence indicating that women experienced economic discrimination, including in access to employment, credit, pay, and owning or managing businesses.

Several 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. The government established the National AIDS Trust Fund to levy a 3 percent tax on incomes of individuals in formal employment and corporate entities to assist AIDS victims.

Children.—Birth Registration.—Citizenship is derived from birth in the country and from one's parents, and all births are to be registered with the Births and Deaths Registry. 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.). According to MIMS only 37 percent of children under five years of age possessed birth certificates. The births of children in rural areas outside a government hospital frequently were unregistered. Other reasons for failure to register births included fathers being absent or lacking time to register, parents not having a national identity card or birth certificate, the high cost of registration, and distance from a place of registration. Many orphaned children were unable to obtain birth certificates. Lack of birth documentation impeded access to public services, such as education and health care.

Education.—Primary education is not compulsory, free, or universal. According to MIMS 92 and 90 percent of female and male children of primary school age, respectively, attended primary school. 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. Girls were more likely to drop out because they were more readily employable, especially as domestic workers. Due to a lack of central government funding, some schools began to charge levies of up to several hundred dollars for the school year, which prevented many students from attending school. Some families 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 turned away from schools.

Child Abuse.—Child abuse, including incest, infanticide, child abandonment, and rape, continued to be serious problems. According to Childline, an NGO that ran a crisis hotline for children, nearly 250,000 calls were received in 2010, compared with approximately 116,000 calls in 2009. Most of the calls related to sexual and physical abuse, generally inflicted by a relative or someone who lived with the child. Childline attributed the increase in calls to the hotline being more available to children, improved telephone access with upgraded mobile phone signals across the country, and the expansion of its community-based drop-in centers. Girl Child Network reported that girls believed to be virgins were at risk of rape due to a belief that having sex with a virgin would cure men of HIV/AIDS.

Despite a 2009 campaign launched by the government and an NGO to eradicate child abuse in schools, it remained a problem. The campaign began after a study found that many children had been victims of unreported sexual and physical abuse by their teachers and peers. Students were also subjected to corporal punishment, which is a legal form of discipline for parents, teachers, and magistrates. While the law stipulates strict regulations in the execution of corporal punishment, most teachers and parents were not aware of them.

Government efforts to combat child abuse were inadequate and underfunded. The country had a ratio of one social worker per 50,000 children. During the year two baseline studies were initiated to address the problem more effectively. UNICEF, in partnership with other U.N. agencies, NGOs, and the government, began setting up a national database for the Department of Social Services to integrate existing data and reporting standards for all entities documenting abuses of children. In addition the government launched a national baseline survey on abuses occurring in households.

Child Marriage.—The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued, as did arranged marriages of young girls. The legal age for a civil marriage is 18, but girls ages 16 and 17 also could marry with parental approval. Customary marriage, recognized under the Customary Marriages Act, does not require a minimum marriage age for either boys or girls; however, the criminal code prohibits sexual relations with persons younger than age 18. According to UNICEF one-third of women married when under age 18, and 5 percent of women married when under age 15. Approximately 21 percent of young women between the ages of 15 and 19 were married or in a union. 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.

Sexual Exploitation of Children.—Statutory rape, legally defined as sexual intercourse with a child under the age of 12, carries a fine of \$2,000, imprisonment for up to 10 years, or both. A person in possession of child pornography can be charged with public indecency and faces a fine of \$600, imprisonment up to six months, or both. Child prostitution carries a fine of \$200, imprisonment for up to six months, or both. Those charged with facilitating the prostitution of a child were often also charged with statutory rape. A parent or guardian who causes or allows a child under age 18 to associate with or become a prostitute can face up to 10 years in prison.

Displaced Children.—According to UNICEF more than one-fifth of the country's children were orphans, 77 percent of whom lost their parents to HIV/AIDS. Orphans and vulnerable children (OVC) together constituted 37 percent of the country's children, and approximately 80 percent of OVCs did not receive any form of government support. The vast majority of orphans were cared for by the extended family. An estimated 100,000 children lived in child-headed households.

Orphaned children were more likely to be abused; not to be enrolled in school; to suffer discrimination and social stigma; and to be vulnerable to food insecurity, malnutrition, and HIV/AIDS. Extended families and communities often refused to take orphans due to fear that they or their own children might contract HIV. Some children were forced to turn to prostitution for income.

As of February 2010, more than 800,000 OVCs received comprehensive support and protection under the 2005-10 National Action Plan for OVCs. The goal of the plan is assist approximately one million children and their families throughout the country.

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 in 2009. At year's end NGOs were uncertain how many children remained affected. Various government-sponsored studies between 1999 and 2009 indicated that approximately 12,000 children were living on the streets. Economic hardships and the government's lack of support for social wel-

fare institutions contributed to a highly vulnerable population of street children throughout the country. NGOs operated training centers and homes for street children and orphans, and government officials referred children to these centers.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community numbered approximately 270 persons. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The constitution and law prohibit discrimination against persons with disabilities in employment, access to public places, and the provision of services, including education and health care. Nevertheless, the law was not widely known or implemented by government institutions. 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, consequently, as persons who should be locked away. Children with disabilities often were hidden when visitors arrived.

Children with disabilities were discriminated against in educational institutions. The unavailability of essential services, including sign language interpreters, Braille materials, and ramps, prevented children with disabilities from attending school. Many schools refused to accept children with certain disabilities.

According to the National Association of Societies for the Care of the Handicapped, persons with disabilities were a forgotten and invisible group in society. The organization also reported that only 33 percent of children with disabilities had access to education.

Persons with mental disabilities also suffered from inadequate medical care and general provision of health services. There were eight centralized mental health institutions in the country with a capacity of more than 1,300 patients, in addition to the three special institutions run by the ZPS for long-term patients and those considered to be dangerous to society. Inpatients in the eight centralized institutions received cursory screening, and most waited for at least one year for a full medical review. A shortage of drugs and adequately trained mental health professionals resulted in patients not being properly diagnosed and not receiving adequate therapy. There were fewer than 10 certified psychiatrists working in public and private clinics and teaching in the country. There was a 50 percent vacancy rate for psychiatric-trained nurses. More than 90 percent of the available psychiatric services were provided at the mental institution in Bulawayo. NGOs reported patients subjected to deplorable living conditions due in part to shortages of food, water, clothing, and sanitation. Budgetary constraints and limited capacity at these institutions resulted in persons with mental disabilities being kept at home and cared for by family, normally in chains and without treatment.

Prison inmates in the three facilities run by the ZPS were not necessarily convicted prisoners. Inmates with psychiatric conditions were examined by two doctors, who were required to both confirm a mental disability and recommend that a patient either be released or returned to a mental institution. In practice prisoners with mental disabilities routinely waited as long as three years before being evaluated. Prisoners with confirmed mental disabilities were increasingly sent to prison rather than mental institutions due lack of capacity in those institutions.

The five-year program launched in 2009 by the National Association of Societies for the Care of the Handicapped provided civic education to persons with disabilities with the goal of encouraging greater civic participation.

National/Racial/Ethnic Minorities.—According to government statistics, the Shona ethnic group makes up 82 percent of the population, Ndebele 14 percent, whites and Asians less than 1 percent, and other ethnic groups 3 percent. There was tension between the white minority and other groups, which ZANU-PF leaders often manipulated to further their political agenda. Historical tension between the Shona majority and Ndebele minority resulted in marginalization of the Ndebele by the Shona-dominated government.

The government continued its attempts to attribute the country's economic and political problems to the white minority and Western countries. ZANU-PF supporters seldom were arrested or charged with infringing upon minority rights, particularly the property rights of the minority white commercial farmers or wildlife conservancy owners targeted in the land redistribution program.

None of the provisions or timelines in the 2008 indigenization law were enforced during the year, and no businesses were forced to transfer ownership. The law defines an indigenous Zimbabwean as any person, or the descendant of such person, who before the date of the country's independence in 1980 was disadvantaged. The official purpose of the indigenization law was to increase the participation of indigenous citizens in the economy, with the ultimate objective of at least 51 percent indigenous ownership of large businesses. Legal experts criticized the law as being itself unfairly discriminatory and a violation of the constitution. Critics also said the real purpose of the law was to create patronage for ZANU-PF.

Historically, the government has discriminated against language minorities through the Education Act, which mandates the teaching of English in schools, along with Shona or Ndebele, depending on the region. 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 2009 Ministry of Education, Sport, Art, and Culture officials met with ZILPA and agreed to support its request for funding to teach all minority languages; however, schools lacked the necessary materials to teaching of minority languages.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The criminal code's definition of sodomy includes "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 same-sex sexual activity. Common law prevents gay men, and to a lesser extent lesbians, from fully expressing their sexual orientation and, in some cases, criminalizes the display of affection between men.

Leadership in both ZANU-PF and MDC-T, including President Mugabe and Prime Minister Tsvangirai, publicly denounced the LGBT community and warned against the inclusion of LGBT rights in the constitution. Mugabe publicly blamed the LGBT community for Africa's ills and declared its members to be worse than "pigs and dogs." However, in an apparent shift of position, Tsvangirai declared in an October 24 press interview that LGBT rights were a human right that should be enshrined in the country's new constitution.

Members of Gays and Lesbians of Zimbabwe (GALZ), the sole organization dedicated to advancing the rights of the LGBT community in the country, experienced assault, harassment, and discrimination.

For example, on September 2, at a bar in Harare, two individuals assaulted a GALZ member with a beer bottle after making discriminatory statements regarding her sexual orientation. She and her partner reported the incident to the police, who took no action.

GALZ employees Ellen Chademana and Ignatius Muhambi, who were arrested in May 2010 for possession of pornographic materials, were not summoned to court during the year. Chademana and Muhambi, whom police beat in the face and knees during an interrogation, were released five days after their arrest and subsequently acquitted of the pornography charge. However, both still faced a charge of undermining the president at year's end.

Members of the LGBT community reported widespread societal discrimination based on sexual orientation. In response to social pressure, some families reportedly subjected their LGBT members to "corrective" rape and forced marriages to encourage heterosexual conduct. Such crimes were rarely reported to police. Women, in particular, were subjected to rape by male members of their own families. LGBT members often left school at an early age due to discrimination and had higher rates of unemployment and homelessness. 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.

Other Societal Violence or Discrimination.—The government has a national HIV/AIDS policy that prohibits discrimination against persons with HIV/AIDS, and the law prohibits discrimination against workers with HIV/AIDS 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 Wel-

fare, and the National AIDS Council to Destigmatize HIV/AIDS, such ostracism and condemnation continued.

Despite the government's agreement in the 2006-07 Presidential HIV/AIDS Strategic Plan to address the problem of HIV/AIDS among gay men, no action had been taken to address the health needs of this population by year's end.

Promotion of Acts of Discrimination.—Throughout the year government-controlled newspapers and radio and television stations continued to vilify white citizens and blame them for the country's problems.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides private sector workers with the right to form or join unions without prior authorization, conduct legal strikes, and bargain collectively. These rights were sometimes abrogated by other provisions of law. The law grants the labor minister extensive powers to regulate union activities. For example, the minister has the authority to veto collectively bargained agreements perceived to be harmful to the economy or to appoint an investigator who can, without prior notice, enter trade union premises, where any person employed can be questioned and any books, records, or other documents can be inspected and copied. The law denies public sector employees the right to form unions, strike, and bargain collectively. Procedural requirements—including 14-day advance-notice requirements, mandated 30-day reconciliation periods, and possible and mandatory referral to binding arbitration—further curtailed the right to call a legal strike. Essential services employees are prohibited from striking, and the law allows that any nonessential service may be declared an essential service if a strike is deemed a danger to the population. Managers are prohibited from striking, and in some industries, the government defined most employees as managers. Collective bargaining agreements applied to all workers in an industry, not just union members. Agreements reached by employers and employees must be gazetted by the Ministry of Labor to go into effect. The law prohibits antiunion discrimination, provides that the labor court handle complaints of such discrimination, and may direct that workers fired due to such discrimination be reinstated. There are no export processing zones. Migrant workers can join unions if they work in industries for which there are unions, and their rights are covered. Domestic workers are neither organized nor unionized but are protected by labor laws.

The government did not effectively enforce applicable laws. The rights to form or join unions, strike, and bargain collectively were not respected in practice. Unions were prevented from holding meetings with their members and carrying out organizational activities, sometimes by the police or ZANU-PF supporters. Although the law does not require unions to notify the police of public gatherings, such notification was required in practice. Often unions that applied for permission were denied. Unions risked suspensions from registration for 12 months for minor infractions, and union members could be fined and imprisoned for participating in union activities.

The Zimbabwe Federation of Trade Unions (ZFTU), a government-created alternative labor body, continued to exist but did not wield real influence over labor negotiations. The government was disinclined to include the ZFTU in labor-related discussions with employer and labor organizations.

Police often denied ZCTU's applications to hold commemorations in particular venues and banned processions from taking place. The police also sought to restrict union activities by prescribing certain conditions.

On February 19, police arrested and detained 46 labor union and student activists who had gathered for a video presentation and discussion of popular protests in Egypt and Tunisia (see section 1.d.).

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.

The ZCTU reported that its affiliates were able to engage in collective bargaining with employers without interference from the government. Collective bargaining agreements applied to all workers in an industry, not just union members. Agreements reached by employers and employees must be gazetted by the Ministry of Labor to go into effect. In practice any agreement could be administratively blocked when left ungazetted over an indefinite period of time.

Union members faced discrimination and harassment, including dismissal and transfer. There were no reports that union members dismissed as a result of union activities were reinstated during the year.

b. 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. Forced labor is punishable by a fine, two years' imprison-

ment, or both. The law provides for forced prison labor, and workers arrested for striking or persons arrested for speaking out against the government were often sentenced to forced labor.

Despite the law forced labor occurred, including by children, although the extent of the problem was unknown. Adults and children were subjected to forced labor in agriculture and domestic service in rural areas, as well as domestic servitude in cities and towns. Children were also utilized in the commission of illegal activities, including gambling and drug smuggling. Forced labor by children occurred in agricultural, mining, and domestic sectors.

Workers on seized farms reported that new owners occasionally forced them to work without pay and under threat of eviction from the farm.

There were no records of government's efforts to prevent and eliminate forced labor during the year. There were no data on the number of victims removed from forced labor.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits most forms of child labor. Child labor is punishable by a fine, two years' imprisonment, or both. Under the law a child between the ages of 13 and 15 can work as an apprentice 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 the age of 18 shall perform any work likely to jeopardize that person's health, safety, or morals. The status of children between ages 15 and 18 is not directly addressed, but age 15 remains the minimum for light work, work other than apprenticeship, or work associated with vocational education.

Child labor was common. Concrete data on the extent of child labor remained difficult to evaluate and confirm, despite the government's indication that comprehensive data on child labor would be collected in 2010. A 2007 survey by a domestic NGO documenting child labor reported that approximately one-third of children were working, primarily in the informal sector. Children worked in agriculture (tobacco, tea, coffee, and cotton), cattle herding, forestry, illegal gold and diamond mining, and as domestics, street vendors, construction workers, and car watchers.

Children often faced hazards to their health and safety and lacked necessary equipment and training. Children between the ages of 12 and 16 were used to crawl into small spaces in abandoned gold mine shafts near Shurugwi in Midlands Province. In other areas (near Kwekwe, Bindura, and Mazowe), 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 that they were assisting a child from a rural home by providing housing and board. Some employers paid the parents for the child's work. Relatives often took children orphaned by AIDS into their homes but used them 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. There were approximately 170 labor inspectors responsible for investigating labor-related violations and for enforcing labor laws, including those covering children.

On June 29, the results of a 2008 nationwide survey conducted by the government and the International Labor Organization (ILO) on the worst forms of child labor were released. According to the survey, children were involved in the worst forms of child labor in informal, artisanal, and small-scale mining; the agriculture sector, particularly tea and tobacco; prostitution; domestic services; and illicit activities. Poverty and the breakdown of the family unit were major drivers for the existence of the worst forms of child labor. An action plan to address the problem was pending government approval at year's end.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—There is no national minimum wage, except for agricultural workers (\$85 a month) and domestic workers (\$176 a month). The maximum legal workweek was 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. The law prescribes that workers receive not less than twice their standard remuneration for working on a public holiday. The government sets safety and health standards on an industry-specific basis. The public service commission sets conditions of employment in the public sector. Workers have a legal right to remove

themselves from dangerous work situations without jeopardy to continued employment. The government did not effectively enforce these laws.

The Ministry of Labor and Social Welfare is responsible for enforcing the minimum wage, but monitoring systems were ineffective, and many agricultural and domestic workers were paid below the minimum wage. More than 85 percent of the population lived below the government's poverty line, which was set at \$533 a month. In 2008 the ILO reported that four of five jobs in the country were in the informal sector, 78 percent of which were in agriculture. These jobs generally provided extremely low income and poor working conditions and did not offer adequate worker protections. The ZCTU reported that more workers moved out of the formal sector during the year due to the prolonged economic collapse and lack of job creation.

In January the government announced pay raises between 18 and 24 percent for civil servants after a series of negotiations. In early July civil servants, including soldiers and police, received pay raises, with the lowest-paid workers seeing their monthly salaries almost doubled from \$128 to \$253.

There was little or no enforcement of the work-hour law, particularly in agricultural and domestic worker sectors. Nevertheless, workers were unlikely to complain to authorities about violations due to fear of losing their jobs.

The Zimbabwe Occupational Safety Council, a quasigovernmental advisory body to the National Social Security Administration (NSSA), regulates working conditions. Budgetary constraints and staffing shortages, as well as its status as an advisory council, made the council largely ineffective.

Poor health and safety standards in the workplace were common problems faced by workers in both formal and informal sectors due to lack of enforcement.

The NSSA lacked enough safety inspectors to monitor the thousands of work sites, formal and informal, across the country, but it closed some shops and factories found not complying with safety regulations. In some cases safety inspectors were reluctant to close noncompliant factories associated with government officials. From January to November, the NSSA reported 71 workplace fatalities and 3,744 injuries. The ZCTU reported a total of 90 fatalities and 4,410 workplace injuries since 2010. The number of injuries and fatalities by sectors was not available. Despite the law allowing workers to remove themselves from dangerous working conditions, in practice they risked the loss of their livelihood if they did.

Information on the treatment of foreign and migrant workers was not available. The government considered many commercial farm workers to be foreigners because one or both parents were born in another country. Foreign farm workers were also covered under these laws and standards.

EAST ASIA AND THE PACIFIC

AUSTRALIA

EXECUTIVE SUMMARY

Australia is a constitutional democracy with a freely elected federal parliamentary government. In free and fair federal parliamentary elections held in August 2010, neither the Australian Labor Party (ALP) nor the opposition Liberal Party and National Party coalition won enough seats to form a government. Subsequently, the ALP secured the support of the Greens Party member of Parliament (MP) and three independent MPs to gain a majority of 76 seats in the 150-seat House of Representatives and formed a government with Julia Gillard as prime minister. Security forces reported to civilian authorities.

There were no widespread human rights violations, although problems were reported in a few areas. The principal problem areas included domestic violence against women and children, particularly in indigenous communities; discrimination against indigenous people; and lengthy detention of some asylum seekers.

Other concerns included a high-profile press freedom case involving a newspaper columnist found guilty of violating an antidiscrimination law in two published columns.

The government took steps to prosecute officials accused of abuses, and ombudsmen, human rights bodies, and internal government mechanisms responded effectively to complaints.

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 the Queensland Police Service (QPS) determined not to pursue disciplinary action recommended by the state's Crime and Misconduct Commission against six officers involved in the death in custody of an indigenous citizen on Palm Island in 2004. Following this decision the Queensland government ordered an independent review of the QPS discipline, complaints, and misconduct system, and in May the review panel found the system "dysfunctional and unsustainable." In August the Queensland government released its response to the review, supporting 56 of the report's 57 recommendations.

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. There were occasional reports that police and prison officials mistreated suspects in custody. Some indigenous groups asserted that police harassment of indigenous people and racial discrimination by some police and prison custodians persisted.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards, including access to potable water, and the government permitted visits by independent human rights observers.

In a 2011 press release, the Australian Institute of Criminology reported that deaths in prisons were less prevalent than in the general population, noting that in 2008 the death rate was six per 1,000 for the general population, 1.3 per 1,000 indigenous prisoners, and 2.2 per 1,000 nonindigenous prisoners. In August a prisoner at the Capricornia Correctional Center in Queensland State was convicted of the 2009 killing of another prisoner and sentenced to an additional nine years' imprisonment. During the year there were at least two suicides and reports of other self-harm among asylum seekers in immigration detention centers (see section 2.d.).

In January the Western Australia State government charged a private security company, its guards, and the Department of Correctional Services with violations under the Occupational Safety and Health Act for the death of an Aboriginal elder

who died in 2008 from heatstroke in a prison van, operated by the security company, during a 220-mile drive to court to face a drunk-driving charge. However, no one was charged with manslaughter. The security company, the two guards involved, and the Department of Correctional Services all pled guilty. The security company was fined A\$285,000 (\$290,700) and the guards were fined A\$9,000 (\$9,180) and A\$11,000 (\$11,220) respectively. The state government also made an A\$3.2 million (\$3.26 million) ex-gratia payment to the family of the deceased.

According to a December publication of the Australian Bureau of Statistics (ABS), as of June there were 29,106 prisoners in the country, including 2,028 female prisoners and 6,723 unsentenced prisoners. Unsentenced prisoners included pretrial detainees, convicted prisoners awaiting sentencing, and persons awaiting deportation. The median time spent in custody by unsentenced prisoners was 2.8 months. In December the Corrective Services Union claimed there was overcrowding at Arthur Gorrie Correctional Center in Queensland; the Queensland government indicated that the system was under capacity.

Prisoners and detainees had access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to government-funded legal aid offices; federal, state, and territorial ombudsmen; and judicial authorities without censorship. Authorities investigated allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions. Both federal and state governments funded "juvenile diversion" programs to keep young people out of the court and prison systems.

Federal, state, and territorial government ombudsmen can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders, addressing the status and circumstances of confinement of juvenile offenders, and improving pretrial detention, bail, and recordkeeping procedures.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government 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 court order.

Although the law states that the maximum investigation period for which a person may be held and questioned without charge is 24 hours (unless extended by court order), it also provided that this allowable time for questioning a suspect may be spread across an unspecified number of days (a concept known as "dead time"), which human rights groups, the media, and the legal profession criticized. A 2010 law addressed the "dead time" issue by establishing a seven-day limit on the amount of time a terrorism suspect can be held for questioning; expanded counterterrorism laws to apply to those who incite violence on the basis of race, religion, ethnic origin, and political opinion; and extended the expiration period of regulations proscribing a terrorist organization from two to three years.

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." ASIO, however, 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 court order must be sought.

A 2010 law provides for the appointment of an independent monitor to help ensure that counterterrorism laws strike an appropriate balance between protecting

the community and protecting human rights. In April the government appointed a monitor. By law both the Australian Federal Police Commission and the Australian Crime Commission are subject to parliamentary oversight.

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. All asylum seekers held in detention centers are eligible for free legal assistance. This assistance ceases when a decision is made on an asylum claim by both the Department of Immigration and Citizenship and the relevant review tribunal.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government respected judicial independence in practice.

Trial Procedures.—The law provides for the right to a fair public trial, and an independent judiciary 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 renders 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 witnesses and 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.

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. 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 effectively enforced these prohibitions in practice. Police have authority to enter premises without a warrant in emergency circumstances.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—Although the constitution does not explicitly provide for freedom of speech or 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 press.

Freedom of Press.—On September 28, the Federal Court found the Herald and Weekly Times newspaper and columnist Andrew Bolt in violation of the Racial Discrimination Act for publishing two columns in 2009 asserting that fair-skinned Australians "with some Aboriginal descent" were not genuinely identifiable as Aboriginal. The case was launched by complaints from nine fair-skinned Aboriginals about the articles. The court ordered the parties to negotiate a public correction or apology. Prominent public figures, as well as civil liberties groups, criticized the ruling as having disturbing implications for freedom of speech and press.

In October the Department of Immigration and Citizenship (DIAC) issued new regulations governing media access to immigration detention centers. The regulations require members of the media to be accompanied by a DIAC official and submit media content to DIAC for review to ensure the privacy of asylum seekers is protected. Some journalists and media organizations criticized the measures as overly restrictive.

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

Law enforcement agencies require a warrant to intercept telecommunications, including Internet communications. In emergency situations the director general of the Australian Security Intelligence Organization 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 investigation concludes the complaint is justified. The list is made available to providers of filtering software.

Since 2010 three major telecommunications providers have voluntarily blocked Web sites on Interpol’s list of child abuse links. A government plan for mandatory Internet filtering, suspended in July 2010 pending additional government review, remained suspended and under review at year’s end. Anticensorship groups had criticized the proposal.

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.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

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 U.N. 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.

Exile.—The law does not address forced exile, but the government did not use it.

Protection of Refugees.—Access to Asylum.—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.

Unauthorized arrivals seeking asylum are processed at the Christmas Island Detention Center, located off the country’s northwest coast. Following health, identity, and security checks, unauthorized arrivals are to 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 number of asylum seekers arriving by sea has increased dramatically in recent years, putting pressure on the detention center capacity at Christmas Island as well as on processing times. There were 4,940 such arrivals recorded in the 2010-11 fiscal year, compared with 25 in 2007-08. In June the government rejected a U.N. recommendation to change the mandatory detention framework for asylum seekers. In July the Australian Human Rights Commission (HRC) asserted that this policy breached Australia’s human rights obligations and in practice resulted in indefinite detentions.

The HRC called for an end to 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 November 2010 the High Court ruled, in a case brought by two asylum seekers held offshore, that the two were denied “procedural fairness” in the processing of their applications, and that all refugee-status assessments, regardless of the place or manner of the asylum seekers’ arrival, are subject to the provisions of the Migration Act and the decisions of the country’s courts, in the context of procedural fairness. In November 2011 the government announced that beginning in 2012, unauthorized maritime arrivals would be granted the same access to the Refugee Review Tribunal as other asylum seekers.

DIAC provided immigration advice and assistance to persons making an initial asylum claim or application for lawful residence. There is also a statutory obligation to facilitate access to legal representation for persons in immigration detention.

The Christmas Island Detention Center remained at or near capacity throughout the year; some asylum seekers were transferred to detention centers on the mainland due to the lack of adequate capacity at the Christmas Island center. On June 29, the government reported that 767 children in immigration detention had been moved into community-based accommodation since October 2010.

In March an Afghan asylum seeker committed suicide at the Curtin Detention Center in Western Australia and another Afghan asylum seeker committed suicide at the Scherger Detention Center in Queensland. In May the Australian Medical Association’s Northern Territory president claimed that detainees under 10 years of age had attempted self-harm. In late July the Commonwealth ombudsman launched

an inquiry into the rising rate of self-harm by asylum seekers in immigration detention. According to the ombudsman, in the first week of July there were 50 such incidents.

In March, June, and July, there were riots at the Christmas Island Detention Center. In March there was a protest at the Villawood Detention Center in Sydney during which asylum seekers set fires that destroyed or damaged nine buildings. Subsequently, in July Parliament amended the Migration Act so that asylum seekers would fail the character test for receiving a permanent visa if convicted of any offense committed while in immigration detention. In July up to 80 asylum seekers participated in a hunger strike at the Scherger Detention Center.

An HRC investigation into the Villawood center, released in May, found its design “places considerable strain on detainees, staff and managers.” In response DIAC stated that the company managing the center had already prepared a proposal to upgrade facilities prior to the fires. During the year the Department of Finance and Deregulation and DIAC jointly oversaw an A\$186.7 million (\$190.43 million) government-funded project to upgrade the facilities, and restoration work began in preparation for the redevelopment.

On July 25, the government signed an agreement with Malaysia involving transfer to Malaysia of up to 800 maritime asylum seekers in return for Australia accepting 1,000 confirmed refugees each year for the next four years. Transferees would be provided exemptions under Malaysian immigration law and have access to work, education, and health care. The HRC was concerned, however, because Malaysia was not a signatory to the U.N. Refugee Convention; it urged the government not to send unaccompanied minors, families with children, and torture and trauma survivors to Malaysia. On August 31, Australia’s High Court declared the agreement illegal, finding that “Malaysia is not legally bound to provide the access and protections the Migration Act requires for a valid declaration.” This decision also called into question the legality of the off-shore processing of asylum seekers generally. In the wake of the High Court decision, in November the government announced a change in its immigration detention policy and released 27 detainees on temporary “bridging” visas that allowed them to live with friends or relatives in the country and to work, pending decisions on their asylum claims. The government stated the intention to release additional detainees under bridging visas over the next few months. It noted that decisions on which detainees to release would take into account time spent in detention and suitability for community placement based on an assessment process including identity, security, and behavior checks.

Delays in processing asylum applications continued to be a problem during the year, especially among a small number of asylum seekers who 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 for two years or more. As of June 14, there were seven persons in immigration detention longer than two years.

Detention facilities were monitored by Parliament, the ombudsman, the UNHCR, and an advisory group composed of experts in immigration and humanitarian issues.

Nonrefoulement.—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. In November the Federal Magistrate’s Court issued a temporary injunction against the deportation to Afghanistan of an unsuccessful Afghan Hazara asylum seeker, pending a further hearing on the case.

Durable Solutions.—The government accepted refugees for resettlement from third countries and funded refugee resettlement services, such as language and employment programs.

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.—Recent Elections.—In federal elections held in August 2010, the incumbent ALP government won 72 seats in the 150-seat lower house of Parliament; the opposition Liberal-National Party coalition won 73; and others won five. The ALP formed a government with the support of one Greens Party and three independent MPs.

Participation of Women and Minorities.—There are no legal impediments to public office for women or indigenous persons. Following the August 2010 elections, there were 64 women in the 226-seat federal Parliament (37 in the House of Representatives and 27 in the Senate). There were five female ministers in the 21-member federal cabinet, two women among the 10 ministers outside the cabinet, and four 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 prime minister and the governor-general were women, and there were three female judges on the seven-member High Court.

Indigenous persons generally were underrepresented among the political leadership. In August 2010 an indigenous person was elected to the federal House of Representatives for the first time. There was one indigenous citizen in the Tasmania State parliament, one in the New South Wales State parliament, two in the Western Australia State parliament, five in the Northern Territory legislative assembly, and one in the Australian Capital Territory legislative assembly. There was an 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 provisions effectively. There were isolated reports of government corruption. On July 1, the Australian Federal Police (AFP) initiated bribery-related charges against six men in connection with efforts from 1999 to 2005 to secure banknote contracts in Malaysia, Indonesia, and Vietnam on behalf of a company then half-owned by the Reserve Bank of Australia (RBA). On August 10, charges were initiated against a seventh man. The AFP stated that the company and the RBA assisted the authorities during the investigation. The cases were still pending at year's end.

Queensland, Western Australia, and New South Wales states 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.

Federal, state, and territorial governments have freedom of information laws that provide the public with access to government information; some charge application and processing fees. The federal government does not charge application fees. 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, an executive body that reviews administrative decisions by government entities. An adverse Administrative Appeals Tribunal decision may be appealed to the Federal Court.

There is a freedom of information commissioner responsible for promoting and protecting information rights.

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 operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies.—The HRC, which was adequately funded by the federal government, investigates complaints of discrimination or breaches of human rights under the federal laws that implement the country's human rights treaty obligations. It enjoyed a high level of public trust, and its reports were deemed credible and reported widely by the media and nongovernmental organizations (NGOs).

In addition to the HRC at the federal level, each state and territory has a human rights ombudsman.

In November Parliament passed the Human Rights (Parliamentary Scrutiny) Act 2011, to take effect January 4, 2012. It requires that each new bill be accompanied by a statement of compatibility with international human rights obligations and establishes a new Parliamentary Joint Committee on Human Rights.

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

Federal laws prohibit discrimination based on gender, disability, race, color, descent or national or ethnic origin, marital status, and age. An independent judiciary and a network of federal, state, and territorial equal opportunity offices effectively enforced the law.

Women.—Rape and Domestic Violence.—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, one in three Australian women has experienced physical violence since the age of 15, and almost one in five has experienced sexual violence. The ABS reported that during 2010 police recorded 17,757 victims of sexual assault, 85 percent of whom were female.

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 the funding of numerous women's shelters. Police were trained in responding to domestic violence. Federal, state, and territorial governments collaborated on the National Plan to Reduce Violence Against Women and their Children 2010-2022, which is the first effort to coordinate action at all levels of government to reduce the levels of violence against women.

Sexual Harassment.—The law prohibits sexual harassment. Complaints of such harassment can give rise to criminal proceedings or disciplinary action against the defendant and compensation claims by the plaintiff. In May Parliament passed changes to the Sex Discrimination Act that strengthen protections against sexual harassment in workplaces and schools and prohibit use of new technologies for sexual harassment.

Reproductive Rights.—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 prenatal, obstetric, and postpartum care. 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.

Discrimination.—The independent federal sex discrimination commissioner, who is part of the HRC, undertakes research, policy, and educational work designed to eliminate gender discrimination. There also is a federal Office for Women, which focuses on reducing violence against women, promoting women's economic security, and enhancing the status of women.

The HRC received 459 complaints under the Sex Discrimination Act from July 2010 to July 2011. Of the 448 finalized complaints, 142 were terminated, 185 resolved by conciliation, 87 discontinued or withdrawn, and 34 administratively closed for other reasons.

Women have equal status under the law, and the law provides for pay equity. According to the ABS, the pay gap between male and female full-time workers was 11 percent. 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. In May Parliament passed laws prohibiting discrimination against employees on the basis of family responsibilities and establishing breastfeeding as a separate ground of discrimination under the Sex Discrimination Act.

In April the government directed the sex discrimination commissioner to lead an HRC review of the treatment of women in the Australian Defense Force Academy and the Australian Defense Force. There were highly organized and effective private and public women's rights organizations at the federal, state, and local levels.

Children.—Birth Registration.—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 permanent residents acquire citizenship on their tenth birthday if they have lived most of their life in the country. Births generally were registered promptly.

Child Abuse.—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, carrying out education campaigns, devel-

oping 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 31,527 substantiated cases of child abuse and neglect from July 2010 to June 2011. These included physical abuse, sexual abuse, emotional abuse, and neglect.

Harmful Traditional Practices.—Both the law and medical policy prohibit female genital mutilation (FGM). While the number of Australian residents born in countries where the practice is common is growing, there were no known reports of FGM during the year.

Child Sexual Exploitation.—The law provides for penalties of up to 25 years' imprisonment for commercial sexual exploitation of children. There were some cases of children under age 18 engaged in prostitution. Some teenagers—primarily girls, but also some boys—were forced into prostitution by pimps. In October 2010 the Australian Capital Territory (ACT) parliament launched a review of the ACT Prostitution Act. In March the ACT chief police officer stated that greater powers were needed to identify children working in the sex industry.

The law 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. The act prohibits citizens and residents from engaging in, facilitating, or benefiting from sexual activity with children under age 16 overseas. 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, New South Wales, the Northern Territory, Victoria, and Western Australia, 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 acts 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.

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 (\$280,500). Federal law allows suspected pedophiles to be tried in the country regardless of where the crime is committed. The Australian Federal Police 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 in 2007 to combat child sexual abuse in 73 Northern Territory Aboriginal communities. 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 Northern Territory indigenous children under age 16. On June 5, the indigenous affairs minister stated there had been improvements in provision of food and clothing, school attendance, policing, and the level of violent crime.

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, since nonindigenous persons in the Northern Territory were not initially subject to such restrictions.

International Child Abductions.—The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—According to the 2006 census, the country's Jewish community numbered 88,832 persons. Civil-society organizations estimated the number in 2010 to be 120,000. In the 12-month period ending September 30, an annual report on anti-Semitism by the Executive Council of Australian Jewry, an NGO, recorded 517 anti-Semitic incidents, compared with 394 during the previous 12 months. The increase of incidents by more than 30 percent was largely due to a proliferation of "hate e-mail." There were some incidents of physical assault and anti-Semitic vandalism, including the July assault of an elderly man entering a synagogue in Sydney's eastern suburbs and incidents in which eggs were thrown at Jewish persons and anti-Semitic graffiti was painted on buildings and vehicles in Melbourne and Sydney.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip/>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental 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 HRC, 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, including ensuring equal access to communications and information. The law also provides for mediation by the HRC of discrimination complaints, authorizes fines against violators, and awards damages to victims of discrimination.

The HRC's annual report stated that 823 complaints citing 2,176 alleged grounds of discrimination were filed under the Disability Discrimination Act from July 2010 to June 2011. Of these, 31 percent were employment related, and 35 percent involved the provision of goods and services. The HRC resolved 961 complaints during the period, 465 through conciliation. In August the government stated it would develop a National Disability Insurance Scheme (NDIS) with the states and territories, following the release of the Productivity Commission's final report on the issue. In December the government announced the establishment of a new agency to design and implement the NDIS.

National/Racial/Ethnic Minorities.—According to the HRC's July 2010 to June 2011 annual report, it received 422 complaints under the Racial Discrimination Act, citing 826 alleged grounds of discrimination. Of these, 35 percent involved employment, 27 percent involved provision of goods and services, and 16 percent alleged "racial hatred." Persons born outside the country filed 44 percent of the complaints, and Aboriginals and Torres Strait Islanders filed 34 percent. During this period the HRC resolved 472 complaints, 208 through conciliation.

Indigenous People.—According to the 2006 census, Aboriginals and Torres Strait Islanders numbered approximately 517,200 persons, roughly 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 percent of the land in the Northern Territory to indigenous ownership. In 2009 indigenous-owned or controlled land comprised 17.3 percent of the country's area (excluding native title lands). 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 leaseholder rights and native title rights are in conflict, leaseholder rights prevail but do not extinguish native title rights. In June native title agreements were reached between Rio Tinto Iron Ore and traditional owner groups in the Pilbara Region of Western Australia; the government praised their commitment to "best practice" native title negotiating.

The approximately A\$1.7 billion (\$1.73 billion) Indigenous Land Corporation is a special account that provides a continuing source of funds for indigenous persons to purchase land for their use. It receives a minimum federal government payment of A\$45 million (\$45.9 million) each year. It is separate from the National Native Title Tribunal and is not for payment of compensation to indigenous persons for loss of land or to titleholders for return of land to indigenous persons.

As part of the intervention to address child sexual abuse in Northern Territory indigenous communities (see section 6, Children), the government took control of certain indigenous communities through five-year land leases. In May the government reported it was paying rent to 48 of the 64 affected communities as of December 2010 and was negotiating with the remaining communities. All rent payments are backdated to the commencement date of the leases and the payments are scheduled to continue until the leases expire in August 2012.

In August Amnesty International (AI) released a report criticizing certain policies of the Northern Territory government with regard to Aboriginal communities. The report asserted that the government's policy of establishing, and directing most indigenous-specific funding toward, a number of larger, more centralized "growth towns" was making it increasingly difficult for indigenous residents of smaller, more remote communities located on their traditional lands ("homelands" communities) to access needed social services. AI reported that many such communities suffered

from substandard, overcrowded housing and poor sanitation, and inadequate resources for necessary maintenance and improvements. In October AI's secretary general met with the indigenous affairs minister and toured indigenous communities in the Northern Territory.

The government expressed a commitment to "closing the gap" on indigenous inequalities and since 2008 the prime minister has reported to Parliament the progress on this effort at the beginning of each year. In August the Productivity Commission released a report that noted improvements in 13 areas of indigenous well-being but worsening or no change in 17 areas. It found that infant and child mortality rates had "improved significantly" since the early 1990s; median household income had increased from 2002-2008; school retention to year 10 had increased from 83 to 96 percent from 1998-2010; and there were improvements in employment. However, "virtually all the indicators in this report" showed wide gaps between indigenous and other Australians. A February 2010 Department of Finance document, obtained by the media through a freedom of information request, found "dismally poor returns" from indigenous-specific spending.

According to the ABS, in 2010 indigenous adults were 14 times as likely as nonindigenous adults to be imprisoned and comprised 26 percent of the prison population. Life expectancy for indigenous men was estimated to be 67.2 years, compared with 78.7 years for nonindigenous men; life expectancy for indigenous women was estimated to be 72.9 years, compared with 82.6 years for nonindigenous women; and the indigenous unemployment rate was 18 percent, compared with 5 percent for the nonindigenous population.

With the intervention to address child abuse in Northern Territory indigenous communities scheduled to conclude in mid-2012, the government held more than 470 consultation meetings between June and August with indigenous people and other stakeholders in more than 100 communities and town camps in the Northern Territory to develop further steps for improving the lives of indigenous people.

The National Congress of Australia's First Peoples, established in May 2010, is the national representative body for Aboriginals and Torres Strait Islanders. It was designated to receive A\$29.2 million (\$29.7 million) over five years from the federal government. The HRC has an Aboriginal and Torres Strait Islander social justice commissioner.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Discrimination on the basis of sexual orientation is prohibited by law in a wide range of areas, including in family law, taxes, child support, immigration, pensions, and social security.

The HRC received 17 complaints of employment discrimination based on sexual orientation from July 2010 through June 2011.

Other Societal Violence or Discrimination.—Federal and various state laws prohibit discrimination on the grounds of HIV-positive status. The HRC 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. Freedom of Association and the Right to Collective Bargaining.—The law provides workers, including public servants, the right to associate freely domestically and internationally and also protects against antiunion discrimination. Federal, state, and territorial laws provide workers with the right to organize, conduct legal strikes, and bargain collectively. Labor laws protect citizens, permanent residents, and migrant workers.

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. Nationally, employers and other unions have the right to challenge changes to union "eligibility rules," which essentially outline the types of employees the union may represent.

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. Strikes in essential services—such as law enforcement, air-traffic control, and sanitation—are regulated by federal and state laws. The law permits the government to stop strikes judged to have an "adverse effect" on the employer or damage third parties. Industrial action must be authorized by a secret ballot of employ-

ees; unions complained that this requirement was unduly time consuming and expensive to implement.

The Fair Work Act, which replaced the Workplace Relations Act as the country's basic labor law for private-sector workers, became fully effective in 2010. The act promotes freedom of association by giving unions greater ability to access worksites. In terms of collective bargaining, it requires employers to act in "good faith" when a majority of employees want a collective agreement and enables low-paid workers to engage in multi-employer "good faith bargaining." It also reduces the list of "prohibited content" issues that may not be included in a collective agreement. Finally, the act gives stronger intervention powers to Fair Work Australia, an independent industrial relations management institution that assumed the functions of the Australia Industrial Relations Commission (AIRC) and other workplace bodies upon its establishment in 2009. Final industrial awards created by the AIRC, as well as a national safety net of minimum employment standards, came into effect in 2010.

Under the Fair Work Act, union officials have the right to enter workplaces if they hold right-of-entry permits granted by Fair Work Australia. Written notice is generally required to enter a workplace and should be provided no less than 24 hours and no more than 14 days before the proposed visit. A permit holder may enter premises to hold discussions with one or more employees. Eligibility to enter premises is not dependent on whether a union is party to an award or enterprise agreement, but rather on whether a union covers the work of a particular employee.

In practice unions carried out their functions free from government or political control. Almost all unions were affiliated with the Australian Council of Trade Unions (ACTU). Workers exercised the right to associate freely with generally few constraints, but some obstacles remained. For example, in New South Wales (NSW), registration of a union may be cancelled if a strike has a substantially adverse effect on public service or defies an order of the NSW Industrial Relations Commission. Unions and the International Confederation of Trade Unions criticized the Australian Building and Construction Commission (ABCC) as discriminating against unions in the building and construction sector. The ABCC was created as an enforcement agency by the Building and Construction Industry Improvement Act of 2005, which gave it authority to interview individual workers privately in connection with its regulatory investigations. It is an offense to refuse to attend an ABCC examination. The ABCC commissioner can refer such cases to the Commonwealth Department of Public Prosecutions (CDPP). If the CDPP chooses to prosecute, a court may impose a penalty of up to six months' imprisonment and a maximum fine of A\$3,300 (\$3,366) for breaches. Workers also may be fined up to A\$22,000 (\$22,440) for taking unlawful industrial action. In November the ABCC began litigation against three unions and five union officials for alleged unlawful industrial action; the case was still pending at year's end.

b. Prohibition of Forced or Compulsory Labor.—The law explicitly prohibits forced or compulsory labor, but there were some reports of foreign nationals who came to the country for temporary work being subjected to forced labor by employers or labor agencies, including in such sectors as agriculture, cleaning, construction, hospitality, manufacturing, and domestic service.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. 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 age 17. Federal, state, and territorial governments effectively monitored and enforced a network of laws, which varied among jurisdictions, governing the minimum age for leaving school, claiming unemployment benefits, and engaging in specified occupations. The ACTU also monitored adherence to these laws.

d. Acceptable Conditions of Work.—On June 5, Fair Work Australia increased the national minimum wage for adults working full time (38 hours per week) from A\$569.90 (\$580.20) to A\$589.30 (\$599.90) per week, based on a minimum hourly rate of A\$15.51 (\$15.80). There is no official poverty-level income figure, but the minimum wage, combined with welfare payments, is intended to provide a decent standard of living for a worker and family. Although a formal minimum wage exists, most workers received higher wages through enterprise agreements or individual contracts. Above-minimum wage classifications apply to certain trades and professions.

A taxpayer-funded, paid parental leave benefit began January 1. The Paid Parental Leave Scheme pays the minimum wage rate for up to 18 weeks. To qualify, a worker must have worked for at least 10 of the 13 months prior to the birth or adoption of the child and worked for at least 330 hours during that 10-month period.

Under the Fair Work Act, maximum weekly hours are 38 plus “reasonable” additional hours (determined according to the act, taking into account factors such as an employee’s health, family responsibilities, ability to claim overtime, pattern of hours in the industry, and amount of notice given). Industry standards or awards mandate rest periods and pay for overtime. 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.

Federal or state occupational health and safety laws apply to every workplace. Federal and state laws provide 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. On July 28, the government signed the instrument of ratification for the International Labor Organization Convention 162 Concerning Safety in the Use of Asbestos.

The Fair Work Ombudsman provides employers and employees advice about their rights and has authority to investigate employers alleged to have exploited employees unlawfully. The ombudsman also has authority to prosecute employers that do not meet their obligations to workers. Employers can be ordered to compensate employees and are sometimes assessed fines. Between July 2010 and June 2011, the Fair Work Ombudsman recouped A\$26.7 million (\$27.2 million) for 17,360 underpaid employees. Workers exercised their right to a safe workplace in practice and have recourse to state health and safety commissions, which investigate complaints and order remedial action.

Over the past two decades, the percentage of the workforce regarded as temporary workers increased substantially. Temporary workers include both part-time and casual employees. Part-time employees have set hours and the same entitlements as full-time employees. The ABS reported that, as of June, approximately 3.43 million persons (30 percent of the workforce) were employed as part-time workers, of whom 70 percent were women. Casual employees are employed on a daily or hourly wage basis. They do not receive paid annual or sick leave, but the law mandates they receive additional pay to compensate for this.

There were some 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. On May 31, a Western Australian construction company that recruited workers from China and paid them less than A\$3 (\$3.06) per hour was prosecuted by the Fair Work Ombudsman and fined A\$123,000 (\$125,460). The company’s managing director and part-owner, a Chinese national, was fined an additional A\$24,600 (\$25,092) and the company ordered to pay the workers a total of A\$242,000 (\$246,840) in back pay plus interest of approximately A\$65,000 (\$66,300).

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

EXECUTIVE SUMMARY

Brunei Darussalam is a sultanate that has been ruled by the same family for more than 600 years. Sultan Haji Hassanal Bolkiah governed under longstanding emergency powers that placed few limits on his power. The Legislative Council, made up of appointed, indirectly elected, and ex officio members, met during the year and exercised a limited role in recommending and approving legislation. Security forces reported to the sultan.

Restrictions on religious freedom; exploitation of foreign workers; and limitations on freedom of speech, press, assembly, and association were the most prevalent human rights problems.

The following human rights problems were also reported: inability of citizens to change their government, trafficking in persons, and discrimination against women.

There were no reported cases of government officials committing human rights abuses.

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.—There were no reports of torture or rape and sexual abuse during the reporting period. Caning is mandatory for 42 criminal offenses, and as of September, 38 individuals were 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 and detention center conditions generally met international standards. Prisoners had access to potable water. Jerudong Prison held 437 “serious offenders,” of whom 49 were women and held in a separate facility in the prison compound. Juveniles are not subject to imprisonment; however, courts sent juvenile offenders to a local rehabilitation center known as Al-Hidayah. Approximately 4.5 percent of the prison population consisted of individuals awaiting trial.

Approximately 30 percent of the inmate population consisted of foreigners of various religions. Inmates were permitted to practice their religions. A government-appointed committee composed of retired government officials monitored prison conditions and investigated complaints of inhumane conditions.

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.

The prison has an ombudsmen system in place. “Visiting justices,” ranging from prominent businessmen and community leaders to representatives of public institutions, visited prisons once a month. The prison also implemented rehabilitation programs to persuade inmates to repent and become productive citizens. To improve prisons, authorities began construction on a second modern facility, as the existing prison facility could only officially hold 366 inmates and required renovation. The government trained prison personnel from all facilities in basic counseling to assist inmates in identifying issues and facilitate reintegration into society.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, they could be superseded through the invocation of emergency powers.

Role of the Police and Security Apparatus.—The police force and Internal Security Department (ISD), which fall under the direct control of the Prime Minister’s Office, have primary responsibility for enforcing laws and maintaining order. The Departments of Labor and Immigration in the Ministry of Home Affairs also hold limited law enforcement powers for labor and immigration offenses. Civilian authorities maintained effective control over the police force, the ISD, and the labor and immigration departments, 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.—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 no reports that persons were detained without a hearing.

The Internal Security Act (ISA) permits the government to detain suspects without trial for renewable two-year periods. The government regularly convenes 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. There were no detainees held under the ISA during the year.

Detainees reportedly were informed promptly of the charges against them. Information on detainees was made public only after their release.

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 the sultan and serve at his pleasure.

Trial Procedures.—Secular law, based on English common law, provides all citizens with the right to a fair and efficient judicial process, and the judiciary generally enforced this right. Defendants in criminal proceedings are presumed innocent. Most criminal cases are conducted in public trials by a judge or panel of judges. Defendants do not enjoy the right to trial by jury. Procedural safeguards include the right to defense counsel, an interpreter, and 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 and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right of appeal. 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.

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 civil wrongdoing 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. Sharia (Islamic law) 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 relative. The government reported 256 *khalwat* cases during the year, of which 102 cases were pending or in trial, 134 remained under investigation and eight concluded with convictions, and the remainder still under investigation.

The government monitored 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 and the Sedition Act, the government significantly restricted freedom of speech and of the press.

Status of Freedom of Speech and Press.—Freedom of Speech.—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.” Under the Sedition Act, it is an offense to challenge 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.

Freedom of Press.—The Sedition Act 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.

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.

Censorship or Content Restrictions.—The Sedition 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 BN\$5,000 (approximately \$3,850) and jail terms of up to three years. Journalists deemed to have published or written “false and malicious” reports may be subjected to fines or prison sentences.

The country's major newspapers practiced self-censorship.

Internet Freedom.—Social media Web sites are widely accessible. 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.

Academic Freedom and Cultural Events.—There were no government restrictions on 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 Prime Minister's Office and the Ministries of Home Affairs and Religious Affairs 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 does not provide for freedom of association: It requires formal groups, including religious, social, or cultural, to register with the Registrar of Societies 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. Regulations promulgated by the Ministry of Religious Affairs and the State Mufti's Office prohibited Muslims from joining these organizations.

The National Development Party maintained that government restrictions limited the party's growth.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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.

Foreign Travel.—Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad. The government's 2009 guidelines state that no government official may travel alone and that nonrelated male and female officers may not travel together.

Exile.—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.—Access to Asylum.—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 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. However, as in past years, there were no such expulsions or returns during the year.

Stateless Persons.—Citizenship is derived through one's parents rather than through birth within the country's territory. 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. A significant number of stateless persons were of Chinese descent, which may be attributed to the fact that the Chinese are the largest non-Malay minority group. All citizenship applicants must pass a test demonstrating sufficient knowledge of Malay culture and language.

Stateless persons can obtain citizenship through an application process if they are permanent residents who have contributed to the country's economic growth, women married to citizens for two years, women married to permanent residents for five years, or children of permanent resident fathers after the age of two years and six months. Children of citizen mothers are subject to a separate application process to confirm citizenship because transmission of citizenship can only be automatically assumed for children of citizen fathers. Government policy mandates that a child born in the country to stateless parents must apply for a special pass. The births of members of the Dusun and Iban indigenous groups living in rural areas often were not registered. Coupled with illiteracy, this made it difficult for such persons to obtain citizenship.

Stateless persons enjoy many privileges of citizenship, but do not have the right to own land and are not entitled to full subsidized health care or higher education. The Land Code Strata Act, effective in 2009, allows permanent residents to own units of multistory property for a maximum of 99 years. 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.

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 sultan ruled through hereditary birthright. While Brunei is a constitutional sultanate, in 1962 the former sultan invoked an article of the constitution that allowed him to assume emergency powers. The current sultan continued the practice, which places few limits on his power.

Elections and Political Participation.—Recent Elections.—Political authority and control rested entirely with the sultan. A 33-person legislative council (LegCo) of primarily appointed members and little independent power provides a forum for public discussion of proposed government programs, as well as administrative deficiencies. It convenes once a year for approximately two weeks, after which it is dissolved. The Seventh LegCo session met in March 2011. Council members may be disqualified from service on the basis of various offenses, including disloyalty to the sultan.

Persons age 18 years 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, approved by the government, and citizens or permanent residents for more than 15 years. The councils communicate constituent wishes through a variety of channels, including periodic meetings chaired by the minister of home affairs. The government also meets with mukim (collections of villages) representatives to allow for airing of local grievances and concerns.

Political Parties.—The Brunei National Development Party was the country's only registered political party. The party pledged to support the sultan and the government. Although the party criticized administrative deficiencies, its few activities received limited publicity, and it was hindered by membership restrictions.

Participation of Women and Minorities.—In 2009 the sultan appointed the first female cabinet member, Datin Hayati, as attorney general. Two other women held ministerial rank—the sultan's sister, Princess Masna, ambassador-at-large in the Ministry of Foreign Affairs and Trade; and Deputy Minister for Culture Youth and Sports Datin Adina, appointed in 2010. There were four female permanent secretaries—in the Ministries of Defense, Foreign Affairs and Trade, and Industry and Primary Resources. There were two women appointed to the LegCo.

Ethnic Chinese held one Cabinet-level post and two LegCo positions.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively; however, officials sometimes engaged in corrupt practices with impunity.

In February 2010, a former government minister accused of corruption in awarding government projects was sentenced to seven years in prison and ordered to pay 90 percent of the prosecution costs, which amounted to approximately BN\$523,900 (\$403,000) and restitution to the government. The total amount he received in gratuities was BN\$4.2 million (\$3.2 million). The former minister's alleged partner was sentenced in absentia to seven years in prison, and an arrest warrant was issued. If captured, he would also be liable for 10 percent of the prosecution costs, amounting to BN\$55,875 (\$42,980).

Government officials were not subject to financial disclosure reports.

The law provides for public access to government information. During the year the LegCo approved, and the government published, a summary of the budget for the fiscal year. 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 civil society organizations dealt directly with human rights. A nongovernmental 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 govern-

ment 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.

Government Human Rights Bodies.—There are no government human rights bodies in Brunei.

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.—Rape and Domestic Violence.—The law stipulates imprisonment of up to 30 years and caning with no 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 is not rape, as long as she is not under age 13. The legal age of marriage is 14. Protections against sexual assault by a spouse are provided under the amended Islamic Family Law Order 2010 and Married Women Act Order 2010, and the penalty for breaching a protection order is a fine not exceeding BN\$2,000 (\$1,538) or imprisonment not exceeding six months. By year's end, 26 rape cases had been reported, 15 of which remained under investigation.

There is no specific domestic violence law, but arrests were made in domestic violence cases under the Women and Girls Protection Act. The police 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 144 cases of spousal abuse reported; at year's end 120 cases were under investigation. 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 Department of Community Development in the Ministry of Culture, Youth, and Sport provided counseling for women and their spouses. Based on individual circumstances, some female and minor victims were placed in protective custody at a government-sponsored shelter while waiting for their cases to be brought to court.

Islamic courts staffed by 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.

Female genital mutilation (FGM).—There is no law criminalizing FGM, but there were no known reports of FGM during the year.

Sexual Harassment.—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. The government reported 45 cases of sexual harassment, of which 32 were under investigation at year's end.

Reproductive Rights.—Couples and individuals have the right to decide the number, spacing, and timing of their children and have access to modern contraceptive devices and methods through the government and private clinics. Citizens enjoy free medical and health care, including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. Women had equal access to diagnostic and treatment facilities for sexually transmitted diseases.

Discrimination.—In accordance with the government's interpretation of Qur'anic precepts, Muslim women have rights similar to those of Muslim men in areas such as divorce and child custody. Islamic law requires that males receive twice the inheritance of women. Civil law permits female citizens to own property and other assets, including business properties. Male spouses of female citizens could not apply for permanent resident status until they had resided in the country for a cumulative total of 20 out of the 25 years immediately preceding their application. Female spouses of male citizens on the other hand could apply for permanent resident status after only two years of marriage. Female citizens may pass their nationality on to their children, but only through an application process.

Women with permanent positions in the government could apply for travel allowances for their children; however, they could not do so for their husbands working in the private sector. With this exception, they received the same allowance privileges as their male counterparts. According to government statistics, women made

up 57 percent of the civil service force and held 28 percent of senior management posts. Women were not discriminated against in access to employment and business. Some professions such as meteorology are designated as women's professions, and men noted discrimination during hiring.

Children.—Birth Registration.—Citizenship is derived through one's father rather than through birth within the country's territory. Female citizens may pass their nationality on to their children, but only through an application process. Birth registration is universal and immediate except for Dusun and Iban indigenous persons in rural areas (see section 6, Indigenous People). Parents with stateless status are required to apply for a special pass for a child born in the country; failure to register a child made it difficult to enroll the child in school.

Child Abuse.—As of October the government reported 16 cases of child abuse. Two cases of child abandonment were reported during the year. The Royal Brunei Police Force hosts a specialized Woman and Child Abuse Crime Investigation Unit and the Ministry of Culture, Youth and Sports provides shelter and care to victims.

Sexual Exploitation of Children.—By law sexual intercourse with a girl under age 14 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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were no known Jewish communities in the country, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law does not prohibit discrimination against or mandate accessibility or other assistance for persons with disabilities. The government provided educational services for children with disabilities, but the level of services available was uneven. The Department for Community Development conducted several programs targeted at promoting awareness of the needs of persons with disabilities.

National/Racial/Ethnic Minorities.—Government policy provides for preferential programs designed to boost the economic position of ethnic Malays, who constitute approximately two-thirds of the population.

Indigenous People.—A large percentage of indigenous Iban were stateless. In rural areas some indigenous Iban did not register the birth of their children, which created difficulties during school enrollment, access to healthcare, and employment. Indigenous lands of the Iban and Dusun are not specifically demarcated and there were no specially designated representatives for the indigenous groups in the Legislative Council or other government entities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law makes it a criminal offense to have "sexual intercourse against the order of nature." There were no reports of official or societal 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. Freedom of Association and the Right to Collective Bargaining.—The law provides for workers to form and join unions. Under the Trade Unions Act, unions 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. The law applies in the Muara Export Zone. Although government data indicated approximately 87,867 foreigners worked in the country, these workers are excluded from most labor law protections, including freedom of association.

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 the Department of Labor.

The government prohibits strikes, and the law makes no explicit provision allowing either the right to strike or the right to collective bargaining.

The law prohibits employers from discriminating against workers in connection with union activities, but it does not provide for reinstatement for dismissal related to union activity.

There were no reports of government interference in union activity, and worker organizations were independent of the government. Employer discrimination against union members was not reported.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor. However, there were credible reports of forced labor, including debt bondage and involuntary domestic servitude. Foreign embassies with a large population of citizens working in the country reported cases of nonpayment of wages for up to a year as well as a lack of access to travel documents. For many cases in which abuses were committed, the government levied fines and prosecuted offenders.

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 on the local economy. The government has begun a process to only issue labor passes to registered recruiting agencies. There were also credible reports of citizens from South Asian countries working for little or no pay for up to one year to pay back foreign agents for securing jobs for them.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—Various domestic 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 Department of Labor, 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.

d. Acceptable Conditions of Work.—The law does not set a minimum wage, but most employed citizens command good salaries; per capita income stands at BN\$40,700 (US\$31,300). Some foreign embassies set minimum wage requirements for their nationals working in Brunei. The standard workweek is Monday through Thursday, then Saturday, with Friday and Sunday off, allowing for two rest periods of 24 hours each week. The law provides for paid annual holidays, overtime for work in excess of 48 hours per week, and double time for work performed on legal holidays, but laws regarding hours were frequently not observed in practice.

Occupational health and safety standards were established by government regulations. The law permits a worker to leave a hazardous job site without jeopardizing his employment.

The Labor Department inspected working conditions on a routine basis and in response to complaints. The government usually moved quickly to investigate abuses, and abusive employers faced criminal and civil penalties. The Labor Department had the power to terminate the license of abusive employers and revoke their foreign labor quota. The majority of abuse cases were settled out of court through agreements where the employer paid financial compensation to the worker.

The government generally enforced labor, health and safety regulations effectively, but enforcement in the unskilled labor sector was lax. This was true especially for foreign laborers at construction sites, where pay arrearage and inadequate safety and living conditions were reported. The government may close a workplace where health, safety, or working conditions are unsatisfactory.

Government mediation by the Labor Department continued to be the most common means used to resolve labor disputes. In 2010 the commissioner responsible for labor was given additional authority to protect foreign worker rights. The government prosecuted employers who employed irregular immigrants or did not process workers' documents, rendering them irregular. When grievances could not be resolved, regulations require employers to pay for the repatriation of the foreign workers and all outstanding wages.

In practice foreign workers who filed grievances sometimes did not receive their back wages, and required their embassy to assist in their repatriation. Foreign migrant workers often 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. The government now requires recruiting agencies to be registered.

During the year there were cases reported of nonpayment of salaries. The majority of cases involved domestic workers. In many cases, judicial penalties including convictions and fines were levied against employers found to not pay wages.

In practice government protective measures for foreign workers existed and included arrival briefings for workers, inspections of facilities, and a telephone hotline for worker complaints. However, immigration law allows for prison sentences and caning for workers who overstay their work permits and for irregular immigrants seeking work, as well as for foreign workers employed by companies other than their initial sponsor. While the majority of prosecutions involved those who overstayed their work permits, many workers faced prosecution for residing under irregular status due to their former employers' negligence.

BURMA

EXECUTIVE SUMMARY

Burma's government is headed by President Thein Sein; the military-run State Peace and Development Council was officially dissolved in 2011, although former and active military officers continued to wield authority at each level of government. In November 2010 the then-military regime held the country's first parliamentary elections since 1990, which were neither free nor fair. The government's main party, the ruling Union Solidarity and Development Party (USDP), claimed an overwhelming majority of seats in the national parliament and state/regional assemblies. Military security forces report to military channels, and civilian security forces, such as the police, report to a nominally civilian ministry headed by an active-duty military general.

Significant developments during the year included the emergence of a legislature that allowed opposition parties to contribute substantively to debates; democratic reforms such as the amendment of laws allowing opposition parties to register and Aung San Suu Kyi to announce her bid for Parliament; the release of hundreds of political prisoners; the relaxation of a number of censorship controls, the opening of some space in society for the expression of dissent; and an easing of restrictions on some internal and foreign travel for citizens.

Significant human rights problems in the country persisted, including military attacks against ethnic minorities in border states, which resulted in civilian deaths, forced relocations, sexual violence, and other serious abuses. The government also continued to detain hundreds of political prisoners. Abuses of prisoners continued, including the alleged transfer of civilian prisoners to military units. These units reportedly were often engaged in armed conflict in the border areas where they were forced to carry supplies, clear mines, and serve as human shields.

Government security forces were responsible for extrajudicial killings, rape, and torture. The government detained civic activists indefinitely and without charges. The government abused some prisoners and detainees, held persons in harsh and life-threatening conditions, routinely used incommunicado detention, and imprisoned citizens arbitrarily for political motives. The government infringed on citizens' privacy and restricted freedom of speech, press, assembly, association, religion, and movement. The government impeded the work of many domestic human rights nongovernmental organizations (NGOs). International NGOs continued to encounter a difficult—although somewhat improved—environment. Recruitment of child soldiers, discrimination against ethnic minorities, and trafficking in persons—particularly of women and girls—continued. Forced labor, including that of children, persisted.

The government generally did not take action to prosecute or punish those responsible for human rights abuses, with a few isolated exceptions. Abuses continued with impunity. Rampant corruption and the absence of due process undermined the rule of law.

Ethnic armed groups also committed human rights abuses, including forced labor and recruitment of child soldiers.

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 unrelated to internal conflict (see section 1.g. for killings related to internal conflict). On September 8, a public works employee allegedly beat to death a 28-year-old villager for violating a prohibition against riding a motorbike on the Rangoon-Mandalay highway. In August in a military supply and logistics battalion in Taungoo, Bago Region, fellow soldiers reportedly beat a number of child soldiers to death. The government did not

hold the alleged perpetrators responsible. Unlike in 2010, there were no reports of custodial deaths during the year.

b. Disappearance.—Unlike in previous years, there were few reports of the “disappearance” of private citizens outside of prison and the border region for prolonged periods for interrogation by authorities without notification of family members.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Laws 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, including severe beatings, electric shocks, burning with lighters, water torture, and deprivation of food, water, and sleep. Both male and female political prisoners reported sexual abuse, including harassment and molestation, beating or burning of the genitals, threats of rape, and rape. As in previous years, authorities took little or no action to investigate incidents or punish perpetrators. Following a June 24 bomb blast at the Naypyitaw rail station, rights activists reported authorities detained and tortured an innocent person to obtain a confession.

Press reports in late May alleged that the authorities transferred seven political prisoners conducting a hunger strike in Insein prison to 10-by-10 foot cells used to house dogs. The reports noted that these prisoners were routinely beaten, forced to crawl like dogs, and denied water and medical treatment (see section 1.g. for reports of abuses in connection with the internal conflicts).

Prison and Detention Center Conditions.—Prison conditions, and particularly labor camp conditions, continued to be 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. Prisoners did not have access to potable water. In many cases family members, who generally were allowed one or two visits per month, supplemented prisoners’ official rations of medicine and basic necessities. Authorities continued to send political prisoners to remote prisons located hundreds of miles from their families to make family visits difficult or impossible.

The government continued to deny prisoners adequate medical care, although these inadequate medical services in part reflected the poor health-care services available to the general population. Prisoners suffered from health problems including malaria, heart disease, high blood pressure, tuberculosis, 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. Former prisoners reported that prison authorities designated some long-term prisoners as unofficial “wardens” to supervise and control other prisoners. The sexual abuse by these “wardens” of prisoners as young as 15 and 16 years of age contributed to high rates of HIV/AIDS infection. Former prisoners also complained of being held in aging physical structures that received no maintenance and were infested with rodents, bacteria, and mold.

The Correctional Department operated an estimated 42 prisons and more than 100 labor camps. According to a human rights activist, there were approximately 66,000 prisoners, 58,000 male and 8,000 female. The number of juvenile detainees was estimated to be a few hundred. Prison overcrowding reportedly was minimal, as authorities were said to transfer prisoners to labor camps as a space-saving measure.

Pretrial detainees were held together with convicted prisoners, and political prisoners were sometimes held together with common criminals. Prison authorities held high-profile political prisoners such as the monk U Gambira, leader of the 2007 monk-led protests or All Burma Monks Alliance, separately. Reports varied on whether or not political prisoners faced significantly different treatment—and whether it was better or worse—than other prisoners.

While there were reports that many prisoners and detainees had access to visitors and could sometimes submit complaints to judicial authorities without censorship or negative repercussion, not all prisoners were allowed to worship freely. Monks imprisoned during the 2007 prodemocracy movement known as the Saffron Revolution reported that they were denied permission to keep Buddhist Sabbath (Uposatha), wear robes, and shave their heads and were not allowed to eat food compatible with the monastic code. Authorities generally did not investigate credible allegations of inhumane conditions. The National Human Rights Commission, formed in August, accepted an unknown number of complaints regarding prison conditions (see section 5). There were reportedly no measures to improve prison record keeping. There were some alternatives to incarceration for nonviolent offenders, including fines and “community arrests” requiring the convicted person to stay within their community and report regularly to authorities. There were no rehabilitation programs.

The government generally did not permit media or other independent groups to monitor prison conditions. However, for the first time in nearly six years, on July 1-2 the government allowed officials from the International Committee of the Red Cross (ICRC) to survey the water and sanitation structure of three prisons for future improvements. At year's end the government continued to prevent the ICRC from meeting directly with prisoners.

d. Arbitrary Arrest or Detention.—The law does not specifically prohibit arbitrary arrest but requires permission of a court for detention of more than 24 hours. The government nevertheless arbitrarily arrested and detained citizens. The law allows authorities to extend sentences after prisoners have completed their original sentence, and the government regularly used this provision. The 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 Ministry of Home Affairs oversees the police force, which is largely responsible in law and practice for law enforcement and maintenance of order within the country, particularly in urban areas and the larger cities. The Ministry of Defense oversees the Office of the Chief of Military Security Affairs (MSA) and also plays a significant role in the maintenance of law and order, particularly in rural and border areas.

Security forces continued to maintain a tight grip on inhabitants, due in large part to the fear of arbitrary arrest and detention and also through threats to individual livelihoods. These forces enjoyed impunity. Effective legal mechanisms do not exist to investigate security force abuses. The police initiated some activities to raise human rights awareness; in August the authorities conducted a 10-day human rights training course for 140 mid-level managers across all ministries and 100 officers from the police force, Bureau of Special Investigation, Correctional Department, General Administration Department, and Immigration and Population Department. The government also took steps to address the use of child soldiers (see section 1.g.).

Arrest Procedures and Treatment While in Detention.—By law warrants for searches and arrests are required; however, the MSA and police conduct searches and make arrests at will. Special Branch police responsible for state security matters reportedly held people during what they termed an "interrogation phase," a period not defined in law, before pretrial detention period. With court permission police can 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 for up to a year, without bringing the detainees before a judge or informing persons of the charges against them. Detainees were not always allowed prompt access to a lawyer of their choice, or, if indigent, to one provided by the state. The government continued to detain persons under the Emergency Provisions Act of 1950, which allows for indefinite detention. Bail was commonly offered in criminal cases but rarely allowed for political prisoners. Bribery was a common substitute for bail. The government regularly refused detainees the right to consult a lawyer and occasionally imprisoned, detained, and disbarred lawyers who undertook to represent politically controversial defendants. The government continued to use incommunicado detention and failed to inform detainees' relatives of detentions in a timely fashion.

Arbitrary Arrest.—Local human rights activists reported that police detained Yangonthar (aka Thiha) in July for suspicion of theft. Despite a lack of evidence, he was put in custody and tortured. He was later sent to court where police officially charged him with theft, and he disappeared. At year's end his whereabouts were unknown.

Amnesty.—On October 11, President Thein Sein announced an amnesty for 6,359 prisoners, including an estimated 241 political prisoners, although the precise number of prisoners and political prisoners could not be verified. The October release included several prominent political prisoners including prodemocracy activist and comedian Zarganar.

The president also granted an amnesty on May 17, commuting all death sentences to life imprisonment and granting a one-year sentence reduction to all other prisoners. The government claimed that 14,600 prisoners benefitted from early release. Post and press reports indicated that 55 to 72 of these were political prisoners. Rights groups and political prisoners denounced the May amnesty as inadequate; political prisoners in Rangoon's Insein prison responded with a hunger strike. As punishment authorities allegedly transferred seven of these prisoners to cells used to house military dogs (see section 1.c.).

e. Denial of Fair Public Trial.—The Judiciary Law of 2000 calls for an independent judiciary; however, in practice the judiciary was characterized by institutionalized corruption and remained under the de facto control of the military and government. According to studies by civil society organizations, payments were made at all stages in the legal process and to all levels of officials, for routine matters such as access to a detainee in police custody and determining the outcome of a case. The court system and its operation were seriously flawed, particularly in the handling of political cases.

The use of blanket laws to arbitrarily arrest and detain citizens for peaceful activities—including the Emergency Provisions Act, Unlawful Associations Act, Habitual Offenders Act, Electronic Transactions Law, Television and 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 stifle peaceful dissent and deprive citizens of due process and the right to a fair trial. Lawyers representing political prisoners or political cases faced harassment and have been disbarred and arbitrarily arrest and detained. During the year authorities revoked the license of U Tin Aung Tun, a lawyer representing farmers in a land confiscation case. The Asian Legal Resource Center reported some 32 lawyers remained disbarred and unable to practice law for political reasons.

Trial Procedures.—The law provides for the right to a fair trial, but it also grants broad exceptions, in effect allowing the government 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 the right to presumption of innocence, trial by jury, or, except in capital cases, the right to consult an attorney or have one provided at government expense. There is no right to confront witnesses and present witnesses and evidence, although sometimes witnesses and evidence were allowed. While there is no right to access government-held evidence, sometimes it was provided. Defendants have a right to appeal judgments; however, in most appeal hearings the verdicts were upheld.

Common criminal cases were open to the public. Defense attorneys in criminal cases generally had 15 days to prepare for trial. In political cases, however, courts often did not notify defense attorneys of the trial start date, leaving them little or no time to prepare. 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 courts sentenced defendants immediately upon entering the courtroom, without arguments. Defense 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. National League for Democracy (NLD) members and other prodemocracy activists generally appeared able to retain the counsel of lawyers; however, lawyers were not given the opportunity to mount a proper defense. They 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.

The government used the penal code to render excessive sentences against political activists by allowing government prosecutors to charge detainees with multiple violations of tangential and archaic or widely ignored laws, such as violating currency laws, publishing materials likely to cause alarm, or spreading rumors. This practice resulted in lengthy cumulative sentences. The regime prosecuted political prisoners under such measures as Defamation of the State, the Emergency Provision Act, Law on Safeguarding the State from the Danger of Subversive Elements, Television and Video Act, Unlawful Associations Act, Electronic Transactions Law, and the 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.

Political Prisoners and Detainees.—Unlike in previous years, the government began a dialogue with the United States and others in the international community on the issue of political prisoners, whom it termed “security detainees.” NGOs estimated the government released approximately 300 political prisoners over the year; however, at year’s end hundreds of political prisoners remained in detention, although the precise number was unknown. Exile and prodemocracy groups believed that the vast majority of these prisoners had not engaged in any violence, theft, or other common crimes. Although some reports indicated that political prisoners enjoyed more protections than other prisoners or detainees, many human rights activists and former political prisoners noted that only high-profile political prisoners were afforded greater protections, while lower-level political prisoners had substantially fewer protections than the general prison population. The government did not permit international humanitarian organizations access to political prisoners.

Myint Aye, a prominent political prisoner and NLD member, remained in prison at year’s end. In 2002 he cofounded Human Rights Defenders and Promoters (HRDP) to raise awareness of the U.N. Declaration of Human Rights. He reportedly endured strenuous interrogation and was forced to watch his colleagues be tortured. He confessed to the alleged crime of planning a terrorist act in Rangoon. In 2008 he was sentenced to life plus eight years’ imprisonment under section 3 of the Explosive Substances Act of 1908, section 6 of the Law Relating to Forming of Organizations of 1988, section 17/1 of the Unlawful Association Act of 1908, and section 13/1 of the Burma Immigration (Emergency Provisions) Act of 1947.

Go Pian Sing, a member of the ethnic Chin minority and a practicing Christian, was reportedly kidnapped and “disappeared” by military personnel in 2009 in Rangoon. In January 2010 he was sentenced to 15 years, the maximum under the Electronics Act, for allegedly sharing information with foreign media about Burma’s military ties with North Korea. At year’s end he remained imprisoned at Taunggoo prison.

Civil Judicial Procedures and Remedies.—Although no specific mechanisms or laws provide for civil remedies for human rights violations, complainants can use provisions of the penal code and laws of civil procedure to seek civil remedies. There were no examples of successful attempts to do so.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—Although the Land Acquisition Act protects the privacy and security of the home and property, agents of the government entered homes without judicial authorization. In May local authorities in Pyay entered houses, without judicial authorization, in an area where a human rights organization planned to hold a seminar.

There was no law protecting the privacy of correspondence or other communications of citizens, and it was widely believed authorities regularly screened private correspondence, telephone calls, and e-mail.

The government reportedly continued to control and monitor 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, including cell and satellite phones, face up to three years in prison and a heavy fine. Use of unregistered radios is also punishable by a fine and imprisonment. International NGOs reported that in northern Rakhine State, a man was sentenced to two years’ imprisonment for possession of an unregistered cell phone.

Activists reported that through official 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 (see section 2.d.).

The government reportedly continued its practice of conscripting members of ethnic minorities for service as military porters in Bago Region and in Chin, Karen, Kachin, Kayah, Rakhine, and Shan states (see section 1.g.).

While no legal provisions restrict the right of adult women and men to marry, a 1998 Supreme Court directive prohibits legal officials from accepting petitions for marriages between Burmese women and foreign men and from officiating over such marriages. The directive was sporadically enforced. In northern Rakhine State, local authorities require ethnic Rohingya to obtain a permit—a step not required of other ethnicities—to marry officially. Wait times for the permit can exceed one year, and bribes were usually required. Unauthorized marriages can result in the Rohingya man being prosecuted under section 493 of the penal code, which prohibits men from “deceitfully” marrying a woman, and can result in a prison sentence or fine.

Family members were sometimes punished for alleged offenses committed by individuals.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Government forces continued to engage in widespread and systematic abuses of noncombatant civilian populations in ethnic minority border regions. Following the November 2010 election, conflicts broke out in Karen, Kachin, Shan, and Mon states following the government's demand that ethnic cease-fire groups transform their armies into border guard forces under control of the central government. Sources from various ethnic groups reported incidents of killings, torture, abductions, and forced labor of civilians; the use of civilians as human shields and mine sweepers; and rape as a war tactic in Shan, Kachin, Mon and Karen states. Authorities, surreptitiously and without informing family members, transferred prisoners from prisons across the country to the front lines of battles with armed ethnic groups; the military then forced prisoners to carry equipment, clear mines, and serve as human shields. Many were killed by members of the military, by mines, or during clashes with insurgents. There were no reports of government efforts to protect the population from conflict-related abuses.

On August 18, President Thein Sein issued an official invitation to armed ethnic groups to participate in peace talks through a two-track process. The government invited national armed ethnic groups to first contact their state or regional government to launch preliminary negotiations, and the president pledged that the government would form a national-level team for the second phase of peace talks. By year's end the government had reached preliminary cease-fire agreements with three armed ethnic groups: the United Wa State Army on September 6, the National Democratic Alliance Army on September 7, and the Shan State Army-South on December 2. Additionally, the government had met with other armed ethnic groups, including the Karen National Union, New Mon State Party, Karenni National Progressive Party, Chin National Front, Pa-O National Liberation Organization, and Kachin Independence Organization, the political wing of the Kachin Independence Army (KIA). At year's end, however, these groups had not reached cease-fire agreements with the government, and violence continued in Karen, Kachin, Shan, and Mon states.

In a December 10 letter, the president ordered the army to halt attacks in Kachin State; at year's end this directive had not resulted in an end to hostilities.

Killings.—Human rights organizations detailed an extensive system of forced labor involving the transfer of at least 800 prisoners to the border regions for use by the military as porters in border conflicts. Military officials reportedly killed, tortured, and otherwise seriously abused porters. According to one report, in January military officials transferred a civilian from Insein Prison to Pa'an Prison en route to the front line to serve as a porter for a military unit belonging to the Light Infantry Battalion #208. The source reported that Sergeant Sa Ya Shein Htun stabbed a porter to death when he was unable to carry his heavy load. Shein Htun reportedly also kicked a porter whose leg was blown off by a land mine into a ditch, where he died.

Civilians were also killed through indiscriminate use of force. In May in Shan State, government troops confiscated Tarlaw villager Sai Chi Hla's vehicle and ordered him to transport troops from Maikai town to Shataw town. On the way the group encountered fighting between the Shan State Army and government troops, and Sai Chi Hla was killed in the skirmish.

Abductions.—Residents of ethnic border areas reported continuing disappearances related to conflict.

Other Conflict-related Abuses.—Media reports documented government torture and beating of civilians alleged to be working with insurgent groups. A human rights activist in Chin State reported that government troops in Thlen Rawn village tortured and beat a village administrator accused of associating with the Chin National Army in September. Human rights groups reported that the military continued to use rape as a tactic of war. Aung San Suu Kyi told a group of Nobel Prize winners in May that rape was a "very real problem" and "is used as a weapon by armed forces to intimidate the ethnic nationalities." The Kachin Women's Association Thailand reported that Burma Army troops gang-raped at least 18 women and girls between June 10-18 during advances on Kachin Independence Army strongholds along the border with China. Army troops reportedly killed four of these women, and one later died from her injuries. The Shan Women's Action Network and Shan Human Rights Foundation documented the rape of five women, including a 12-year-old, a 50-year-old, and a nine-month-pregnant woman, by an army patrol from the Light Infantry Battalion 513 in the village Wan Loi in Ke See township on July 5.

Government troops used land mines without taking measures to protect civilians. In May government troops used children as young as five years of age as human shields and mine sweepers in Shan State's Maingshu area.

Human rights activists, international NGOs, and representatives from various ethnic regions described continuing recruitment of child soldiers despite military rules prohibiting enlistments of persons under 18 years of age. One of a number of tactics used by the military involved military recruiters reportedly approaching street children or children found alone at railway stations and asking for identification. If the children could not provide identification, recruiters threatened to imprison them unless they agreed to join the army. Alternatively, recruiters offered incentives, promising a good salary, continuing education, and housing if the child joined. Other children were simply abducted. Poverty led a large number to volunteer. In July in Pyay town in Bago Region, the army reportedly paid 200,000 kyat (\$440) to purchase five child soldiers from a female trafficker. Because recruiters were rewarded for the number of recruits regardless of age or suitability, they typically did not screen for underage recruits. Child soldiers were reported to be as young as 11 years of age. The government investigated and acted to release children from military service if the children or their families were aware of the law prohibiting child labor and exercised their right to file a complaint with the International Labor Organization (ILO).

Armed ethnic groups also reportedly used land mines, forced recruitment, and child soldiers.

The government took steps toward improvement of these practices. Since 2008 military officials in cooperation with UNICEF have trained 14 groups of approximately 1,000 military officers, including recruitment officers and officers up to the rank of captain, on international humanitarian law. UNICEF trained the country's four recruitment hubs and reported increased numbers of child soldiers rejected at this stage. During the year and in response to ILO complaints, the military dismissed three officers from the military and imprisoned them in civilian jails for the use of child soldiers. The military demoted other military personnel, docked their salaries, and took away 12 months' seniority for pension and promotion rights. Government officials also participated in ILO workshops on forced labor.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

International humanitarian organizations reported that the government deliberately restricted passage of relief supplies and denied humanitarian organizations unfettered access to conflict affected areas. In July the press reported that the government instructed domestic NGOs not to provide aid to Kachin war refugees who fled to Kachin Independence Organization areas along the border with China; however, the government allowed relief efforts by some domestic NGOs and faith-based organizations throughout Kachin State. In December the government allowed a UN-affiliated convoy access to Kachin State to deliver humanitarian aid and conduct a needs assessment of camps of internally displaced persons (IDPs).

Human rights organizations and inhabitants of conflict areas confirmed press reports that government troops used civilians as human shields. Human rights researchers in western Karen State detailed an incident on May 15 in which a joint patrol of government troops, Light Infantry Battalions 375 and 541, looted civilian property and burned down six field huts containing stores of paddy seed belonging to villagers in Ku Ler Der Village, Tantabin Township. In September government forces in the Kehsi Mensi District of Shan State reportedly used monks and local civilians as human shields. There were numerous reports of forced displacement of civilians for reasons other than military necessity and of land confiscation and destruction of property.

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 Kachin State there were an estimated 30,000-55,000 IDPs by year's end, and the number was projected to grow. 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 (see section 2.d.).

Section 2. Respect for Civil Liberties, Including:

*a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—*The 2008 constitution provides that “every citizen shall be at liberty in the exercise of expressing and publishing freely their convictions and opinions,” so long as the exercise of these rights is “not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility or public order and morality.”

Freedom of Speech.—Authorities arrested, detained, convicted, and imprisoned citizens for expressing political opinions critical of the government. Because security services continued to monitor and harass persons believed to hold antigovernment opinions, a large segment of the population remained wary of speaking openly about politically sensitive topics. Human rights activists reported a decrease in the frequency and severity of the harassment as compared with the previous year.

Freedom of Press.—The government controlled content in all print publications, and it owned or controlled all domestic radio and television broadcasting facilities. While official print and broadcast media remained primarily propaganda organs of the government, government media engaged in more substantive reporting than in previous years. Government-owned print and broadcast media covered parliamentary debates, including motions by both the ruling party and opposition, and provided more extensive reporting of meetings than in the past.

The Ministry of Information and Security owned and operated all daily newspapers allowed to operate within the country.

The government continued to monopolize and control all domestic television broadcasting. It offered five public channels—four controlled by the Ministry of Information and one controlled by the armed forces—and censored private channels. The general population was allowed to register satellite television receivers for a fee, although it remained far too expensive for the majority of persons.

Violence and Harassment.—Authorities continued to arrest, harass, intimidate, and use violence against journalists. At year's end the Committee to Protect Journalists reported that 12 journalists remained behind bars, in addition to eight Democratic Voice of Burma (DVB) reporters. In September, however, the government lifted restrictions on some journalists once considered by authorities to be enemies of the state.

Censorship or Content Restrictions.—The Ministry of Information's Press Scrutiny and Registration Division censored all private publications, including books. The 1996 Television and Video Act makes it a criminal offense—punishable by up to three years in prison—to publish, distribute, or possess a videotape not approved by the Press Scrutiny and Registration Division, the state censorship board. The government continued to crack down on uncensored foreign videotapes and digital video discs, although pirated copies remained widely available on the street.

The censorship process required prior to publishing books could take several months or years and was tightly controlled by the censorship board, although some books and publications not permitted in previous years were sold freely.

The law prohibits the publication or distribution of most printed material without obtaining prior approval from the government (see Actions to Expand Press Freedom).

Imported publications remained subject to pre-distribution 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 some foreign news periodicals. While Newsweek appeared on newsstands, some foreign publications run by exile media could not be imported. The law prohibits citizens from passing information about the country electronically to media located outside the country, exposing journalists who report for international media to harassment, intimidation, and arrest.

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 and government cronies continued to monopolize and control the content of the seven privately owned FM radio stations and one government-run shortwave radio station. Foreign radio broadcasts, such as those of Radio Free Asia (RFA), Voice of America (VOA), BBC, and DVB, remained the principal sources of uncensored information.

Domestic media practiced self-censorship due to fear of government reprisal, although by year's end, publications increasingly reported on political and economic topics once censored or considered too sensitive. Publications generally did not report on sensitive economic and political topics. In May the government reportedly suspended the Rangoon-based weekly journal True News for two weeks for reporting on news considered controversial by the government.

Actions to Expand Press Freedom.—In contrast with 2010, the government took steps towards media independence and relaxed censorship in some areas.

Beginning June 10, the government relaxed censorship on certain subject-matter publications—those relating to sports, health, children, and information technology—removing the requirement of advanced approval. On August 16, officials removed the daily banners in government press casting VOA, BBC, and exile media as “killer broadcasts designed to cause trouble” and as agents “inciting unrest and

violence.” In September a number of changes occurred. High-level government officials granted interviews to VOA, RFA, and the BBC. Government-owned service providers lifted a ban on previously blocked news Web sites, including those operated by international and exile media critical of the government; blog sites such as Blogger and Wordpress; popular Web-based e-mail services such as Gmail, Yahoo, and Hotmail; the social networking site Facebook; and the online video portal YouTube.

On October 4, one of the country’s most widely read journals, *Weekly Eleven News*, carried an exclusive interview with Aung Zaw, the founder and editor of *Irrawaddy Magazine*, a major exile publication. Prior to the election, alleged contact with this type of high-profile antigovernment dissident would have resulted in swift and severe government reprisal. The most visible change was the publication in government media of Aung San Suu Kyi’s photograph in early September and subsequent publication in private press of her image and related stories, including on the front page of a number of periodicals. Previously, the government censored photos of the democracy icon.

Internet Freedom.—Although no laws or regulations explicitly allow the monitoring of Internet communications, the government owns the only Internet Service Providers in the country and reportedly monitored Internet communications. The Electronic Transactions Law of 2004 prohibits the electronic transfer of information that may undermine the security of the state.

In May the Post and Telecommunications Ministry issued a regulation prohibiting the use of Universal Serial Bus (USB) sticks (flash drives), CDs, floppy disks, and other external data storage devices in Internet cafes. Previous regulations governing Internet cafes instructed cafe owners to collect passport details, addresses and phone numbers of foreign customers, and submit monthly records of users’ Internet usage data to the ministry. Internet cafes reportedly did not enforce these regulations. The ban on external electronic storage devices came two months after the government adopted a law blocking transmission technologies for delivery of voice communications such as Skype and other voice over Internet protocols (VoIPs). The press noted that while the measure was ostensibly designed to cut financial losses by local companies offering overseas calling, it also gave government censors greater control, as Skype and other VoIPs are reportedly difficult to monitor. The government reenabled these technologies a short while later.

The government stopped blocking Web sites critical of the government and its activities in September (see *Actions to Expand Press Freedom*).

While the government rarely charged persons explicitly for expressing political, religious, or dissenting views in electronic forums, including e-mail, it often charged individuals suspected of such activities with other crimes. For example, on March 2, in Rangoon, officers from the Special Branch police arrested Nay Myo Zin, former military officer and leader of a blood donation group, allegedly because of an e-mail found on his computer referencing national reconciliation. He was charged with a violation of the Electronics Transaction Law, which prohibits “any act detrimental to the security of the state” and “receiving or sending and distributing any information” related to state secrets using electronic transactions technology. Convictions of such crimes lead to a minimum imprisonment of seven years and a maximum of 15. On August 26, a Rangoon court sentenced Nay Myo Zin to a 10-year prison term.

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. Foreigners were not permitted to visit university campuses without prior approval or attend any meetings involving students, including graduation ceremonies.

The government denied ethnic minorities the freedom to teach in their native language and tightly controlled private and religious schools (see *National/Racial/Ethnic Minorities* in section 6).

The government monitored most cultural events. The cultural activities, musical performances, exhibits, and other artistic events sponsored by a foreign embassy were often restricted by the government or cancelled at the last minute. In August the government banned Zay Yar Thaw, a hip-hop singer, political activist, and former political prisoner, from performing in a fundraiser for a home for the elderly. He was later allowed to perform at an NLD fundraising concert in December.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides the right to freedom of assembly but with significant limitations. The government did not respect the right in practice. A long-standing ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although it was not enforced consistently. On September 26, police stopped activists who marched together in commemoration of the fourth anniversary of the 2007 monk-led uprising; however, in contrast to similar gatherings in the past, police officers did not disperse the crowd violently or detain participants. On May 26, the Rangoon regional government denied opposition party representatives permission to hold a peaceful assembly and protest scheduled for June 5. As justification authorities cited the recent election and stated that although the constitution mentioned the right to assembly, the new government required rules and procedures to allow its exercise. Human rights activists reported that, although early in the year the government harassed persons in the vicinity prior to scheduled human rights seminars, the harassment abated and observers noted less government oversight later in the year. In December authorities allowed the NLD to hold a large fundraising concert in Rangoon, Rangoon's largest event during the calendar year.

Freedom of Association.—The constitution and laws allow citizens to form associations and organizations; however, the government restricted this right in practice. The government reportedly blocked efforts of ethnic language and literature associations to meet and teach, and it impeded efforts of Islamic and Christian associations and organizations to gather and preach. Byzantine regulations and political considerations impeded registration of NGOs; the government continued to deny some local NGOs registration. In November the president signed into law an amended Political Parties Registration Law that opened registration to opposition parties (see section 3).

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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.

The government did not fully cooperate with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. However, the UNHCR reported that the government granted visas to international staff. The UNHCR subsequently established an Emergency Team in Kachin State in October and conducted two needs assessments in September and December.

In-country Movement.—In practice regional and local orders, directives, and instructions restricted freedom of movement. The law requires that persons who intend to spend the night at a place other than their registered domicile must inform local ward or village 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, albeit reportedly to a lesser degree than in previous years, unannounced nighttime checks of residences for unregistered visitors.

The government restricted the ability of internally displaced persons, refugees, and stateless persons to move. While freedom of movement was primarily related to a person's possession of identification documents, in practice ethnicity and place of origin were sometimes factors for the authorities in enforcing regulations. For example, NGOs reported that a Muslim family from Rangoon with full citizenship was arrested at the Sittwe airport and forced to pay a bribe to secure their release. Authorities require the Rohingya, a stateless population, to carry special documents and travel permits for internal movement in five areas in northern Rakhine State: Butheedaung, Mungdawe, Rathedaung, Kyauktaw and Sittwe, along the border with Bangladesh. Officials lifted travel restrictions for Rohingya in Thandwe and Kyaukphu districts in June.

Citizens of ethnic states report that the government restricted the travel of, involuntarily confined, and forcibly relocated IDPs, refugees, and stateless persons. In an effort to address the problem of trafficking in persons, officials continued to impede the travel of women under the age of 25.

Foreign Travel.—The government restricted foreign travel of political activists, former political prisoners, and some local staff of foreign embassies. Authorities denied passports and exit permission, although unlike in previous years, late in the year they began issuing passports to some people whose requests had previously been denied. A lawyer who was politically active with the opposition in 1990 was denied a passport in March to travel abroad for health reasons.

Exile.—There is a sizeable Burmese diaspora with many citizens in self-imposed exile. On August 17, President Thein Sein announced that the government would allow exiles to return home and consider waiving a subset of nonviolent criminal charges. However, the offer included no formal policy or procedure to guarantee the exiles' security.

Emigration and Repatriation.—According to the UNHCR, 88,486 registered Burmese refugees lived in camps in Thailand. Estimates for the total number of refugees, including unregistered refugees, ranged from 143,000 to 150,000. The government allowed the UNHCR limited access to monitor potential areas of return to assess conditions for the voluntary return of refugees and IDPs, leading UNHCR officials to determine that conditions remained unsuitable for their return.

Approximately 29,000 Rohingya lived as legally registered refugees in two official camps in southeastern Bangladesh, but as many as 400,000 more unregistered refugees lived outside the camps and in the border areas. Neither Bangladesh nor Burma claimed the stateless Rohingya refugees as citizens. Meanwhile, the UNHCR registered approximately 20,000 Rohingya refugees in Malaysia, with an estimated 10,000 more awaiting registration.

Internally Displaced Persons (IDPs).—According to the UNHCR, there were at least 460,000 IDPs in the country as of December, although accurate figures were difficult to determine due to poor access to affected areas; many international organizations estimated the actual number of IDPs to be several million. Most international attention continued to focus on the eastern region, where armed conflict and repressive government policies displaced hundreds of thousands in the past decade to areas within partial reach of international assistance. An estimated 470,000 IDPs were in the East, of whom approximately 200,000-230,000 were in temporary settlements in areas administered by ethnic minorities. Approximately 110,000 were believed to be in hiding in remote areas, and an estimated 125,000 had followed government eviction orders and moved to designated relocation sites. The Kachin, Karen, Shan, Rohingya, and Kayah were the most affected groups. Thousands of persons became newly displaced during the year in Karen, Shan, and Kachin states, according to the Internal Displacement Monitoring Center. The main causes of internal displacement were army offensives against ethnic opposition groups, forced relocation and labor, and recruitment of child soldiers. The government provided little or no protection or assistance to IDPs, many of whom were forcibly resettled under dangerous conditions. There was little access to clean water and health or education services in the IDP areas, and many displaced persons were unable to grow subsistence amounts of food due to continual threats necessitating flight.

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 fighting between government army and insurgent groups, according to credible observers along the border. In addition there were reports of both government army and insurgent groups raping female IDPs, according to these observers. Karen IDPs in these areas have remained displaced for a number of years. The UNHCR was able to provide assistance to approximately 60,000 IDPs.

Fighting continued throughout the year in several of Burma's ethnic minority areas, including continuation of fighting in Karen State between the Burmese army and ethnic armed groups. Thousands of Karen went to Thailand seeking temporary protection in the Phrop Prah and Three Pagodas Pass areas. Persons in the area reported that many individuals crossed the border into Thailand daily but returned to their homes at night when fighting subsided (see section 1.g.).

Protection of Refugees.—Access to Asylum.—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.

Nonrefoulement.—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. However, there were no reported cases of such expulsion.

The UNHCR continued to negotiate for permission to work with what the government termed "communities that are affected by displacement." The government continued to allow the UNHCR to provide humanitarian assistance to Rohingya in northern Rakhine State.

A separate memorandum of understanding permitted the UNHCR to work with implementing partners in the southeast region, including parts of Karen and Mon states and Tanintharyi Region. Under the terms of the memorandum, authorities permitted UNHCR foreign personnel to monitor their project activities in the region.

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 what the government considered their nonindigenous ancestry. Of these, the Muslim Rohingya fared the worst, with nearly all Rohingya denied any benefits of citizenship.

According to the UNHCR, there were approximately 800,000 legally stateless persons, mostly Rohingya, residing in northern Rakhine State near the border with Bangladesh. NGOs estimated the number of Rohingyas in Burma at around two million persons. The government did not recognize the existence of the Rohingya ethnicity; instead authorities usually referred to them as “Bengali,” claiming that the Muslim residents of northern Rakhine State were the descendents of illegal immigrants from Bangladesh who moved into the country during British colonial rule. The government consistently denied citizenship to most Rohingya on the grounds their ancestors did not belong to a national race or indigenous group present in Burma before the beginning of British colonial rule in 1823, as required by the highly restrictive 1982 citizenship law. Only Rohingya who were able to prove long familial links to the country were eligible to apply for naturalization. In practice, however, NGOs reported that Rohingya in northern Rakhine State who submitted applications for naturalization with all required documents did not receive a reply. Lawyers and activists noted that some Rohingya could also secure naturalization or “associate” citizenship through bribery or by registering themselves as a recognized ethnic group such as the Kaman. The legal status of associate citizenship was created by the 1982 law and is applied to South Asian and Chinese minorities whose ancestors immigrated to Burma after 1823.

Rohingya experienced severe legal, economic, and social discrimination. The government required them to receive prior approval for travel outside their village of residence, limited their access to higher education, and prohibited them from working as civil servants, including as doctors, nurses, or teachers. Authorities required Rohingya to obtain official permission for marriages. Rohingya were singled out by authorities in northern Rakhine State to perform forced labor and were arbitrarily arrested.

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

The constitution provides limited rights for citizens to change their government through elections. Certain constitutional provisions grant one quarter of all national and regional parliamentary seats to military appointees and provide that the military assume power over all branches of the government should the president, who must be of military background, judge the security situation to be unstable, limit those rights.

Elections and Political Participation.—Recent Elections.—In November 2010 the country held its first election in 20 years, which the international community assessed as neither free nor fair due to an array of flaws including political party registration restrictions, detention of political activists, restrictions on free reporting and freedom of assembly, inadequate time to develop candidate lists and to prepare campaigners, lack of media access, the lack of independence of the electoral commission, allegations of fraud via advance voting irregularities, the cancellation of elections in certain ethnic areas, and widespread reports of official intimidation.

Political Parties.—The ruling USDP dominated the electoral field. Membership in the USDP conferred advantages in many areas. According to human rights activists and legal sources, citizens could present USDP cards in place of national identification cards for travel and to purchase express bus, train, boat, or plane tickets. USDP members reportedly were given priority enrollment in foreign language universities in Rangoon and Mandalay and were exempt from the visitor registration process—required for everyone else—for overnight stays in townships other than the member’s own.

In November, however, the president signed into law an amended Political Parties Registration Law that opened registration to opposition parties. The amended party registration law, among other improvements, deleted a clause that previously prevented former convicts from becoming a party member, implying that freed political prisoners have the right to join a political party and run for office. Following the law’s passage, the NLD submitted its application for registration on November 25,

and on December 23, Aung San Suu Kyi traveled to Naypyitaw to officially register the party. In total 11 parties applied for registration, and five were registered at year's end.

Participation of Women and Minorities.—Following the 2010 elections, in some instances in the newly convened Parliament, opposition and ethnic parties contributed substantively to debates of current issues and the nation's future. Lawmakers adopted important legislation, such as a labor law that granted workers the right to organize and strike and a law providing the right to peaceful assembly. Participation of women and minorities in political life also increased. Prior to 2010 there were no women in the upper ranks of political leadership, and members of certain minority groups were denied a role in politics. During the year two women were deputy ministers, and five ethnic states elected persons of their own ethnicity as chief minister. There were 12 women in the 440-seat Pyithu Hluttaw (House of Representatives, or lower house), or 2.7 percent of members; six in the 224-seat Amyotha Hluttaw (House of Nationalities, or upper house), or 2.7 percent; and 24 among the 882 total seats in the seven state and seven regional Hluttaws, or 2.7 percent. The representation of women at both the national and the state/regional level was approximately 3 percent. There were 44 ethnic representatives from ethnic parties (non-USDP) in the Pyithu Hluttaw, or 10 percent, 29 in the Amyotha Hluttaw, or 12.9 percent, five among the 544 seats in the seven regional Hluttaws, or 0.9 percent, and 98 among the 338 seats in the seven state Hluttaws, or 29 percent. The representation of ethnic parliamentarians from ethnic parties at both the national and state/regional level was thus approximately 11 percent.

Section 4. Official Corruption and Government Transparency

The government rarely enforced laws providing criminal penalties for official corruption, and officials frequently engaged in corrupt practices with impunity. A complex and capricious regulatory environment fostered corruption. Authorities usually enforced anticorruption laws only against officials whose egregious corruption had become an embarrassment. The government reportedly forcibly retired four military generals for corruption. Lawyers throughout the country complained that rampant corruption pervaded the judiciary and police corruption was a serious problem. Police typically required victims to pay substantial sums for crime investigations and routinely extorted money from the civilian population.

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, was classified or tightly controlled. During the year government policymaking became more transparent. The government published and attempted to explain new policies. Government press tracked legislation from the time of submission, noting the drafter, proposed amendments, and debate.

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. Although local human rights NGOs reported significantly less harassment than they did prior to the 2010 elections, the majority could not successfully register, exposing staff members to imprisonment for unlawful association. There were no known local, registered human rights NGOs; some local NGOs had reportedly applied for registration through the Ministry of Home Affairs but their applications had been indefinitely delayed. Unregistered human rights organizations reported continued government and Police Special Branch monitoring but fewer incidents of harassment.

During the first part of the year, human rights advocates were denied entry visas unless traveling under the aegis of a sponsor acceptable to the government and for purposes approved by the government. However, later in the year human rights activists and advocates obtained visas, including representatives from the international NGO Human Rights Watch. The government's monitoring of the movements of foreigners, interrogation of citizens concerning contacts with foreigners, and restrictions on the freedom of expression and association persisted.

U.N. and Other International Bodies.—In August the government granted U.N. Special Rapporteur for Human Rights Tomas Quintana greater access than in prior visits, enabling him to meet with a broad cross-section of society, including Aung San Suu Kyi, and to visit Insein Prison, where he met with seven political prisoners.

The government maintained travel restrictions on foreign journalists, NGO staff, U.N. agency staff, and diplomats in most regions. International humanitarian NGOs and U.N. agencies reported greater government acknowledgement of national deficiencies and an increased willingness of the government to engage. Employees of

these international organizations reported continued difficulty obtaining long-term visas. U.N. agencies and NGOs continued to negotiate with the government to agree on mutually acceptable guidelines for activities.

Government Human Rights Bodies.—The government created the Myanmar National Human Rights Commission on September 5 following Quintana's August 21-25 visit. Commission members reported the commission intended to conform to U.N. guidelines for an independent national human rights commission and eventually bring the country into compliance with the Paris Principles on Human Rights. On October 7, the government announced procedures for citizens to file complaints of human rights violations with the commission, and at year's end the commission had accepted hundreds of complaints, reportedly focused on issues related to tenure rights and land confiscation. At year's end, however, the commission's ability to operate as a credible, independent mechanism remained untested.

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

Women.—Rape and Domestic Violence.—Rape is illegal, but the government did not enforce the law effectively. Spousal rape is not a crime unless the wife is under 14. The minimum age requirement for marriage is 18.

The government did not release statistics concerning the number of rape prosecutions and convictions. The police generally investigated reported cases of rape. However, when government soldiers committed rape in ethnic areas, 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 (including spousal rape), 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.

Sexual Harassment.—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.

Reproductive Rights.—Couples and individuals had the right to decide the number, spacing, and timing of children. The government has pronatalist policies but allows for government and private sector clinicians to provide contraceptives under the banner of "birth spacing." There was a significant unmet need for family planning, and the most commonly reported barriers to accessing family planning services were cost and availability. Reproductive health services, including the availability of contraceptives, generally were limited to private clinics. Health authorities heavily regulated distribution of contraceptives. Community health workers were only allowed to advise on condoms. A client must be seen by a midwife to get injectables or oral contraception. An acute shortage of government sector midwives impeded access and prevalence. According to 2007 data, the estimated maternal mortality ratio in the year was 316 per 100,000 live births. International organizations cautioned that this figure was a "guesstimate," as the government has not conducted a census since 1983. Major factors influencing maternal mortality included poverty, limited availability and access to comprehensive sexual and reproductive health services and maternal and newborn health services, lack of information and awareness in communities on these issues, a high number of home births, and lack of skilled birth attendants. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Discrimination.—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.

Children.—Birth Registration.—By law citizenship is derived through parents, both of whom must be nationals of the country. In major cities (e.g., Rangoon and Mandalay), births were registered immediately. In these larger cities, births must be registered to qualify for basic public services and obtain national identification cards. In smaller towns and villages, birth registration was often informal or nonexistent. Access to public services in remote communities was sometimes complicated by lack of birth registration but more often by a lack of services. For the Rohingya community, birth registration was a significant problem (see section 2.d.).

Education.—By law education is compulsory, free, and universal through the fourth standard (approximately age 10). However, the government continued to allo-

cate minimal resources to public education, and schools routinely charged informal fees. Rates of school attendance were low, largely due to economic hardship.

Child Abuse.—There are laws prohibiting child abuse, but they were neither adequate nor enforced. The government cooperated with UNICEF to strengthen the 1993 Child Law, which contains many provisions to protect children from abuse, sale, and other types of exploitation. The punishment for violators is up to two years' imprisonment or a fine of up to 10,000 kyat (\$22).

Sexual Exploitation of Children.—Children reportedly engaged in prostitution for survival without third-party involvement. The penalty for child prostitution is 10 years' imprisonment and applies to the customer. The law prohibits pornography; the penalty is three to five years' imprisonment. The law prohibits statutory rape; if a victim is under 14 years of age, the sexual act is considered rape, with or without consent. 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. In Rangoon and Mandalay, and increasingly in Chin State, observers noted the 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. 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.

Child Soldiers.—Both the Burmese army and ethnic minority armies historically have used child soldiers (see section 1.g.).

Displaced Children.—The mortality rate of internally displaced children in conflict areas was significantly higher than in the rest of the country. In addition such children had few learning resources.

Institutionalized Children.—Many children were placed in orphanages that lacked adequate food and services.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was one synagogue in Rangoon serving a small Jewish congregation. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/tip>.

Persons With Disabilities.—There are no laws specifically prohibiting discrimination against persons with physical, sensory, intellectual and mental disabilities in employment, education, access to health care, or the provision of other state services; the government does not provide ample protections for these persons. The government did not actively discriminate against persons with disabilities in employment, access to health care, education, or the provision of other state services or other areas, 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 an estimated 30 to 40 percent of the population, and the seven ethnic minority 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 stationed forces in some eth-

nic groups' areas 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 committed abuses (see sections 1.g. and 2.d.).

At year's end the government had reached preliminary cease-fire agreements with three armed ethnic groups: the United Wa State Army, the National Democratic Alliance Army, and the Shan State Army-South. Fighting continued in Karen, Kachin, Shan, and Mon states (see sections 1.g. and 2.d.).

Rohingya Muslims in Rakhine State were discriminated against because of their ethnicity. Most 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. 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 tightly controlled the limited number of Buddhist monastery-based schools, Christian seminaries, and Muslim madrassahs.

During the year there were several reports of ethnic villages being displaced for economic development, such as those around the Myitsone Dam project—subsequently suspended by presidential order—in Kachin State.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The penal code contains provisions against “sexually abnormal” behavior, and laws against “unnatural offenses” apply equally to both men and women. These laws were not enforced, however, and there were no impediments to organizations or activities for lesbian, gay, bisexual and transgender persons.

There was no official or social discrimination based on sexual orientation in employment.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—On October 11, the president signed the Labor Organizations Law, which repeals the Trade Union Act of 1926 and provides for a significant expansion of labor rights.

Under this law workers may freely join labor organizations in their trade sector. Labor organizations must register with the Chief Registrar's Office. The law also provides that government may offer assistance to labor organizations but must allow them to operate independently. The law permits labor organizations to demand the reinstatement of workers dismissed for union activity.

The law provides for a limited right to strike and right to lock out, subject to certain conditions and with the exception of certain industries. Strikes require a vote of the majority of the union's members, and three days' notice in the private sector or 14 days' notice in a public utility. The law prohibits strikes on purely political grounds but allows strikes related to labor policies, for example labor market policies, and on issues directly related to labor affairs, such as wages, salaries, welfare, and working hours.

Strikes are prohibited in essential services, defined as “those whose interruptions are liable to endanger the life, health, or security of the people in any segment of the population” and include water services, electricity services, fire services, health services, and telecommunications services. However, the law also states that a non-essential service may become an essential service if the strikes last so long as to cause irreversible or disproportionate damage to “the occupational interests of those involved in the dispute.” This definition includes a broader range of sectors than the international norm.

The law gives unions the right to negotiate with employers with the objective of ensuring collective representation of workers and employers for the development of their labor relationships. It does not contain measures regarding management of the bargaining process and handling of disputes.

One of the criticisms of the new law is that it does not repeal all existing legislation that constrains freedom of association. On November 21, the president declared invalid the 1964 Law Defining the Fundamental Rights and Responsibilities of the People's Workers and its 1976 amendment, which imposed a single trade union system on the country. However, Order 6/88, which provides for harsh penalties for organizations and associations, including unions, not registered with the appropriate authorities, remains in place.

Organizations that attempted to register under the new labor law were unable to do so. The government cited lack of implementing legislation. At year's end implementing regulations had not been issued.

Under existing law the government generally does not allow workers to organize independently or bargain collectively. Workers' supervision committees exist at factories in all 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 supervision committee process, the workers are required to continue their work, and demonstrations are prohibited.

The ILO noted that numerous strikes occurred, but all were resolved with the Ministry of Labor playing a mediation role. Settlements were reached and accepted by both parties in every instance.

At year's end the ILO reported that the government continued to hold 11 labor activists.

b. Prohibition of Forced or Compulsory Labor.—Laws prohibit forced or compulsory labor (except as a criminal punishment) and provide for the punishment of persons who impose forced labor on others.

The Ministry of Home Affairs is broadly responsible for enforcing laws and regulations against forced labor; however, the Ministry of Labor is the chair of the governmental Committee for the Elimination of Forced Labor. The Ministry of Labor oversees the conditions of labor in the private sector.

In practice government and military use of forced or compulsory labor remained a widespread and serious problem. Throughout the country international observers verified that the government continued to force citizens to work on roads, construction, and other maintenance projects, particularly at the village level; however, the ILO noted that incidents decreased. Citizens also were forced to undertake work in association with military-owned industrial enterprises and as porters in conflict zones. In ethnic or religious minority regions, the military's use of forced labor in support of military garrisons or military operations remained an especially serious concern.

On February 23, the ILO and the Ministry of Labor signed an extension to the 2007 Supplementary Understanding, which allowed the ILO to continue to receive and investigate forced labor complaints. The ILO received 328 cases of forced labor during the year, including cases of forced child labor/soldiering (see Prohibition of Child Labor below).

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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. The legislation does not define what constitutes "light duties." Forced child labor is illegal under Order 1/99, which also prohibits recruitment of children into the military. The military law also prohibits recruitment of children into the military.

During the year the ILO received 236 complaints of cases of child-soldier recruitment, an increase from 194 cases in 2010. Since the ILO began monitoring underage recruitment in 2007, it has received 549 complaints. At year's end a total of 214 underage recruits had returned to their families, and 205 cases were being processed for discharge. A further 126 cases were under review, while two lacked sufficient evidence to advance. Of these, one youth was killed in action in a front-line location and one was rejected at the recruitment stage because of his age.

UNICEF continued to work with the Ministry of Social Welfare to facilitate inter-agency meetings and workshops on the protection of children. They worked with the Ministry of Labor on child protection laws, the minimum age, and light-work issues.

In practice the Child Law was not enforced. Child labor remained prevalent and highly visible. In cities children work mostly in the food-processing and light-manufacturing industries, as street vendors or refuse collectors, and as restaurant and teashop attendants. In rural areas children routinely worked in family agricultural activities, often as the result of poverty.

Despite legal provisions outlining criminal penalties for those guilty of recruiting child soldiers, the government army continued to recruit and use children in military-related activities. Ethnic armed groups and some cease-fire groups also allegedly recruited child soldiers (see section 1.g.).

d. Acceptable Conditions of Work.—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The Min-

istry 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 50,000 kyat (\$110) for what was in effect an eight-hour workday. The rate for day laborers was 2,000 kyat (\$4.44) per day. Various subsidies and allowances supplemented this sum. The national poverty income level was estimated at less than 1,000 kyat (\$2.22) per day.

Low real wages in the public sector fostered widespread corruption and absenteeism. In the private sector, urban laborers performing unskilled work earned 2,000 to 2,500 kyat (\$4.44 to \$5.56) per day, while rural agricultural workers generally earned less. 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 50,000 to 100,000 kyat (\$110 to \$220) per month, according to private sector employers.

The law prescribes a five-day, 35-hour workweek for employees in the public sector and a six-day, 44-hour workweek for private sector 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 one 24-hour rest period per week, and workers are permitted 21 paid holidays per year; however, in practice provisions related to wages and hours benefited only a small portion of the labor force, since they were rarely enforced and most workers were engaged in rural agriculture or the informal sector.

The Ministry of Labor oversees labor conditions in the private sector. The laws were generally enforced in the government sector, but there were frequent violations by private enterprises.

CAMBODIA

EXECUTIVE SUMMARY

Cambodia is a constitutional monarchy with an elected parliamentary form of government. In the most recent national elections, held in 2008, the Cambodian People's Party (CPP) won 90 of 123 National Assembly seats. Most observers assessed that the election process improved over previous 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 Prime Minister Hun Sen. Security forces reported to civilian authorities.

A weak judiciary that sometimes failed to provide due process and a fair trial procedure was a leading human rights problem. The courts lacked human and financial resources and were subject to corruption and political influence. Their ineffectiveness in adjudicating land disputes that arose from the government's granting of economic land concessions, including to ruling party officials, fueled disputes, sometimes violent, in every province. The continued criminalization of defamation and disinformation and a broad interpretation of criminal incitement constrained freedom of expression.

Members of the security forces reportedly committed arbitrary killings. Detainees were abused, often to extract confessions, and prison conditions were harsh. Human rights monitors reported arbitrary arrests and prolonged pretrial detention. The government at times interfered with freedom of assembly. Corruption remained pervasive, governmental human rights bodies reportedly were ineffective, and discrimination and trafficking in women and children persisted. Domestic violence and child abuse occurred, and education of children was inadequate.

The government prosecuted officials who committed abuses, but impunity for corruption and other abuses persisted.

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

a. Arbitrary or Unlawful Deprivation of Life.—There were reports that security forces committed arbitrary or unlawful killings.

For example, on March 8, police officers led by Kim Rith, then the acting police chief of Samlot District in Battambang Province, shot and killed Leng Rin during an arrest attempt. The provincial court ordered the police to escort Leng to court for questioning about a murder. The police claimed that Leng was shot while resisting arrest. A local NGO, however, alleged that this was an unlawful killing and helped the victim's family file a criminal complaint against the police officers. At year's end the case was pending and no hearing date set. Kim Rith remained free and on duty as the acting police chief.

In early February and late April, there were clashes and exchanges of artillery fire reported between Cambodian and Thai security forces in the area of the Preah

Vihear temple/border dispute that resulted in unconfirmed reports of at least one Thai civilian killed, thousands of Cambodian and Thai villagers temporarily displaced, and civilian property damaged.

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, beatings and other forms of physical mistreatment of police detainees and prison inmates continued, and the number of incidents reportedly increased from 2010.

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. As of November NGOs reported that authorities tortured at least 129 prisoners, 124 in police custody and five in a prison. Kicking, punching, and pistol whipping were the most common methods of physical abuse reported, but electric shock, suffocation, caning, and whipping with wires were also used. 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 March 24, two police officers in Preah Sihanouk Province allegedly beat a suspect to compel him to confess to his involvement in a street fight. The victim, who was seriously injured as a result, filed a complaint with the provincial court. As of November the case was pending with no set hearing date.

In June a provincial court, citing insufficient evidence, dropped the case against a police officer in Thnoat Chum commune who in May 2010 allegedly beat and administered electric shocks to a person to obtain his confession in a street fighting case. The alleged victim had filed a complaint with the provincial court, which had charged the police officer with physical assault.

As of October the NGO Cambodia Human Rights and Development Organization (ADHOC) reported 108 cases of use of force against civilians by local authorities, government agents, or private bodyguards of government officials during the year, compared with 86 cases in 2010. In some instances police used force to counter the threat of violence or acts of violence on the part of demonstrators. In other instances police used force against peaceful demonstrators after demonstrators interfered with traffic and refused orders to disperse.

There were 11 government-operated drug rehabilitation centers. Most observers agreed that the majority of detainees in such facilities were involuntarily, committed to the facilities by law enforcement authorities or family members, and that as many as one-third of detainees were under the age of 18. Employees of the centers frequently controlled detainees by tying them up or submitting them to intense exercise and electric shocks. Government leaders acknowledged the importance of treating drug addiction as a medical rather than criminal matter, but there was little follow-through on such statements.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards. Conditions remained harsh and at times life threatening. Human rights organizations cited serious problems, including overcrowding, medical and sanitation problems, food and water shortages, malnutrition, and poor security. The Prison Department reported 32 prisoners died while in custody as of September. Police claimed that they investigated the deaths and found evidence of preexisting conditions or other illnesses.

A local NGO maintained that allowances for prisoner food and other necessities were inadequate. Observers continued to report that allowances for purchasing prisoners' food sometimes were misappropriated, exacerbating malnutrition and disease.

According to the Ministry of Interior Prison Department, as of September there were 15,361 prisoners and detainees, including 1,240 women and 451 juveniles. There were 27 prisons in the country, which were designed to hold up to 11,000 persons. There were reports at some prisons that cells of 40-by-20 feet held up to 110 prisoners.

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 28 percent of prisoners held in municipal and provincial prisons were pretrial detainees as of September.

Prisoners and detainees were routinely allowed access to visitors, although rights organizations confirmed that families sometimes had to bribe prison officials to visit prisoners or provide food and other necessities. NGOs also related 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. Although greater use of alternatives to imprisonment would

help reduce the detainee and convict population, there was little progress in making use of alternatives. Bail was underutilized, and the parole system authorized in the code of criminal procedure had not been implemented by year's end. A local NGO representative noted that the government lacked the requisite capacity to implement such programs.

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 their full term of imprisonment.

Prisoners and detainees were allowed to observe their own religion.

Complaints about alleged abuse could be submitted to judicial authorities through lawyers without censorship; however, a large number of prisoners and detainees could not afford legal representation. The government investigated such complaints and monitored prison and detention center conditions through the Ministry of Interior's General Department of Prisons, which produced biannual reports on the management and development of prisons in the country. These and other investigation reports reportedly were available to the public upon request.

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 U.N. High Commissioner for Human Rights (OHCHR), 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 Ministry of Interior requires that lawyers, human rights monitors, and other visitors obtain permission prior to visiting prisoners. Unlike in previous years, there were no instances of the authorities refusing such permission. In some instances officials permitted NGOs to interview prisoners in private. OHCHR 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.

Role of the Police and Security Apparatus.—The General Commissariat of the National Police, which is under the supervision of the Ministry of Interior, manages all civilian police units. The police forces are divided into those with the authority to make arrests, those without such authority, and the judicial police. Military police were permitted to arrest civilians if the officers met the training and experience requirements to serve as judicial police, if civilians were on military property, or when authorized by local governments. In practice, however, the military police sometimes engaged in regular civilian law enforcement activities under the authority and direction of provincial or local governments, often in support of civilian police unable to exercise effective crowd control on their own.

NGOs maintained that police officials committed abuses with impunity, and in most cases the government took little or no action. 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.

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. There was a functioning bail system; however, 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 incommunicado 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.

Arbitrary Arrest.—ADHOC reported at least 68 cases of arrest or detention that it considered arbitrary as of October but offered no specific examples. ADHOC stated that victims in 25 arbitrary 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 higher because some victims in rural areas did not file complaints due to difficulty

in traveling to ADHOC's offices or concern 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. Authorities called the street sweeps part of an effort to “regulate society.” Occasionally authorities placed the detainees in a Ministry of Social Affairs, Veterans, and Youth (MOSAVY)-operated rehabilitation facility 15 miles from Phnom Penh. Detainees were told they were free to leave but would not be provided transportation.

Pretrial Detention.—The criminal procedures code allows for pretrial detention of up to six months for misdemeanors and 18 months for felonies. One in every 17 detainees in pretrial detention was held longer than the legal time limit, sometimes without legal representation. As of September the Ministry of Interior reported having 246 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.

Amnesty.—The king may grant amnesty in certain cases, which he often does during important Buddhist religious ceremonies and national holidays. The Ministry of Interior reported that King Norodom Sihamoni pardoned 68 persons as of September.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, but the government generally did not respect judicial independence in practice. The courts were subject to influence and interference by the executive branch, and there was widespread corruption among judges, prosecutors, and court officials.

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 provide for due process.

NGOs reported that many cases were pending due to a shortage of judges and courtrooms. NGOs also speculated that court officials focused on cases from which they could gain financial benefits.

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.

NGOs asserted that in many criminal cases rich or powerful defendants, including members of the security forces, paid money to victims and authorities to drop criminal charges. 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.

The January 2010 death of Lon Chhun Leng was an example of judicial ineffectiveness. A local human rights organization reported that Chil Sarath and Sun Vantha, two police officers in Kandal Province, attacked Lon after an argument at a wedding party. Lon subsequently died from his injuries, and the victim's family filed a complaint with the provincial court. At year's end no hearing date had been set, and the two police officers remained free.

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 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 case; however, on occasion 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.

There remained a critical shortage of trained lawyers, particularly outside Phnom Penh. Persons without means to secure counsel were often effectively denied the right to a fair trial. According to the bar association, approximately 30 percent of the country's 751 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.

Defendants are entitled by law to the presumption of innocence and right of appeal, but due to pervasive corruption, defendants often were expected to bribe judges to secure a favorable verdict. NGOs also reported that 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. A citizen's right to be present at his appeal often 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 without the presence of the defendant.

There were no developments regarding the 2004 murder of labor leader Chea Vichea. Chea, who was the president of the Free Trade Union of Workers of the Kingdom of Cambodia, was shot and killed in Phnom Penh. Within a week, two suspects, Bom Samnang and Sok Sam Oeun, were arrested by police and later sentenced to 20 years in prison for their roles in the crime. However, the case was appealed to the Supreme Court, which overturned the Appellate Court's decision and released Bom and Sok on bail. The case was subsequently sent back to the Appellate Court, where it was pending at year's end.

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. Unlike in previous years, there were no reports of vigilante actions during the year.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law provides for the privacy of residence and correspondence and prohibits illegal searches; however, NGOs reported that police routinely conducted searches and seizures without warrants.

Forced collectivization under the Khmer Rouge and the movement of much of the population left land ownership unclear. The 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 the knowledge and means to obtain 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 conflict and evictions precipitated by actions by the state to develop contested land. Land speculation fueled 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.

Cases of inhabitants being forced to relocate continued; the number of cases reported increased from 2010. Some persons also used the threat of legal action or eviction to intimidate the poor and vulnerable into exchanging their land for compensation below market value. ADHOC reported receiving 220 land-related cases during the year. During the same period, another NGO received 98 land related cases in Phnom Penh and 13 provinces, affecting 11,377 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 have not yet concluded.

On April 29, approximately 100 military police officers confronted a group of 2,000 villagers who blocked National Road 76 in Mondulkiri Province's Keo Seima District to protest the clearing of their land by CPP Senator Mong Rithy. The disputed land area of approximately 12,500 acres was part of an economic land concession in Srae Khtom commune granted by the government in 2007 to the Rithy Kiri Siema company. At that time surveyors entered the area and began partitioning the villages for a proposed rubber plantation, and by 2009 the company sent its first excavators into the area. Some villagers claimed that they bought their land long enough ago to entitle them to land titles under the 2001 Land Law and claimed they had documents that substantiated their claims, but local authorities refused to grant them titles. Neither the government nor the courts offered a venue in which residents could contest the local authorities' decision or otherwise pursue their claims. At year's end the government had not offered any form of restitution or compensation to the villagers, but the local authorities had established a committee to help resolve this issue.

On June 9, a clash between police and villagers in Kampong Speu Province resulted in injuries on both sides. A local NGO reported that 400 villagers blocked Road 51 to prevent enforcement of a court order to remove them from some contested land and attacked police with stones, knives, machetes, and sticks. Police fired on the protesters but fled after having failed to enforce the court order.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The constitution provides for freedom of speech and press; however, these rights were not always respected in practice.

The 1995 press law prohibits prepublication censorship or imprisonment for expressing opinions. However, the government used the penal code to prosecute citizens on defamation, disinformation, and incitement charges. The penal code does not prescribe imprisonment for defamation but does for incitement or spreading disinformation, which carry prison sentences of up to three years. Judges also can order fines, which may lead to jail time if not paid.

Freedom of Speech.—The constitution requires that free speech not adversely affect public security. The constitution also declares that the king is “inviolable,” and a Ministry of Interior 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.

On January 25, the Kampong Chhnang Provincial Court convicted Sam Chankea, an ADHOC staffer, for defamation due to comments he made regarding a land dispute involving the KDC International Company. The company alleged that Sam told Radio Free Asia that it was “clearing” the disputed land, whereas KDC contended that it was merely “channeling” around the area. The court ordered Sam to pay a fine of one million riels (\$244) and an additional three million riels (\$731) to the company as compensation. The company is reportedly owned by Chea Kheng, the wife of the minister of industry, mining, and energy.

Freedom of Press.—All major political parties had reasonable and regular access to print media. All major Khmer-language newspapers received financial support from individuals closely associated with a political party and were politically aligned. There were an estimated 20 Khmer-language newspapers published regularly. During the year there were three pro-opposition newspapers publishing regularly, compared to one in 2010. Another pro-opposition media outlet maintained a Web site, but only sporadically published a newspaper. Although the five newspapers with the largest circulations were considered pro-CPP, most newspapers criticized the government, particularly with regard to corruption and land acquisition. The prime minister, royalist party leaders, and opposition party leaders frequently came under attack.

The government, military forces, and the ruling political party continued to dominate the broadcast media and influence the content of broadcasts. There were 10 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.

Censorship or Content Restrictions.—On August 4, the Ministry of Interior suspended Samakum Theang Thnout (STT), a local NGO, for the rest of the year, allegedly due to its advocacy work in land dispute cases, but officially for STT’s failure to meet administrative requirements. The ministry accused STT of attempting to block an Asian Development Bank-funded railway rehabilitation project by encouraging displaced persons to file complaints. The ministry released a statement on August 13 that accused STT of “inciting villagers” set to be displaced by the railway project.

Leang Sochoeun appealed his August 2010 conviction and sentencing to two years’ imprisonment for distributing leaflets critical of the relationship between the government and Vietnam, which the prosecutor claimed was insulting to the government and to former king Norodom Sihanouk. As of December no date to hear the appeal had been set.

There were no reports during the year that journalists, publishers, or distributors were subject to harassment or intimidation, but reporters and editors privately admitted to some self-censorship due to fear of government reprisals.

Libel Laws/National Security.—Regarding the defamation suit filed by Foreign Minister Hor Namhong against opposition leader Sam Rainsy, on April 25, the Phnom Penh Municipal Court sentenced Sam Rainsy in absentia to two years in prison for incitement and on charges that he had defamed the foreign minister.

On June 2, the Supreme Court upheld the defamation verdicts of the trial and appeals courts against opposition parliamentarian Mu Sochua for comments she

made in a press conference that allegedly defamed the prime minister. The court ordered Mu to pay a fine of eight million riels (\$1,950) plus compensation to the prime minister of 8.5 million riels (\$2,070). Mu refused to pay. On July 15, the Phnom Penh Municipal Court asked the National Assembly to dock Mu's salary as a lawmaker to cover the compensation owed to the prime minister; the National Assembly approved the request on July 29 and began deducting four million riels (\$975) per month from Mu's salary. Mu sought restoration of her immunity, but no action was taken to restore it.

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

However, there were credible allegations that government actors successfully pressured certain Internet service providers to block access for a few days in February to a well-known Web site (KI-Media) critical of the government. Access was quickly restored after public outcry by media, NGOs, and government officials, and there were no other such incidents during the year.

Academic Freedom and Cultural Events.—In general there were no government restrictions on academic freedom or cultural events. However, scholars tended to be careful when teaching politically related subjects due to fear of offending politicians. In addition, the government banned public screenings of a controversial film about the 2004 murder of Chea Vichea, a prominent labor leader (see section 1.e.).

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 law requires that a permit be obtained in advance of a protest march or demonstration. One provision requires five days' advance notice for most peaceful demonstrations, while another requires 12 hours' notice for impromptu gatherings on private property or at the designated peaceful protest venue in each province and limits such gatherings to 200 persons. By law provincial or municipal governments hold the authority to issue demonstration permits at their discretion. In practice, particularly in Phnom Penh, lower-level government officials deferred to the national government as the deciding authority and denied requests unless the national government specifically authorized the gatherings. The government routinely did not issue permits to groups critical of the ruling party or of countries with which the government had friendly relations. Authorities cited the need for stability and public security as reasons for denying permits. However, the law does not define the terms stability or public security to assist authorities in implementing the law. Police forcibly dispersed groups that assembled without a permit, in some instances causing minor injuries to some demonstrators.

On September 9, the Housing Rights Task Force (HRTF), a local NGO, submitted an official request to the Municipality of Phnom Penh to celebrate World Habitat Day at a public park. The HRTF planned to invite an estimated 500 participants from various communities that were embroiled in land disputes. The event was slated to feature a guest speaker to talk about climate change and land issues and did not involve mass marches on public roads. The municipality denied the permit without explanation.

On April 21, approximately 100-200 protesters gathered in front of Phnom Penh City Hall to demand a meeting with Phnom Penh Governor Kep Chuktema and to address grievances over the Boeung Kak Lake land concession. The demonstration spilled over, obstructing traffic on a major thoroughfare. When the protesters failed to heed warnings to disperse, police moved in to surround them. Equipped with riot shields and batons, police stood shoulder to shoulder and walked forward, attempting to corral the protesters and persuade them to depart. Protesters fought back, pushing police officers, and the incident degenerated into violence.

As of October ADHOC reported 41 protests, most of which were related to land or labor disputes.

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 it with regard to worker rights (see section 7.a.).

In December 2010 the government released for public comment a draft Law on Associations and Nongovernmental Organizations. International and domestic NGOs expressed significant concerns about the proposed law, which included language that imposed burdensome reporting requirements on NGOs, prevented associations with fewer than 21 members from attaining legal status, and erected barriers to the registration of foreign NGOs. Foreign governments expressed concern that the proposed law would greatly increase the government's regulation of both

civil society and foreign NGOs. Over the course of the year the government modified the draft law in several ways, including to establish a right of appeal of adverse registration decisions and exclude smaller NGOs (known as community-based organizations) and short-term international NGOs from coverage. The draft law remained problematic for many civil society organizations. In December the prime minister announced that government-civil society consultations on the draft law would continue until consensus was reached; the draft law remained with the Ministry of Interior for revision.

c. Freedom of Religion.—See the International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 U.N. 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.

Exile.—The constitution prohibits forced exile, and the government did not employ it. Opposition leader Sam Rainsy was stripped of parliamentary immunity in late 2009 and has been living in self-imposed exile since before that time.

Protection of Refugees.—Access to Asylum.—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 system is in its infancy, and its limited capacity resulted in long delays for some asylum seekers. The UNHCR continued to provide training and other technical assistance.

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 Khmer 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 most common reason for statelessness was lack of proper documents from the country of origin.

The UNHCR stated that the country's 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.

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.

Elections and Political Participation.—Recent Elections.—The most recent national elections, held in 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.

Parties could register, and individuals were free to declare their candidacy without restrictions.

Political Parties.—Some NGOs and political parties alleged that membership in the dominant CPP party provided advantages, such as gifts, access to government emergency aid, and economic land concessions. There were no reports of members of the opposition parties receiving similar economic land concessions.

Participation of Women and Minorities.—Traditional culture limited the role of women in government; however, women took part in the May 2009 indirect provincial and district council elections. There were 26 women in the 123-seat National Assembly and nine women in the 61-seat Senate. There was a female deputy prime minister and 62 female ministers, secretaries of state, undersecretaries of state, and National Election Commission officials. Women also served as advisers, and there were 51 female judges and prosecutors in the municipal and provincial courts, appeals court, and Supreme Court. Although there were no female governors, the gov-

ernment appointed women as deputy governors in all of the 23 provinces and the Phnom Penh Municipality (there are a number of deputy governors in each province). The National Election Committee reported that women held 15 percent of commune council seats and 13 percent of district and provincial council seats.

There were five members of minorities—four Cham and one Tampuan—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.

The penal code defines various corrupt acts and specifies the applicable penalties for such acts. The anticorruption law provides the statutory basis for the National Council against Corruption and the Anticorruption Unit (ACU) to receive and investigate corruption complaints. Public servants are subject to financial disclosure provisions.

Corruption was considered endemic and extended throughout all segments of society, including the executive, legislative, and judicial branches of government. There were reports that police, prosecutors, investigating judges, and presiding judges received bribes from owners of illegal businesses. 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.

On January 12, Lieutenant General Moek Dara, one of the country’s senior counternarcotics officials, was arrested and put in pretrial detention for corruption and drug-related offenses. As of December his trial was pending at Banteay Meanchey Provincial Court, and he faced a possible life sentence if convicted.

On May 12, former Pursat governor Top Chan Sereivuth was sentenced to 19 years’ imprisonment after being found guilty of corruption, extortion, and false imprisonment. The verdict by the Pursat Provincial Court marked the first high profile ruling to follow an arrest by the recently created ACU. Top was arrested in November 2010, four months after the anticorruption law was passed.

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 life 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 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. Unlike in past years, there were no reports of public interest lawyers being denied access to detained clients in some human rights abuse cases, nor were there reports of attempts to intimidate NGO representatives not to speak with the media about such cases.

U.N. and Other International Bodies.—The government generally cooperated with international governmental bodies and permitted visits by U.N. representatives. Surya Subedi, the U.N. special rapporteur on human rights in Cambodia, made visits in January, June, and December, during which Subedi met with the prime minister and other senior government officials.

Government Human Rights Bodies.—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 Cambodian Human Rights 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 Extraordinary Chambers in the Courts of Cambodia (ECCC), which was administered jointly with the U.N. to try Khmer Rouge leaders and those most responsible for the abuses of the Khmer Rouge period. 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 these comments inhibited the work of the court in any way. On October 10, the ECCC's international coinvestigating judge resigned. Although he cited as his reason for resigning concern that public comments by government leaders could lead others to question his ability to resist political interference, he did not allege actual interference and at the time of his resignation faced intense criticism from other international judges at the ECCC and NGOs for his conduct while in office.

On June 27, the ECCC opened Case 002 against former Khmer Rouge "brother number 2" Nuon Chea, former minister of foreign affairs Ieng Sary, former minister of social affairs Ieng Thirith, and former head of state Khieu Samphan on charges of genocide, crimes against humanity, and grave breaches of the Geneva Conventions. The court continued to consider allegations against five other former Khmer Rouge officials, but a decision on prosecution was not made in those cases. The court also continued to consider an appeal from Kaing Guek Eav (alias Duch), who was convicted in Case 001 in 2010.

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.—Rape and Violence.—The law criminalizes rape and assault; nevertheless, local and international NGOs reported that violence against women, including domestic violence and rape, was common. Rape is punishable by a prison sentence of between five and 30 years. Spousal rape is not specifically mentioned in the penal code but can be prosecuted as "rape," "causing injury," or "indecent assault." Under the domestic violence law, spousal rape may fall within the definition of domestic violence that includes "sexual aggression." Charges for spousal rape cases under the penal code and the domestic violence law were rare. The domestic violence law criminalizes domestic violence but does not specifically set out penalties. However, the penal code can be used to penalize domestic violence offenses, with penalties ranging from one to 15 years of imprisonment.

One NGO received 421 reports of rape as of October. Of these cases, 72 were tried by the courts, 39 mediated by the court or police, with the remainder awaiting trial. For domestic violence there were 461 reported cases as of October; courts tried only 12 of these cases. Another NGO documented 161 cases of domestic violence affecting 161 victims and 78 cases of rape affecting 79 victims in 13 provinces and Phnom Penh by the end of October. Six cases of domestic violence and two cases of rape resulted in the deaths of eight victims. As of June the Ministry of Interior's Anti-Trafficking Department investigated 238 cases of violence against women and children, resulting in the arrests of 239 perpetrators and the rescue of 249 victims. Of the 238 cases, 140 were for rape and attempted rape. The ministry reported that one case of rape resulted in the death of the victim. 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.

On April 6, the Phnom Penh Municipal Court convicted and sentenced two Phnom Penh Meanchey District police officers Uon Dara and Chan Narith in absentia to seven years in prison for reportedly raping a 19-year-old woman in November 2009.

The government supported NGOs that provided training for poor women vulnerable to spousal abuse, prostitution, and trafficking. The Ministry of Women's Affairs coordinated with an NGO and a local media outlet to produce radio and television programming on women's issues.

Sexual Harassment.—The penal code criminalizes sexual harassment, imposing penalties of six days' to three months' imprisonment and fines of KHR100,000 to 500,000 (\$24 to \$122). There were no arrests or prosecutions, however. The government undertook a public awareness campaign specific to women promoting beer

sales at entertainment venues, who are reportedly vulnerable to harassment. There was no information on the rate of incidence.

Reproductive Rights.—Couples and individuals could decide the number, spacing, and timing of their children, and they had the information and means to do so free from discrimination. Women had access to contraception and prenatal care as well as skilled attendance at delivery and postpartum care, but access was often limited due to income and geographic barriers. According to the Cambodia Demographic Health Survey, the maternal mortality ratio in 2010 was 206 deaths per 100,000 live births. Major factors influencing high maternal mortality rates in the country included the lack of proper health facilities, medication, and skilled birth attendants.

Discrimination.—The constitution provides for equal rights for women, equal pay for equal work, and equal status in marriage. 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 limited the ability of women to reach senior positions in business and other areas. Women often were concentrated in low-paying jobs and largely excluded from management positions. Men made up the vast majority of the military, police, and civil service.

The Ministry of Women's Affairs, 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. Sixteen government ministries continued gender mainstreaming action plans with support from the U.N. Development Program and in close collaboration with the Ministry of Women's Affairs.

Children.—Birth Registration.—By law citizenship may be derived by birth from a mother and father who are not ethnic Khmer if both parents were born and living legally in Cambodia, or if either parent has acquired Cambodian citizenship. Ethnic Khmer are considered Cambodian citizens. The Ministry of Interior administered a modernized birth registration system, but not all births were registered immediately, due principally to parental 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, a result of the Vietnam/Khmer Rouge 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.

Education.—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.—Child abuse was believed to be common, although statistics were not available. Child rape remained a serious problem; as of October a local NGO reported 304 cases of rape and attempted rape committed against persons under age 18. Thirty-five of the cases involved children below age five, 73 involved children ages five to 10, and 196 involved children ages 10 to 18.

Sexual Exploitation.—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 Ministry of Interior reported arrests of 21 foreign pedophiles as of November. Some children engaged in prostitution for survival without third-party involvement. The government also used the Law on the Suppression of Human Trafficking and Sexual Exploitation to prosecute sex tourists victimizing children.

The Trafficking in Persons Law has a penalty for commercial sexual exploitation of children that ranges from two to 15 years in prison. The law also prohibits child pornography.

Displaced Children.—The government offered limited, inadequate services to street children at a rehabilitation center. A domestic NGO estimated that 1,200 to 1,500 street children in Phnom Penh had no relationship with their families and an estimated 15,000 to 20,000 children worked on the streets but returned to families in the evenings. An estimated 500 to 1,500 children lived with their families on the streets in Phnom Penh.

Institutionalized Children.—The Ministry of Interior reported that at least 109 children under the age of six reportedly were living with their mothers in prison as of September. A local NGO reported 73 such children in 19 prisons as of November 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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was a small Jewish expatriate community in Phnom Penh, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The 2009 Law on the Protection and Promotion of the Rights of Persons with Disabilities prohibits discrimination, neglect, exploitation, or abandonment of persons with disabilities. It includes persons with mental illnesses and intellectual impairments in the definition of persons with disabilities and requires that public buildings and government services, including education, be accessible to persons with disabilities. The MOSAVY holds overall responsibility for protecting the rights of persons with disabilities, although the law assigns specific tasks to other ministries, including the Ministries of Health, Education, Public Works and Transport, and National Defense. The government requested that all television channels adopt sign language interpretation for programming; as of September one major television station had sign language interpretation, and the Ministry of Information was working with the other stations to develop such capabilities. The government continued efforts to implement the law, although the full period for compliance in some cases extends to 2015. As of September the Council of Ministers had approved four subdecrees to support the law.

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. Although the 2001 land law requires 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. As of September the NGO Indigenous Rights Active Members reported that it had recorded 14 active land disputes involving minority groups.

Societal Abuses, Discrimination, and Acts 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. In May several local businesses and NGOs hosted the seventh annual Phnom Penh Pride festival, a week-long series of events that highlighted the LGBT community.

There were no reports of government 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 by the general population, and there were few support groups to which such cases could be 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. Freedom of Association and the Right to Collective Bargaining.—The law permits private-sector workers to form and join trade unions of their own choice without prior authorization. The law also provides for the right to strike and bargain collectively. While unions may affiliate freely, the law does not explicitly address their right to affiliate internationally.

The law requires trade unions to file charters and lists of officials with the Ministry of Labor and Vocational Training (MOLVT). The Bureau of Labor Relations is responsible for facilitating the process of union registration and certification of “most representative status” for unions, which entitles a union representing a majority of workers in a given enterprise to represent all workers in that establishment.

Civil servants, including teachers, judges, and military personnel, as well as household workers do not have the right to form or join a trade union. Personnel in the air and maritime transportation industries are free to form unions but are not entitled to social security and pension benefits and are exempt from the limitations on work hours prescribed by law.

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 MOLVT. There is no law prohibiting strikes by civil servants, workers in public sectors, or workers in essential services. Legal protections are in place to guard workers from reprisal.

Regulations on collective-bargaining rights establish procedures mandating that unions demonstrate they represent workers for the purposes of collective bargaining. These regulations grant collective-bargaining rights to unions with most representative status and require employers to negotiate if such a union proposes a collective-bargaining agreement. These regulations also bind both parties to agree to an orderly bargaining process and make considered and reasonable offers and counter-offers, and require the employer to provide the union with facilities and all information requested by the union that is relevant to the bargaining process. The law also provides union leaders with additional protection from dismissal.

Unresolved labor disputes may be brought to the Arbitration Council, an independent state body that interprets labor regulations in the case of collective disputes, such as when multiple employees are dismissed. Parties may choose whether to consider decisions as binding. If neither party objects to the arbitral award within eight days of its being issued, it automatically becomes binding. Individual disputes may be brought before the courts, although the judicial system was neither impartial nor transparent.

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 these rights was sometimes hampered by close relationships among government officials, employers, and union leaders. The government also did not devote sufficient resources to enforcement, including trained, experienced labor inspectors.

The government’s enforcement of collective bargaining rights was inconsistent. The MOLVT formally warned 401 companies of legal violations, fined 17 companies, and sued five others in the first 11 months of the year. Although the MOLVT often decided in favor of employees, it rarely used its legal authority to penalize employers who defied its orders. Instead, the MOLVT sent 105 cases of unresolved disputes to the Arbitration Council. 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. The Arbitration Council received 155 cases from across the country, of which approximately 67 percent were successfully resolved.

The majority of unions were affiliated with the ruling party; others were independent. 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.

Organization among public-sector workers faced significant obstacles. The Cambodian Independent Teachers Association registered as an “association” due to prohibitions on public-sector unions, and the government frequently denied its requests for permission to march and protest, although the union reported no direct government interference in day-to-day activities. Some members feared that their affiliation with the association could hamper chances of career advancement. Another public sector association, the Cambodian Independent Civil Servants Association, alleged that fears of harassment, discrimination, or demotion deterred individuals from joining.

The government allowed most strikes held at factories but denied worker requests to hold protest marches outside the factory area.

There were credible reports of antiunion harassment by employers, including the dismissal of union leaders in garment factories and other enterprises. Approximately 50 union leaders claimed they were dismissed or suspended without cause during the year. In some factories the management appeared to have established or supported promanagement unions, or compromised union leaders by jeopardizing their employment.

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.

Potential remedies exist for such dismissals, although none were particularly effective. The MOLVT may issue reinstatement orders, but these often provoked management efforts to pressure workers into resigning in exchange for a settlement.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, but there were reports that such practices occurred in domestic service and in the informal sector. Children from impoverished families remained at risk as affluent households sometimes utilized a humanitarian pretense to hire them as domestic workers, only to abuse and exploit them. Government officials reported that verifying working conditions and salaries of domestic workers remained difficult due to the informal nature of their work.

Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—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 law limits the working hours of children ages 12 to 15 to no more than four hours on school days and seven hours on nonschool days, and prohibits work between 8:00 p.m. and 6:00 a.m. The government also bans employment of children in sectors that pose major safety or health risks to minors.

The MOLVT has responsibility for child-labor inspection 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 was negligible), but in some industries with the highest child-labor risk, labor inspections were entirely complaint driven. There were 12 labor inspectors in Phnom Penh and 27 at the municipal and provincial levels dedicated to child-labor issues. These inspectors were insufficient to enforce relevant legislation. The law stipulates a fine of 31 to 60 times the prevailing monthly wage for defendants who are convicted of violating the country’s child-labor provisions.

On October 8, police from the Anti-Human Trafficking and Juvenile Protection Department raided the T&P Company, a recruitment agency in Kampong Chhnang Province. The company was found to have 35 underage workers, and the operation resulted in the arrest of four individuals who were sent to pretrial detention. On November 14, the Ministry of Interior requested that the Ministry of Labor revoke the company’s license.

Child labor was widespread in agriculture, brick making, salt production, shrimp processing, fishing, domestic service, and rubber production. Child labor was also reported in the garment, footwear, and hospitality sectors but to a much lesser extent. According to a 2006 study conducted by the World Bank and other sources, more than 750,000 economically active children were below the absolute minimum working age of 12. 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. 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. A 2007 study of child domestic workers found that they typically did not attend school, worked long hours with no medical benefits, and received little or no pay.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The law requires the MOLVT to establish a garment-sector minimum wage based on recommendations from the Labor Advisory Committee. At year's end the minimum monthly wage was KHR244,000 (approximately \$59). The law does not mandate a minimum wage for any other sector. The World Bank defines the poverty level as KHR5,000 (\$1.22) per day.

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. The law prohibits excessive overtime, states that all overtime must be voluntary, and also provides for paid annual holidays.

The law states that the workplace should have health and safety standards adequate to provide for workers' well-being. 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.

The government did not effectively enforce standards regarding hours worked and overtime compensation. Workers reported that overtime was often excessive and sometimes mandatory. 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 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 companies 404 warnings about labor law violations. The agency's 107 labor inspectors conducted inspections, but endemic corruption and insufficient penalties hindered efficacy.

Although workers had the right to remove themselves from dangerous situations, those who did so sometimes risked loss of employment. In practice 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. There were 12,204 cases of work-related injuries and 49 fatalities during the year.

On April 9 and 10, approximately 500 workers fainted at the Huey Chuen shoe factory in Phnom Penh. The head of the Community Legal Education Center's labor program said workers suspected that toxic water or smells might have caused the fainting. Panic, poor nutrition, and fumes also were suspected as reasons for the fainting. On April 11, the president of the Free Trade Union of Workers called on the government to conduct an investigation. The MOLVT held a three-day workshop with industry representatives to discuss possible causes and solutions. The MOLVT obligated social security funds to cover medical care for the workers.

On December 5, the government launched the National Social Protection Strategy (NSPS) for the Poor and Vulnerable, scheduled to remain in effect until 2015. The NSPS envisions a "sustainable, affordable, and effective national social protection system" with programs designed to end chronic poverty, hunger, and unemployment. The government committed to reducing the poverty rate from 25.8 percent in 2010 to 19.5 percent in 2015.

PEOPLE'S REPUBLIC OF CHINA

(Including Tibet, Hong Kong, and Macau)

EXECUTIVE SUMMARY

The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) constitutionally is the paramount authority. CCP 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.

Deterioration in key aspects of the country's human rights situation continued. Repression and coercion, particularly against organizations and individuals involved in rights advocacy and public interest issues, were routine. Individuals and groups seen as politically sensitive by the authorities continued to face tight restrictions on their freedom to assemble, practice religion, and travel. Efforts to silence political activists and public interest lawyers were stepped up, and, increasingly, authorities resorted to extralegal measures including enforced disappearance, "soft detention," and strict house arrest, including house arrest of family members, to prevent the public voicing of independent opinions. Public interest law firms that took on sensitive cases continued to face harassment, disbarment of legal staff, and closure. The authorities increased attempts to limit freedom of speech and to control the press, the Internet, and Internet access. The authorities continued severe cultural and religious repression of ethnic minorities in Xinjiang Uighur Autonomous Region (XUAR) and Tibetan areas. Abuses peaked around high-profile events, such as the visit of foreign officials, sensitive anniversaries, and in response to Internet-based calls for "Jasmine Revolution" protests.

As in previous years, citizens did not have the right to change their government. Other human rights problems during the year included: extrajudicial killings, including executions without due process; enforced disappearance and incommunicado detention, including prolonged illegal detentions at unofficial holding facilities known as "black jails"; torture and coerced confessions of prisoners; detention and harassment of lawyers, journalists, writers, dissidents, petitioners, and others who sought to peacefully exercise their rights under the law; a lack of due process in judicial proceedings; political control of courts and judges; closed trials; the use of administrative detention; restrictions on freedom to assemble, practice religion, and travel; failure to protect refugees and asylum seekers; pressure on other countries to forcibly return citizens to China; intense scrutiny of and restrictions on non-governmental organizations (NGOs); discrimination against women, minorities, and persons with disabilities; a coercive birth limitation policy that in some cases resulted in forced abortion or forced sterilization; trafficking in persons; prohibitions on independent unions and a lack of protection for workers' right to strike; and the use of forced labor, including prison labor. Corruption remained widespread.

The authorities prosecuted a number of abuses of power, particularly with regard to corruption. However, the internal disciplinary procedures of the CCP were opaque, and it was not clear whether human rights and administrative abuses were consistently punished.

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. In many instances few or no details were available. No official statistics on deaths in custody were available.

Although no official statistics regarding deaths in custody were reported, some cases received media coverage. In June the media reported that residents in Hubei Province protested outside a Lichuan City government building after Ran Jianxin died in police custody. Ran, a Lichuan councilman, was arrested May 26 on suspicion of having accepted bribes and died June 4 while being interrogated. Relatives said they found wounds and bruises on his body and believe he died an unnatural death. Photos circulated on the Internet apparently showed Ran's body covered in bruises.

In September villagers in Wukan, Guangdong Province, engaged in demonstrations against local government officials to protest the sale of village land. Officials asked the villagers to appoint representatives to address the issue. After negotiations failed, the authorities detained some representatives on December 11. On December 13, local government announced that one of the detained representatives,

Xue Jinbo, had died of cardiac arrest while in custody. Xue's relatives, who saw his body, believed he had been tortured and beaten to death. A local prosecutor denied the allegations and told media that Xue had a history of asthma and heart disease.

Defendants in criminal proceedings were executed following convictions that lacked due process and adequate channels for appeal. On August 18, Li Lindong, a truck driver who ran over and killed an ethnic Mongol herder on May 10 in Inner Mongolia's Xilinhot City, was executed. Li's original trial, on June 9, lasted just six hours. The death of the Mongol herder had sparked large-scale protests in Inner Mongolia.

b. Disappearance.—At year's end authorities continued to hold ethnic Mongolian activist Hada, his wife, and his son in detention without trial or pressing formal charges. Hada had been released from prison in December 2010, after serving a 15-year prison sentence on espionage and separatism charges. Hada founded the Southern Mongolia Democracy Alliance, which called for a referendum on the future of the province of Inner Mongolia.

The whereabouts of prominent rights lawyer Gao Zhisheng, who had represented Christians and Falun Gong practitioners, remained unknown until December 16, when a Beijing court reimprisoned him for a period of three years for alleged "parole violations" during the period of his five-year suspended sentence. Gao had been forcibly disappeared since August 2009, with the exception of a brief reappearance in Beijing in spring 2010.

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 suppression of the 1989 Tiananmen demonstrations. In September the Duihua Foundation, an international human rights NGO, estimated that fewer than 10 remained in prison, although other estimates were higher. Many activists who were involved in the demonstrations continued to suffer from official harassment.

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. In July 2010 rules went into effect that exclude evidence, including confessions, obtained under torture in certain categories of criminal cases. However, numerous former prisoners and detainees reported that they were beaten with fists and water bottles, subjected to electric shock, forced to sit on stools staring at the wall for hours on end, deprived of sleep, and otherwise subjected to physical and psychological abuse. Some of these abuses occurred during the year. Although ordinary prisoners were subjects of abuse, political and religious dissidents were singled out for particularly harsh treatment. In some instances close relatives of dissidents were singled out for abuse.

On September 13, Guo Feixiong (aka Yang Maodong) was released from Guangdong Province's Meizhou Prison after five years in custody. Family members and lawyers who had met with Guo during the five years reported to the media that while in prison Guo was subjected to electric shocks, beatings, and other torture.

On February 19, lawyer Jiang Tianyong was detained and severely beaten for two nights. He was made to sit motionless for up to 15 hours a day and interrogated repeatedly. He said he was also threatened and humiliated. He said his interrogators told him: "Here we can do things in accordance to law. We can also not do things in accordance to law, because we are allowed to do things not in accordance to law." Jiang was released in April and never charged with a crime or formally arrested.

In February the U.N. Committee Against Torture (UN CAT) reiterated its deep concern about the routine and widespread use in the country of torture and mistreatment of suspects in police custody, especially to extract confessions or information used in criminal proceedings. U.N. CAT acknowledged government efforts to address the practice of torture and related problems in the criminal justice system. Many acts of torture allegedly occurred in pretrial criminal detention centers or Re-education Through Labor (RTL) centers.

There were widespread reports of activists and petitioners being committed to mental health facilities and involuntarily subjected to psychiatric treatment for political reasons. According to China News Weekly, the Ministry of Public Security (MPS) directly administers 22 high-security psychiatric hospitals for the criminally insane (also known as ankang facilities). From 1998 to May 2010, more than 40,000 persons were committed to ankang hospitals. In May 2010 an MPS official stated in a media interview that detention in ankang facilities was not appropriate for patients who did not demonstrate criminal behavior. However, 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. Regulations governing security officials' ability to remand a person to an anfang facility were not clear, and detainees had no mechanism for objecting to claims of mental illness by security officials. Patients in these hospitals reportedly were medicated against their will and forcibly subjected to electric shock treatment.

According to a human rights NGO, Hubei-based petitioner Zhao Kefeng was detained in a psychiatric institution in Xiangfan City, Hubei Province, following her seizure in Beijing on May 19 by officials from the Beijing Liaison Office of the Hubei Province government.

On April 29, petitioner Hu Dongsheng of Hefei City, Anhui Province, was seized and beaten while petitioning at the Ministry of Public Security in Beijing and forcibly returned to Hefei. Upon his return to Anhui, Hu was detained in an anfang psychiatric hospital. This was reportedly the second occasion Hu had been detained in a psychiatric institution for petitioning. Hu, a CCP member and former low-level CCP branch secretary, had been petitioning grievances related to forced demolition.

Prison and Detention Center Conditions.—Conditions in penal institutions for both political prisoners and criminal offenders were generally harsh and often degrading. Prisoners and detainees were regularly housed 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, medicines, and warm clothing provided by relatives. Some prominent dissidents were not allowed to receive such goods. Prisoners often reported sleeping on the floor because there were no beds or bedding. Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment.

The law mandates that a prison shall be ventilated, allow for natural light and be clean and warm. However, in many cases there were inadequate provisions for sanitation, ventilation, heating, lighting, basic and emergency medical care, and access to potable water.

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.

In response to allegations that the organs of executed prisoners were harvested for transplant purposes, Vice Minister of Health Huang Jiefu in 2009 stated that inmates are not a proper source for human organs and prisoners must give written consent for their organs to be removed. Overseas and domestic media and advocacy groups continued to report instances of organ harvesting, particularly from Falun Gong practitioners and Uighurs.

Conditions in administrative detention facilities, such as RTL camps, were similar to those in prisons. Beating deaths occurred in administrative detention and RTL facilities. Detainees reported beatings, sexual assaults, lack of proper food, and no access to medical care.

Information on the prison population is not made public. According to the China Daily, the Justice Ministry has 678 prisons and 1.65 million people serving sentences in them. The ministry also operated a "community correction" parole system in which 599,000 people received community correction. The law requires juveniles be housed separately from adults, unless facilities are insufficient. In practice children were sometimes housed with adult prisoners and required to work. Political prisoners were held with the general prison population and reported being beaten by other prisoners at the instigation of guards.

Many prisoners and detainees did not have reasonable access to visitors and were not permitted religious observance. Under Article 52 of the prison law, "considerations shall be given to the special habits and customs of prisoners of minority ethnic groups." Detention Center Regulation Article 23 had similar requirements. Little information was available about the implementation of these regulations.

Prisoners and detainees are legally entitled to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. The law states that letters from a prisoner to higher authorities of the prison or to the judicial organs shall be free from examination. The law further provides that a prison "shall set up medical, living and sanitary facilities, and institute regulations on the life and sanitation of prisoners." It also states that the medical and health care of prisoners shall be put into the public health and epidemic prevention program of the area in which the prison is located. While authorities occasionally investigated credible allegations of inhumane conditions, the results were not documented in a publicly accessible manner. There are alternatives to incarceration for both violent and nonviolent offenders.

The law requires the government to investigate and monitor prison and detention center conditions, and an official from the Prosecutor's Office is responsible for investigating and monitoring prison and detention center conditions.

The government generally did not permit independent monitoring of prisons or RTL camps, and prisoners remained inaccessible to local and international human rights organizations and media groups. Authorities did not allow the International Committee of the Red Cross (ICRC) to have access to prisoners or perform authentic prison visits in the country.

d. Arbitrary Arrest or Detention.—Arbitrary arrest and detention remained serious problems. The law grants police broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charges. Throughout the year human rights activists, journalists, unregistered religious leaders, and former political prisoners and their family members continued to be among those targeted for arbitrary detention or arrest. A draft revision of the criminal procedure law contained a provision to legalize extralegal detentions for cases involving state secrets, major corruption, and terrorism.

Role of the Police and Security Apparatus.—The main domestic security agencies include the Ministry of State Security, MPS, and People's Armed Police. The People's Liberation Army is primarily responsible for external security but also has some domestic security responsibilities. Local jurisdictions also frequently used civilian municipal security forces, known as "urban management" officials, to enforce laws.

The MPS coordinates the country's police force, which is organized into specialized police agencies and local, county, and provincial jurisdictions. Judicial oversight of the police was limited, and checks and balances were absent. Corruption at the local level was widespread. Police and urban management officials engaged in extrajudicial detention, extortion, and assault. In 2009 the Supreme People's Procuratorate acknowledged continuing widespread abuse in law enforcement. In 2009 domestic news media reported the convictions of public security officials who had beaten to death suspects or prisoners in custody.

On July 24, three unidentified individuals beat democracy rights activist Luo Yongquan while he was at work in Nanxiong City, Guangdong Province. Luo, a poet, Charter '08 democracy manifesto signatory, and member of the banned CDP, was released in May after two years in RTL for publishing poems critical of the CCP and the government. Police reportedly came to the scene of his beating but did not pursue the case.

Arrest Procedures and Treatment While in Detention.—The law allows police to detain suspects for up to 37 days before formal arrest. After arrest, police are authorized to detain a suspect for up to an additional seven months while the case is investigated. After the completion of a police investigation, an additional 45 days of detention are allowed for the procuratorate to determine whether to file criminal charges. If charges are filed, authorities can detain a suspect for an additional 45 days before beginning judicial proceedings. Pretrial detention periods of a year or longer were common. In practice the police sometimes detained persons beyond the period allowed by law. The law stipulates that detainees be allowed to meet with defense counsel before criminal charges are filed. Police often violated this right.

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, or 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.

Criminal defendants are entitled to apply for bail (also translated as "a guarantor pending trial") while awaiting trial. However, in practice few suspects were released on bail.

The law requires notification of family members within 24 hours of detention, but individuals were often held without notification for significantly longer periods, especially in politically sensitive cases. Under a sweeping exception, officials are not required to provide notification if doing so would "hinder the investigation" of a case.

The law protects the right to petition the government for resolution of grievances. However, citizens who traveled to Beijing to petition the central government were frequently subjected to arbitrary detention, often by police dispatched from the petitioner's hometown. Some provincial governments operated facilities in Beijing or in other localities where petitioners from their districts were held in extrajudicial detention. Some local governments took steps to restrict petitioning. According to a May 2010 Shanxi provincial government report, the Shanxi Province People's Congress adopted regulations that listed eight types of "prohibited" petitioning, includ-

ing “illegally gathering, encircling or rushing into government offices or important public spaces, stopping cars or hindering public transportation, linking up with others to petition,” and similar acts. The regulations stated that petitioners suspected of “misrepresenting facts to frame others” could be subject to criminal charges.

Online reports claimed Guangdong provincial authorities rewarded local officials for active engagement in intercepting petitioners.

On March 5, Guangdong agents forcibly returned to their home province a Shaoguan City couple who had gone to Beijing to petition over a land requisition issue involving alleged official corruption. The couple had been petitioning the case at both the local and national level since 2006. Although the husband was released 54 days later after suffering a heart attack, his wife remained illegally detained in a black jail, and the local public security bureau and procuratorate refused to respond to requests by the husband to look into his wife’s situation. The wife was finally released on August 27. Upon her release, authorities reportedly did not return her household registration documents and identification card, and officials from the justice bureau threatened her, warned her not to leave her home, and instructed her and her husband to stop petitioning.

According to an NGO report, authorities returned two Nanning City, Guangxi, petitioners to their home September 7 after they were held in a black jail in Beijing. The two petitioners were initially seized by police on August 30 and then detained in Jiujingzhuang black jail before Nanning agents took them to another black jail, reportedly in the Daxing district of Beijing. While there, they allegedly were kept in uncomfortable and unsanitary conditions, prompting one to initiate a hunger strike.

The law permits administrative, nonjudicial panels, known as “labor reeducation panels,” to remand persons to RTL camps or other administrative detention programs for up to three years without trial. Labor reeducation panels are authorized to extend these administrative sentences for up to one year. Detainees are technically allowed to challenge administrative RTL sentences and appeal for sentence reduction or suspension. However, appeals were rarely successful. Other forms of administrative detention include “custody and education” (for women engaged in prostitution and those soliciting prostitution) and “custody and training” (for minor criminal offenders). The law establishes a system of “compulsory isolation for drug rehabilitation.” The minimum stay in such centers is two years, and the law states that treatment can include labor. Public security organs authorize detention in these centers, and it often was meted out as an administrative rather than criminal measure. Administrative detention was used to intimidate political activists and prevent public demonstrations.

Arbitrary Arrest.—On April 3, artist Ai Weiwei was detained at the Beijing Capital International Airport while going through customs to board a flight abroad. He was then held for 81 days at an unknown location allegedly for economic crimes including tax evasion. Ai was released on bail on June 22. Ai said he was repeatedly interrogated about his alleged involvement in calls for Jasmine Revolution protests.

Authorities arrested persons on allegations of revealing state secrets, subversion, and other crimes as a means to suppress political dissent and public advocacy. These charges—including what constitutes a state secret—remained ill defined. Citizens and foreigners also were detained under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, commercial activity, and government activity. Authorities sometimes retroactively labeled a particular action as a violation of a state secret.

In February, responding to anonymous online calls for Jasmine Revolution protests in China, authorities arrested dozens of lawyers, human rights activists, and political dissidents without notice. NGOs estimated that since late February approximately 50 human rights activists and lawyers were formally arrested or placed under extralegal detention, up to 200 people were placed under house arrest, and 15 were charged with “inciting subversion of state power.”

In late February and early March, in connection with the online calls for Jasmine Revolution gatherings, Guangzhou police reportedly detained dozens of citizens, many of whom were held without notification of family members or formal charges, according to widespread foreign press and international NGO reporting. Many were held for up to 120 days. Several prominent Guangzhou-based activists were detained on suspicion of “inciting subversion of state power.”

In July press reports indicated bishops in four Guangdong cities—Jiangmen, Meizhou, Zhanjiang, and Guangzhou—were taken into police custody and coerced to participate in the July 14 ordination ceremony of Bishop Huang Bingzhang in Shantou.

Police surveillance, harassment, and detentions of activists increased around politically sensitive events. The government continued to use extrajudicial house ar-

rest 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 National Day holiday period and at other sensitive times, such as during the Guangzhou Asia Games and the Shenzhen Universiade games, the annual plenary sessions of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC), and the anniversary of the Tiananmen massacre. The anniversary of the October 2010 awarding of the Nobel Peace Prize to Liu Xiaobo triggered similar security responses. Conditions faced by those under house arrest varied but sometimes included complete isolation in their homes under police guard. In some instances security officials were stationed inside the homes of subjects under house arrest. Others were occasionally permitted to leave their homes to work or run errands but were required to ride in police vehicles. When permitted to leave their homes, subjects of house arrest were usually under police surveillance. Authorities in the XUAR used house arrest and other forms of arbitrary detention against those accused of supporting the "three evils" of religious extremism, "splittism," and terrorism.

In April petitioner Wang Rongwen, of Chengdu, Sichuan Province, was released after being illegally detained for a month and a half without charges or legal documentation related to her detention. On August 21, Chengdu authorities detained more than 20 petitioners to prevent them from seeking an audience with a visiting high-level foreign dignitary. Two were detained for 12 and 15 days, respectively; the rest were put under house arrest.

Beginning September 2, several members of the Guizhou Human Rights Forum, including Chen Xi, Liao Shuangyuan, Wu Yuqin, Lu Yongxiang, Li Renke, Huang Yanming, Mo Jiangang, and Tian Zuxiang, were forced to leave their homes and held in various hostels for three weeks prior to the Ninth National Traditional Games of Ethnic Minorities, held in Guizhou September 10-18.

In July police in Fujian Province threatened a number of activists seeking to testify at the August trial of Wang Lihong on charges of "creating a disturbance" in connection with her participation in a 2010 peaceful protest in Fuzhou City in support of three Internet activists convicted of slander for online accusations regarding a local official's involvement in a murder. Fujian activists who traveled to Beijing in August to attend the trial were forcibly detained and returned to Fujian by provincial officials based in Beijing.

On May 31, police took dissident Zhang Jiankang from his home in Xi'an, Shaanxi Province, for a "trip." On June 2, Chengdu artist Chen Yunfei was put under house arrest. Li Renke of Guiyang was taken by police to "go on a trip" out of town. Writer Dang Guan of Anhui was stopped by police while on his way to Guangzhou and brought back. On June 1, security forces warned democracy activist and journalist Zha Jianguo not to write articles or conduct media interviews around the June 4 Tiananmen massacre anniversary.

In September 2010 blind human rights lawyer Chen Guangcheng was released after completing a prison sentence of three years and four months on charges of "disrupting traffic." After his release, Chen, his wife, his six-year-old daughter, and his mother remained under house arrest and were prevented from communicating with others. Chen was not allowed to seek medical attention for a gastrointestinal condition he developed in prison. On February 9, Chen and his wife reportedly were severely beaten after a human rights group released a video of Chen and his wife in their home, describing the intense police surveillance. They reportedly were again subjected to severe beatings in July. His daughter was for a time unable to attend school because no adult was permitted to leave the house to enroll her. Subsequently she was permitted to enroll and reportedly was being escorted to and from school by a security guard. A number of Chinese activists, friends and supporters, and foreign and domestic journalists who attempted to visit Chen reported being assaulted, detained, forcibly removed, or otherwise abused and prevented from freely accessing his village or seeing him. At year's end Chen remained under house arrest with no access to medical care. Some supporters reported successful delivery of medicine to Chen.

After the announcement of the award of the 2010 Nobel Peace Prize to imprisoned writer Liu Xiaobo, his wife, Liu Xia, was placed under extrajudicial house arrest and had not been seen in public since October 2010. Attempts to visit Liu Xia were blocked by security authorities stationed outside her home. In August the U.N. Working Group on Arbitrary Detention formally declared the imprisonment of Liu Xiaobo and the house arrest of his wife, Liu Xia, to be in violation of the country's obligations under international law.

Pretrial Detention.—Pretrial detention can last as long as one year. Defendants in "sensitive cases" reported being subjected to prolonged pretrial detention.

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. Legal scholars interpreted President Hu Jintao's doctrine of the "Three Supremes" as stating that the interests of the CCP are above the law. Judges regularly received political guidance on pending cases, including instructions on how to rule, from both the government and the CCP, particularly in politically sensitive cases. The CCP Law and Politics Committee has the authority to review and influence court operations at all levels of the judiciary.

Corruption also influenced court decisions. Safeguards against judicial corruption were vague and poorly enforced. Local governments appoint and pay local court judges and, as a result, often exerted influence over the rulings of judges in their districts.

Courts are not authorized to rule on the constitutionality of legislation. The law permits organizations or individuals to question the constitutionality of laws and regulations, but a constitutional challenge can only be directed to the promulgating legislative body. As a result lawyers had little or no opportunity to use the constitution in litigation.

Trial Procedures.—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.

According to statistics released on the Supreme People's Court (SPC) official Web site, in 2010 the combined conviction rate for first- and second-instance criminal trials was 99.9 percent. Of 1,007,419 criminal defendants tried in 2010, 999 were acquitted.

In many politically sensitive trials, courts handed down guilty verdicts with no deliberation immediately following proceedings. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. The appeals process rarely resulted in overturned convictions. Appeals processes failed to provide sufficient avenues for review, and there were inadequate remedies for violations of defendants' rights.

Supreme People's Court regulations require all trials to be open to the public, with the exceptions of cases involving state secrets, privacy issues, and minors. Authorities used the state-secrets provision to keep politically sensitive proceedings closed to the public, sometimes even to family members, and to withhold access to defense counsel. Court regulations state that foreigners with valid identification should be allowed to observe trials under the same criteria as citizens. In practice foreigners were permitted to attend court proceedings only by invitation. As in past years, foreign diplomats and journalists unsuccessfully sought permission to attend a number of trials. In some instances the trials were reclassified as "state secrets" cases or otherwise closed to the public. Foreign diplomats requested but were denied permission to attend the September trial and October appeal of Internet freedom advocate Wang Lihong on charges of illegally possessing state secrets. Wang was sentenced in September to nine months' imprisonment. The Beijing Intermediate Court denied her appeal on October 20. On December 20, Wang was released after completing her sentence, to include time served in pretrial detention.

Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

The law grants most defendants the right to seek legal counsel upon initial detention and interrogation, although police frequently violated this right. Individuals who face administrative detention do not have the right to seek legal counsel. Both criminal and administrative defendants were eligible for legal assistance, although more than 70 percent of criminal defendants went to trial without a lawyer. According to statistics released by Ministry of Justice, the number of legal-aid cases in 2010 totaled 726,763, a slight increase from the previous year.

Human rights lawyers reported that they were denied the ability to defend certain clients or threatened with punishment if they chose to do so. An international NGO reported that the government had suspended or revoked lawyers' licenses to stop them from taking sensitive cases, such as defending prodemocracy dissidents, members of banned religious movements, or government critics.

The government continued to require law firms with three or more CCP members to form a CCP unit within the firm. Firms with one or two CCP members may establish joint CCP units with other firms. In smaller counties and cities with few lawyers, CCP members may join local Justice Bureau CCP units. This rule also applies to private companies and other organizations.

Some lawyers declined to represent defendants in politically sensitive cases, and such defendants frequently found it difficult to find an attorney. Three days after a July 23 train crash, law firms in Wenzhou received an urgent message in the

names of the Wenzhou Judicial Bureau and the Wenzhou Lawyers Association ordering lawyers not to take cases representing family members of the crash victims. Lawyers were told to inform the Wenzhou Judicial Bureau and the Wenzhou Lawyers Association of any contact with victims who sought legal assistance. After the order was leaked to the press and social media sites, a popular uproar forced the organizations to rescind the order. Similarly, certain Beijing-based rights lawyers were told they could not represent Tibetan defendants. Certain local governments in the XUAR and Tibetan areas implemented regulations stipulating that only locally registered attorneys were authorized to represent local defendants.

When defendants were able to retain counsel in politically sensitive cases, government officials sometimes prevented attorneys from organizing an effective defense. Tactics employed by court and government officials included unlawful detentions, disbarment, harassment and physical intimidation, and denial of access to evidence and to clients.

On June 14, police in Beihai City, Guangxi Region, detained four defense lawyers on suspicion of “obstructing testimony” in connection with their defense of individuals accused in a beating death. On June 29, the local procuratorate approved the arrest of one of the four, Yang Zaixin. Police subsequently denied a number of other lawyers the right to represent the four lawyers, now defendants themselves. In one instance plainclothes police officers forcibly removed a defense lawyer from the detention center’s attorney visitation room.

On August 2, according to online reports, the Beihai City Intermediate People’s Court in Guangxi did not notify the lawyer of Xu Kun, the village chief of Baihutou, Beihai City, prior to upholding Xu’s conviction on the charge of “operating an illegal business.” The conviction, for which Xu was sentenced to four years in prison and fined 200,000 RMB (approximately \$31,450), allegedly related to Xu’s efforts to lead fellow villagers in resisting land expropriation in Baihutou. Neither Xu’s wife nor his lawyer was present in court when the verdict was delivered. Since he began his advocacy against land expropriation in 2008, Xu had been subjected to government pressure, expulsion from the CCP, and surveillance and monitoring.

On August 18, police in Harbin City, Heilongjiang Province, seized rights lawyer Wu Zhenqi, who had come to Harbin from Guangzhou City to assist with the case of Yu Yunfeng, a petitioner sentenced to two years of RTL in late July. On August 18, after Wu had interviewed Li Erping, a Harbin Internet activist, in connection with the case, seven or eight officers from the Northeast Forestry University Security Division took Wu and Li in for questioning. Li was released that afternoon, but Wu continued to be held. Wu was later released but was prevented from providing legal assistance to his clients.

On November 4, Chen Ruiwu, Shang Zhihong, and Yang Hongyi were released from prison in Langfang City, Hebei Province, almost two years after the Hebei High Court overturned their death sentence on appeal. The Langfang Intermediate Court had withheld the appeal decision for two years and kept the prisoners on death row before finally releasing them. Originally arrested in 2001, based on weak evidence and despite possessing a strong alibi, the three defendants were sentenced to death in 2002, based on confessions obtained through torture and forensic evidence that the prosecution had lost and not produced in court. The Hebei High Court twice ordered retrials, in 2003 and 2006, on evidentiary grounds. Both times, the Langfang Intermediate Court held the retrials based on the same missing forensics evidence and reworded witness testimony.

The annual licensing review process administered by the Beijing Lawyers Association was used to withhold or delay the approval of professional lawyers licenses, and therefore restricted or hindered the ability to practice law, of a number of human rights and public interest lawyers. In late July the license for rights lawyer Liu Xiaoyuan was renewed after a lengthy delay, but the association did not issue a license for his firm, Qi Jian Law. At year’s end Qi Jian Law Firm still had not received its license. Official pressure on its landlords forced Qi Jian Law Firm to move offices.

Defense attorneys may legally 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 communicate with one another during trials. In practice criminal defendants were frequently not assigned an attorney until a case was brought to court. Despite a 2008 statement by SPC Vice President Zhang Jun that 37 percent of criminal defendants were represented by lawyers, in 2009 only one in seven criminal defendants reportedly had legal representation.

Mechanisms allowing defendants to confront their accusers were inadequate. Only a small percentage of trials involved witnesses, and fewer than 10 percent of subpoenaed witnesses appeared in court. Proposed amendments to the criminal proce-

procedure law expected to pass the NPC in March 2012 contain a provision to compel witnesses to appear in court. In most criminal trials, prosecutors read witness statements, which neither the defendants nor their lawyers had an opportunity to rebut. Although the criminal procedure law states that pretrial witness statements cannot serve as the sole basis for conviction, prosecutors 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. Pretrial access to information by defense attorneys was minimal. Denial of due process by police and prosecutors led to particularly egregious consequences in capital cases.

On August 15, Beijing Xicheng District People's Court sentenced Yang Yukui, a farmer from Tieli Town, Heilongjiang Province, to five months' imprisonment for "creating a disturbance." The case stemmed from Yang's efforts to seek accountability and treatment for his son, who Yang believed was made ill by faulty vaccinations given by a Tieli hospital on the day he was born. On July 27, officers from the Xicheng District Public Security Bureau took Yang into custody after he went to Beijing Children's Hospital to obtain medical care for his son. After an argument broke out between Yang and the doctors, police took him away under the pretext of mediating the situation but then arrested him. At trial, requests from Yang and his attorney to view hospital surveillance video that could have proven his actions had not constituted a crime were ignored.

At year's end the criminal code contained 55 capital offenses, including nonviolent financial crimes such as embezzlement and corruption. In February amendments to the capital-punishment law removed 13 nonviolent economic crimes, ranging from smuggling relics and endangered animals to falsifying tax receipts, from the list of capital crimes. Persons above the age of 75 would be exempt from the death penalty unless the defendant caused death in an "extremely cruel manner." There was no government information on how many defendants were either sentenced to the death or executed during the year.

SPC spokesman Ni Shouming stated that, since reassuming death penalty reviews in 2007, the SPC had returned 15 percent of death sentences to lower courts for further review based on unclear facts, insufficient evidence, inappropriate use of the death penalty, and inadequate trial procedures. Because official statistics remained a state secret, it was not possible to evaluate independently the implementation and effects of the procedures.

No official statistics are available on the number of executions carried out annually. An international human rights NGO estimated that approximately 4,500 persons were executed in 2010.

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 imprison 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 "counterrevolutionary crimes," which were repealed from the criminal code in 1997. Thousands of others were serving sentences under state security statutes. Foreign governments urged the government to review the cases of those charged before 1997 with counterrevolutionary crimes and to release those who had been jailed for non-violent offenses under repealed provisions of the criminal law. At year's end no systematic review had occurred. The government maintained that prisoners serving sentences for counterrevolutionary crimes and endangering state security were eligible to apply for sentence reduction and parole. However, political prisoners were granted early release at lower rates than prisoners in other categories. Persons were believed to remain in prison for crimes in connection with their involvement in the 1989 Tiananmen prodemocracy movement. The exact number was unknown because related official statistics were never made public.

In July 2010 Charter '08 signatory and activist Liu Xianbin was indicted for subversion for an article he wrote following his 2009 release from a previous prison term. On March 25, he was sentenced to 10 years in prison for inciting "subversion of state power." Formally detained in June 2010, Liu was charged for articles he wrote and posted on overseas Web sites, as well as for involvement with a Beijing seminar regarding three Fujian persons imprisoned for Internet postings. Liu was reportedly denied access to his lawyers during his detention.

Chengdu dissident writer Ran Yunfei, detained February 19 on suspicion of "subversion," was held without charges for nearly six months until being released into

residential surveillance, a form of house arrest. Although he was not charged, his freedom of speech and association remained restricted.

Many political prisoners remained in prison or under other forms of detention at year's end, including rights activist Wang Bingzhang; Alim and Ablikim Abdureyim, sons of Uighur activist Rebiya Kadeer; journalist Shi Tao; democratic reform advocate Wang Xiaoning; former Tiananmen Square student leader Zhou Yongjun; land rights activist Yang Chunlin; labor activists Hu Mingjun, Huang Xiangwei, Kong Youping, Ning Xianhua, Li Jianfeng, Li Xintao, Lin Shun'an, Li Wangyang, and She Wanbao; Sichuan rights activist Liu Xiaoyuan; Catholic bishop Su Zhimin; Christian activist Zhang Rongliang; Uighur activist Dilkex Tilivaldi; and Tibetan Tenzin Deleg.

In September 2010 rights lawyer Chen Guangcheng was released from prison following the completion of his sentence and was immediately placed under house arrest, along with his wife, daughter, and mother (see section 1.d.).

Nobel Peace Prize laureate Liu Xiaobo, coauthor of the Charter '08 manifesto that called for increased political freedoms and human rights in China, was found guilty of the crime of "inciting subversion of state power" in a 2009 trial that included serious due process violations. The Beijing High People's Court denied Liu's appeal in February 2010, and he remained in prison at year's end.

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, association, publication, and voting. Former prisoners reported their ability to find employment, travel, obtain residence permits, rent residences, and access social services severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment or threats.

Civil Judicial Procedures and Remedies.—Courts deciding civil matters faced the same limitations on judicial independence as in criminal cases. The State Compensation Law provides administrative and judicial remedies for plaintiffs whose rights or interests have been infringed by government agencies or officials, including wrongful arrest or conviction, extortion of confession by torture, unlawful use of force resulting in bodily injury, illegal revocation of a business license, or illegal confiscation or freezing of property. In April 2010 the NPC Standing Committee amended the law to allow compensation for wrongful detention, mental trauma, or physical injuries inflicted by detention center or prison officials. In civil matters successful plaintiffs often found it difficult to enforce court orders.

Families of deceased victims of the July 23 Wenzhou train crash were pressured to quickly accept a settlement payment of 900,000 RMB (approximately \$141,500) and forfeit the right to seek further civil damages from the Ministry of Railways. Some family members reported that officials threatened to withhold the bodies of the deceased unless they accepted the offer.

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. The Public Security Bureau (PSB) and prosecutors are authorized to issue search warrants on their own authority without judicial review. Cases of forced entry by police officers continued to be reported. Proposed amendments to the criminal procedure law expected to pass the NPC in March 2012 provide for the admissibility of electronic evidence.

Authorities monitored telephone conversations, fax transmissions, e-mail, text messaging, and Internet communications. Authorities 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.

The monitoring and disruption of telephone and Internet communications were particularly widespread in the XUAR and Tibetan areas. Authorities frequently warned dissidents and activists, underground religious figures, and former political prisoners throughout the country not to meet with foreign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or CCP meetings, and during the visits of high-level foreign officials. Security personnel 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.).

In February and March, family members of, and social organizations associated with, activists detained in connection with the Jasmine Revolution crackdown faced pressure from Guangzhou security officials, according to press reports. Some wives of jailed activists were placed under residential surveillance and detention, while police told social groups that their continued affiliation with the activists would cause them problems.

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.

Property-related disputes between citizens and government authorities, which often turned violent, were widespread in both urban and rural areas. These disputes frequently stemmed from local officials' collusion with property developers to pay little or no compensation to displaced residents, combined with a lack of effective government oversight or media scrutiny of local officials' involvement in property transactions, as well as a lack of legal remedies or other dispute resolution mechanisms for displaced residents. The problem persisted despite central government efforts to impose stronger controls over illegal land takings and to standardize compensation. The redevelopment in traditional Uighur neighborhoods in cities throughout the XUAR, such as the Old City area in Kashgar, resulted in the destruction of historically or culturally sensitive areas. Some residents voiced opposition to the lack of proper compensation provided by the government and coercive measures used to obtain their agreement to redevelopment.

In preparation for the 2011 Universiade Games in Shenzhen, city officials evicted 80,000 people without proper identification and those "acting suspiciously" or considered a threat to security. International NGOs reported that officials also forcibly removed out-of-town legal activists from the city.

For information on the government's family planning policies and their consequences see section 6, Women.

Some media sources continue to report child abductions by child-trafficking gangs. In July the Associated Press reported that authorities rescued 89 trafficked children, ages 10 days to four years, and that 369 suspects were arrested by the Ministry of Public Security. The investigation reportedly involved up to 2,600 officers in 14 provinces. In 2010 there were multiple reports of child traffickers being executed. While harsh penalties exist for traffickers, it was not clear that buying children is illegal, as the law does not clearly define the circumstances in which a buyer should be punished. A July Associated Press article reported that Liu Anchang, a Ministry of Public Security official, said that buyers who have not abused the children cannot be held criminally liable. If the parents of trafficked children cannot be found, the children are placed into orphanages (see section 6, Children).

Section 2. Respect for Civil Liberties, Including:

*a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—*The law provides for freedom of speech and press, although the authorities generally did not respect these rights in practice. The authorities continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. During the year the authorities increased censorship and manipulation of the press and the Internet during sensitive anniversaries.

*Freedom of Speech.—*With significant exceptions, including speech that challenged the government or the CCP, political topics could be discussed privately and in small groups without official punishment. Some independent think tanks, study groups, or seminars reported pressure to cancel some sessions on sensitive topics during the year. Those who made politically sensitive comments in public speeches, academic discussions, and comments to the media remained subject to punitive measures.

The government also frequently monitored gatherings of intellectuals, scholars, and dissidents where political or sensitive issues were discussed. Individuals who expressed views critical of the government or the CCP, particularly those who shared such views with foreign audiences, risked punishments ranging from disciplinary action in the workplace to police interrogation and detention. In 2008, to commemorate International Human Rights Day, a group of 303 intellectuals and activists released a petition entitled Charter '08, calling for the CCP to respect human rights and implement democratic reforms in China. Many Charter '08 signers continued to report official harassment, especially around sensitive dates.

On February 20, Liang Haiyi, also known as Miaoxiao, made a speech in front of the Harbin Municipal Building calling for freedom, democracy, and equality. She was detained by the local police and put into custody in the Harbin No.2 Detention

Center for “inciting subversion of state power.” Her case was reportedly transferred to the court for prosecution on August 19. At year’s end no information was available on Liang’s welfare and whereabouts.

Freedom of the Press.—All books and magazines require state-issued publication numbers, which were expensive and often difficult to obtain. Nearly all print media, broadcast media, and book publishers were affiliated with the CCP or a government agency. There were a small number of print publications with some private ownership interest but no privately owned television or radio stations. The CCP directed the domestic media to refrain from reporting on certain subjects, and all broadcast programming required government approval. On July 29, after the high-profile, July 23 high-speed rail crash in Wenzhou, the CCP issued an urgent directive ordering all publications to stop planned coverage of the train crash after one week of intense coverage of the issue in traditional and social media. Many publications adhered to the tighter controls by publishing blank spaces in place of the censored articles to protest the gag order on the eve of an important day of mourning in Chinese culture.

Violence and Harassment.—Restrictions on foreign journalists by central and local CCP propaganda departments remained strict, especially during sensitive times and anniversaries. Foreign press outlets reported that local employees of foreign news agencies were also subject to official harassment and intimidation.

On February 27, at least six foreign journalists were beaten by plainclothes security officers in Beijing while covering anticipated gatherings and a related security crackdown in the busy commercial district of Wangfujing in downtown Beijing. Plainclothes officers dragged other reporters and photographers into alleys or shops and erased images from their cameras. Later, security officials made nighttime visits to a few Western journalists in their apartments, warning them to behave cooperatively or risk losing their work permits.

According to the Foreign Correspondents Club, one of five foreign respondents surveyed experienced visa threats or visa delays. Some reporters were explicitly told that issuance of their visa was related to the content of their reporting. Among the correspondents surveyed, 70 percent experienced interference or harassment during the year; 40 percent said their sources were harassed, detained, or called in for questioning for interacting with foreign journalists; and 33 percent said their Chinese assistants encountered pressure from officials or experienced harassment.

The government limited attendance at official government press briefings to domestic media; foreign media and diplomats were only allowed to attend briefings conducted by the Ministry of Foreign Affairs and a handful of press briefings held around special events.

Authorities continued to enforce tight restrictions on citizens employed by foreign news organizations. The code of conduct for Chinese employees of foreign media organizations threatens dismissal and loss of accreditation for Chinese employees who engaged in “independent reporting” and instructed them to provide their employers information that projects a good image of the country. The Foreign Correspondents Club of China denounced the code of conduct as part of a government effort to intimidate their Chinese employees.

Officials can be punished for unauthorized contact with journalists. Official guidelines for journalists were often vague, subject to change at the discretion of propaganda officials, and retroactively enforced. Propaganda authorities forced newspapers to fire editors and journalists responsible for articles deemed inconsistent with official policy and suspended or closed publications. The system of post-publication review by propaganda officials encouraged self-censorship by editors seeking to avoid the losses associated with penalties for inadvertently printing unauthorized content.

Government officials used criminal prosecution, civil lawsuits, and other punishments, including violence, detention, and other forms of harassment, to intimidate authors and journalists and to prevent the dissemination of controversial writings. A domestic journalist can face demotion or job loss for publishing views that challenge the government.

In August Chen Zhong, President of the Southern Window, a well-known political magazine under the Guangzhou Daily Group, was fired because he was held responsible for the publishing of an August 4 article titled “Narrow Nationalism and Foreign Policies,” according to online reports. The article’s discussion of the effort by Sun Yat Sen, leader of the 1911 revolution against the Qing dynasty, to win Japanese support by sacrificing the national interest was deemed controversial by authorities.

Journalists who remained in prison included Lu Gengsong, Lu Jianhua, and Shi Tao. Uighur webmasters Dilshat Perhat, Nureli Azat, and Nijat Azat continued to

serve sentences for “endangering state security.” Uighur journalist Memetjan Abdulla was sentenced to life in prison in April 2010 reportedly for transmitting “subversive” information related to the July 2009 riots. During the year journalists working in traditional and new media sources were also imprisoned. The Committee to Protect Journalists (CPJ) December Prison Census reported that of 27 known journalists imprisoned in the country, 10 were Tibetan and six were Uighur. The CPJ documented one new imprisonment case during the year.

Censorship or Content Restrictions.—Authorities continued to confiscate “unauthorized publications.” A summary of “anti-pornography, anti-counterfeit” work for the year cited the following nationwide totals for the period of January to November: total number of various sorts of illegal publications confiscated—46,167,000; total number of “illegal periodicals” confiscated—4,189,000; total number of “pornographic publications” confiscated—1,163,000; total number of copyright-violating publications confiscated—39,158,000 (this number includes pirated audiovisual products (31,540,000), “pirated books” (6,630,000), and pirated electronic publications (9,880,000)).

Foreign journalists were generally prevented from obtaining permits to travel to Tibet except for highly controlled, government-organized press visits. While foreign journalists were allowed access to Urumqi, XUAR, after the 2009 riots, local and provincial authorities continued to strictly control the travel, access, and interviews of foreign journalists, even forcing them to leave cities in parts of the XUAR. Media outlets received regular guidance from the Central Propaganda Department, listing topics that should not be covered.

Officials continued to censor, ban, and sanction reporting on labor, health, environmental crises, and industrial accidents. Following the July 23 train crash in Wenzhou, Zhejiang Province, propaganda authorities issued instructions to keep the coverage upbeat and focused on the salvage and recovery efforts. Responding to massive public outrage at the incident, many domestic media outlets ignored the instructions and provided heavy coverage of the crash, its causes, and the authorities’ poor handling of survivors and victims.

On August 8, Typhoon Muifa struck Bohai Bay and breached a sea wall 1,500 feet from the Fujia Dahua Chemical Plant near Dalian. Subsequently, when CCTV journalists went to the scene to conduct an interview, they were blocked and beaten by the factory’s guards. Later, CCTV’s news program was prevented from broadcasting about the dangers of paraxylene (PX) produced in the plant. Authorities also censored information about local protests against the chemical project. “Dalian,” “PX,” and “Dalian Protests” were censored as online search terms. There were also multiple reports of cellular and smart phone outages.

Widespread attention in the press to the May-June migrant worker riots in Chaozhou City and Zengcheng City, both in Guangdong Province, prompted the government to pressure domestic media not to report on migrant-related social unrest or other friction between migrant and local communities.

Authorities 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. Newspaper, periodicals, books, audio and video recordings, or electronic publication may not be printed or distributed without the approval of the PPA and relevant provincial publishing authorities. 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 state secrets.

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.

The General Administration of Press and Publication, the State Administration of Radio, Film, and Television, and the CCP remained active in issuing restrictive regulations and decisions constraining the content of broadcast media.

Authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the VOA, BBC, and Radio Free Asia (RFA). English-language broadcasts on VOA generally were not jammed. Government jamming of RFA and the 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, largely restricted to hotels and foreign residence compounds, were occasionally subject to censorship. Such censorship of for-

eign broadcasts also occurred around the anniversary of the 1989 Tiananmen massacre. 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.—In June 2010 the Information Office of the State Council released its first White Paper on the Internet outlining the government's endeavors to guarantee certain freedoms of speech on the Internet as long as the speech did not endanger state security, subvert state power, damage state honor and interests, jeopardize state religious policy, propagate heretical or superstitious ideas, or spread rumors and other content forbidden by laws and administrative regulations, among other caveats.

The CCP underscored the importance of maintaining security and promoting core socialist values on the Internet in its official decision adopted at the Sixth Plenum of the 17th CCP Congress in October. Entitled the "Decision of the CCP Central Committee on Certain Major Issues on Deepening Cultural System Reform and Promoting the Great Development and Great Prosperity of Socialist Culture," this document called for developing a "healthy and uplifting network culture" that will entail measures such as "step(ping) up guidance and management over social networks and instant messaging tools, standardiz(ing) the transmission order of information on the Internet, and foster(ing) a civilized and rational network environment."

The CCP continued to increase efforts to monitor Internet use, control content, restrict information, block access to foreign and domestic Web sites, encourage self-censorship, and punish those who violate regulations. According to news sources, more than 14 government ministries participated in these efforts, resulting in the censorship of thousands of domestic and foreign Web sites, blogs, cell phone text messages, social networking services, online chat rooms, online games, and e-mail. These measures were not universally effective.

A 2005 State Council regulation deemed personal blogs, computer bulletin boards, and cell phone text messages as part of the news media, which subjected these media to state restrictions on content. 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."

The Ministry of Public Security, which monitors the Internet under guidance from the CCP, employed thousands of persons at the national, provincial, and local levels to monitor electronic communications. Official monitoring focused on such tools as social networking, micro-blogging, and video-sharing sites. The Information Office announced the formation of a new bureau in April. This new agency, officially called the Internet News Coordination Bureau, often referred to as Bureau Nine, operates under the State Council Information Office and is mainly responsible for "guidance, coordination, and other work related to the construction and management of Web culture." Previously, the Information Office operated a single Bureau of Internet Affairs which supervised sites that published news in China.

In July central government authorities ordered all public spaces offering free wireless Internet access to install costly software that would enable police to identify users of the service. Beijing cafe and restaurant owners were told they would face a fine of 20,000 RMB (approximately \$3,200) if they continued to offer wireless Internet access without installing the software. By October the Beijing municipal government launched a free wireless Internet service that required registration with a user's cell phone number, linked to a user's real identity information. The government's free wireless Internet service also denied access to commercial virtual private network (VPN) services.

Major news portals, which reportedly were complying with secret government orders, required 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.

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 massacre. The government also at times blocked access to selected sites operated by major foreign governments, news outlets, health organizations, educational institutions, NGOs, and social networking sites, as well as to search engines that allow rapid communication or organization of users.

Some 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. Millions of citizens had Twitter-like microblogs that circulated some news banned in the national media. The microblogs themselves were censored but often hours or days after the posting had been seen by many people.

Public relations consultant Chen Hong established a Web site that let people post anonymous tips on official bribery, which proved wildly popular and short lived. Chen's Web site drew 200,000 unique visitors in two weeks. Its anonymous posts discussed bribery at many levels including officials who demanded luxury cars and villas to police officers who needed inducements not to issue traffic tickets. Some posts identified doctors receiving cash under the table to ensure safe surgical procedures. Mainstream media spread word about the site, amplifying the outrage among Internet users. Government authorities subsequently pressured the owner to shut down the site.

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 through the use of various technologies. Information on proxy servers outside China and software for defeating official censorship was readily available inside the country. However, the government increasingly blocked access to the Web sites and proxy servers of commercial VPN providers. 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 sometimes blocked or closed during the year.

There were numerous press reports on purported cyber attacks against foreign Web sites that carried information offensive to the government.

Authorities continued to jail numerous Internet writers for peaceful expression of political views. On February 26, police in Yunxi County, Hubei Province, detained Chen Yonggang and held him for eight days on suspicion of "insulting and slandering others" after Chen posted articles online alleging that local officials and businessmen had been colluding to embezzle money in the name of engineering projects.

On March 5, public security officials in Hangzhou, Zhejiang Province, detained democracy activist Zhu Yufu for "inciting subversion of state power" in connection with the Internet-based Jasmine Revolution protest calls. Zhu had posted a poem entitled "It's Time" that included a call for people to "come into the public square." He was formally arrested on April 11. Zhu previously served seven years for "subversion of state power" following the 1998 crackdown on the CDP that he helped found. He was also imprisoned between 2007 and 2009.

In April Wei Qiang, a former art student, was sentenced to two years of RTL for posting pictures of a Jasmine Revolution gathering on his Twitter account.

In October 2010 the revised State Secrets Law came into effect. An article published on Xinhua Net stressed the responsibility of providers of telecommunications services, especially Internet companies, to "stop the leaking of state secrets on the Internet in a timely fashion." According to the revised law, Internet companies must cooperate with investigations of suspected leakages of state secrets, stop the transmission of such information once discovered, and report the crime to the authorities. Furthermore, they must comply with the authorities' orders when told to delete such information from their Web sites. Internet companies that fail to comply with the revised law are subject to punishment by the relevant departments such as the police and the Ministry of State Security.

In November 2010 Cheng Jianping (Internet name: Wang Yi) was sentenced to a year in RTL for "retweeting" a message related to a dispute between China and Japan. Her purported crime was "disturbing social order." Cheng was released from RTL on November 9. According to NGO reports, police escorted Cheng from the RTL facility back to Xinxiang City, where she was placed under illegal soft detention in a hotel. She was reportedly warned not leave Zhangyuan County.

According to Reporters Without Borders' statistics, 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.

Academic Freedom and Cultural Events.—The government continued restrictions on academic and artistic freedom and political and social discourse at colleges, universities, and research institutes. Instructors generally were told not to raise certain sensitive topics in class, such as the 1989 Tiananmen massacre. The General Administration of Press and Publications, the State Administration of Radio, Film, and Television, and the Central Propaganda Department were active in issuing restrictive regulations and decisions that constrained the flow of ideas and people.

Authorities on a few occasions blocked entry into the country of individuals deemed politically sensitive and declined to issue passports to Chinese citizens selected for international exchange programs who were seen as politically unreliable, in particular individuals from minority nationality areas.

During the year information outreach, educational exchanges, and other cultural and public diplomacy programs organized by foreign governments increasingly were subject to government interference particularly after Arab Spring movements began in the Middle East. While in many cases government officials simply denied requests for events, claiming it was “inconvenient” to hold them at that time, in other cases government officials would approve events and then cancel them before they were scheduled to occur, sometimes within hours of the events’ start time.

During a multicity tour by an international theatrical troupe performing a play that touched on freedom of speech issues, scheduled post-performance talks at several universities were canceled, for no given reason. The visiting performers had activities disrupted and were obstructed in attempts to meet with ethnic minority artists.

A number of other foreign government-sponsored exchange selectees, particularly those from minority provinces, encountered difficulties gaining approval to travel to participate in their programs.

In April 2010 the Chinese Embassy in Moscow declined to issue a visa to a Russian filmmaker invited to participate in a foreign government-sponsored film festival in Beijing.

The government used 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 CCP membership was not always a requirement to obtain a tenured faculty position, scholars without CCP affiliation often had fewer chances for promotion.

Researchers, authors and academics residing abroad also were subject to sanctions, including denial of visas, from the authorities when their work did not meet with official approval. In August overseas media reported the cases of 13 foreign academics who asserted they were blocked from obtaining visas to travel to China on the basis of contributions made to a book on Xinjiang seven years earlier.

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.

Citizens continued to gather publicly to protest evictions, relocations, and compensation in locations throughout the country, often resulting in conflict with authorities or other charges (see section 1.f.).

In April police detained 27 villagers and seriously injured five following an April 30 protest in Dao County, Hunan Province. More than 300 villagers from three villages had gathered to protest the private sale by local officials of the right to forest land that villagers depended on for a living. A struggle broke out over signs the villagers were holding, and armed police as well as unarmed officers began striking the protesters. Reportedly, villagers taken into detention were denied food and water and slapped in the face as police sought to extract confessions.

On April 4, local officials disrupted the annual meeting of HIV/AIDS activist Chang Kun’s AIBO Youth Center in Linquan County, Anhui Province. The meeting, which took place in the conference room of a local hotel, was interrupted first by hotel management and later by officials from the Guangming Subdistrict Office of Linquan County. In the days leading up to the meeting, officials also destroyed signs outside of the youth center. “Chang Kun’s Home” is designed to provide a place for students to gather and also act as a venue for carrying out health, human rights, policy, and Internet freedom education projects.

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” and protests, including some violent protests, against local governments 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 law protects an individual’s ability to petition the government; 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.

Although banned by regulations, retaliation against petitioners reportedly 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 to prevent them from filing complaints against local officials with the central government. Such detentions occurred before and after the enactment of the new regulations and often went unrecorded. Rules issued by the General Office of the State Council mandate sending officials 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.

On August 11, Beijing police issued five-day administrative detentions to eight petitioners from Cangshan District, Fuzhou City, Fujian Province, who had passed out leaflets outside a foreign embassy after their grievances over home demolitions had not been resolved through petitioning, according to an international NGO and foreign press reports. Security personnel took one of the petitioners to the Chengmen Police Station once she was back in Cangshan and ordered her to serve an additional 10-day administrative detention for the same offense.

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 the government believed might challenge its authority.

The government maintained tight controls over civil society organizations. Legal and surveillance efforts aimed at controlling them increased, especially following events in Egypt and Tunisia and subsequent calls for peaceful public (Jasmine Revolution) protests in China. In January the Central Propaganda Bureau banned media use of the term “civil society” (*gongmin shehui*).

March 2010 regulations issued by the State Administration for Foreign Exchange on foreign exchange donations to or by domestic institutions remained in effect. According to the regulations, foreign exchange donations must “comply with the laws and regulations and shall not go against social morality or damage public interests and the legitimate rights and interests of other citizens.” For donations between a domestic organization and a foreign NGO, the regulations require all parties and the banks to approve additional measures prior to a transaction being processed. Application of the regulation was varied, with some NGOs successfully navigating the requirements, others identifying other options to receive funds, and some severely limiting or shutting down operations.

Local authorities continued to restrict the activities of labor NGOs in Guangdong Province, especially during the Jasmine Revolution crackdown that started in late February. At that time police visited a number of labor NGOs in the Pearl River Delta warning them to cease working with activist lawyers representing workers rights cases in the region. Police also shut down a branch of one regional labor NGO in retribution for engaging with foreign contacts. Labor NGOs reported that they were unable to register as civil organizations and had little alternative but to register as businesses and be subject to taxation.

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 registered as private or for-profit businesses reportedly were requested to find a government sponsor and reregister as NGOs during the year.

In July the Ministry of Civil Affairs (MCA) submitted a new version of the registration regulation to the State Council proposing to allow charity and social organizations to register directly with the ministry without need for an organizational sponsor. Several cities, including Shenzhen, Shanghai, and Beijing, trial tested the policy last year. As a result, Jet Li's One Foundation was registered directly with the Shenzhen Ministry of Civil Affairs in January as a private fundraising foundation. It appears the regulation would not apply to NGOs working on advocacy or other potentially politically sensitive issues.

Although registered organizations all came under some degree of government control, some NGOs were able to operate with a degree of independence.

The number of NGOs continued to grow, despite tight restrictions and regulations. According to the MCA, as of the end of 2010, the country had approximately 440,000 legally registered social organizations including social groups (243,000), civil non-business units (195,000), and foundations (2,168). During the year an MCA official wrote, "in 2007, China started to use the term 'social organization' instead of 'civil organization' because 'civil' contrasts with 'official' and reflected the opposing roles of civil society and government in the traditional political order. The 16th and 17th CCP Congresses changed the name to 'social organization.' NGOs existed under a variety of formal and informal guises, including national mass organizations created and funded by the CCP, known as 'government NGOs.'

The lack of legal registration created numerous logistical challenges for NGOs, including difficulty opening bank accounts, hiring workers, fundraising, 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 foreign-funded 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 2008.

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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. While seriously restricting its scope of operations, the government sometimes cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR), which maintains an office in Beijing, to provide protection and assistance to refugees, asylum seekers, and other persons of concern.

In-country Movement.—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 very 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. According to the 2010 Human Resource and Social Security Development Communique published in May by the Ministry of Human Resources and Social Security (MOHRSS), in 2010

the number of rural residents working in non-agricultural jobs was 242.2 million, of which the number of rural residents working outside of their home district was 153.4 million. Many migrant workers and their families faced numerous 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. Poor treatment and difficulty integrating into local communities contributed to increased social unrest among migrant workers in the Pearl River Delta. Migrant workers had little recourse when abused 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 obtain 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.

According to press reports and online blogs, activists detained early in the year for activities associated with calls for a Jasmine Revolution were forcibly returned to their home provinces elsewhere in the country at the time of their release and denied the ability to return to Guangdong Province. These include Yuan Xinting (Sichuan Province), Tang Jingling (Hubei Province), Liu Shihui (Inner Mongolia), and Sun Desheng (Zhejiang Province).

Foreign Travel.—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 (see section 1.e.), such as the awarding of Liu Xiaobo’s Nobel Peace Prize in October 2010. The government exercised exit control for departing passengers at airports and other border crossings and utilized this exit control to deny foreign travel to dissidents and persons employed in sensitive government posts. Throughout the year lawyers, artists, authors, and other activists were at times prevented from freely exiting the country. Border officials and police cited threats to “national security” as the reason for refusing permission to leave the country. Most were stopped at the airport by authorities at the time of the attempted travel. On April 3, the government detained Ai Weiwei at the airport as he attempted to board a flight. Writer Liao Yiwu repeatedly faced travel bans preventing his attendance at international literary festivals; in July he left the country and traveled to Germany declaring himself “in exile.”

Most citizens could obtain passports, although those whom the government deemed potential threats, including religious leaders, political dissidents, petitioners, and ethnic minorities, reported routinely being refused passports or otherwise prevented from traveling overseas. Uighur residents of the XUAR reported difficulties at the local level in getting a passport application approved. Some residents of the XUAR and other citizens reportedly had valid passports seized. In Tibetan regions of Qinghai, Gansu, and Sichuan provinces, in addition to the TAR, ethnic Tibetans experienced great difficulty receiving 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 did not experience the same difficulties.

Exile.—The law neither provides for a citizen’s right to repatriate nor 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.

Emigration and Repatriation.—The government continued to try to prevent many Tibetans from leaving and detained many who were apprehended in flight (see Tibet Addendum). By the end of 2010, 874 Tibetans had arrived at the UNHCR reception center in Kathmandu. Flows to Nepal increased slightly during the year but were lower than the levels prior to the 2008 Lhasa crackdown. For the first time since 2003, there was a confirmed forcible return of three Tibetans from Nepal in June 2010. During the year there were reports of Uighur asylum seekers being forcibly returned from Malaysia, Pakistan, and Thailand. Of a group of 21 Uighurs returned from Cambodia in 2009, three persons, a woman and two children were reportedly freed, 16 others were given prison sentences ranging from 16 years to life, and the fates of two remained unknown at year’s end.

During the year the government continued to harass and restrict the travel of videographer and Sun Yat Sen University professor Ai Xiaoming, who in January

2010 was denied the right to travel abroad to receive the Prix Simone de Beauvoir (international human rights prize for women's freedom).

Protection of Refugees.—Access to Asylum.—The law does not provide for the granting of refugee or asylum status, and the government has not established a system for providing protection to refugees. Although the government does not grant refugee or asylum status, it allowed the UNHCR more latitude in assisting non-North Korean refugees. UNHCR Beijing recognized approximately 100 non-North Korean refugees in China (from Pakistan, Iraq, Somalia, and Eritrea) and was processing approximately 100 additional individuals who have requested refugee status. However, because these individuals were not officially recognized as refugees by the PRC, they remained in the country as illegal immigrants unable to work, with no access to education, and deportable by the host government at any time.

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 2009; they were not officially designated as refugees. The government did not respond to UNHCR requests for access to the border areas in 2009 or during the year. There is no official government estimate of how many refugees fled across the border as result of fighting during the year.

Nonrefoulement.—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, especially as regards North Korean refugees. The government continued to consider all North Koreans “economic migrants” rather than refugees or asylum seekers, and the UNHCR continued to have no access to North Korean refugees inside China. The lack of access to durable solutions and options, as well as constant fear of forced repatriation by authorities, left North Korean refugees vulnerable to human traffickers. Reports of various exploitation schemes targeting North Korean refugees, such as forced marriages, labor, and prostitution, were common. The government continued to deny the UNHCR permission to operate along its border with North Korea.

Some North Koreans who entered diplomatic compounds in the country were permitted to travel to third countries after waiting periods of up to two years.

Refugee Abuse.—The intensified crackdown begun in 2008 against North Korean refugees reportedly extended to harassment of religious communities along the border. The government 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.

Access to Basic Services.—While the situation of undocumented children of some North Korean asylum seekers and of mixed couples (i.e., one Chinese parent and one North Korean parent) reportedly improved somewhat during the year, many still did not have access to health care, public education, or other social services.

Durable Solutions.—The government largely cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos residing in the country since the Vietnam War era. During the year the government and the UNHCR continued discussions concerning the granting of citizenship to these long-term residents and their children, many of whom were born in China.

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. While the law provides citizens the right to change their government peacefully, citizens cannot freely choose or change the laws or officials that govern them. In practice the CCP controls virtually all elections. The CCP continued to control appointments to positions of political power.

Elections and Political Participation.—Recent Elections.—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 consists 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 CCP, and most legislative decisions require the concurrence of the CCP's nine-member Po-

litburo Standing Committee. Despite its broad authority under the state constitution, the NPC does not set policy independently or remove political leaders without the CCP's approval.

According MCA statistics, 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 were marred by serious procedural flaws. Corruption, vote buying, and interference by township-level and CCP 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, although compliance and enforcement of the election law were uneven across the country. Under this law citizens have the opportunity to vote for local people's congress representatives at the county level and below every five years, although in most cases the nomination of candidates in those elections was controlled by higher-level government officials or CCP 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 CCP control over legislatures.

In local people's congress elections during the year, more than 100 candidates declared via microblogs their intent to seek election without the approval of the CCP. By year's end most of the declared independent candidates had been kept off the ballots by the local governments despite meeting nomination criteria. None of the declared independent candidates had won election by year's end. Election officials pressured independent candidates to renounce their candidacies, manipulated the ballot to exclude independent candidates, refused to disclose electorate information to independent candidates, and sometimes adjusted electoral districts to dilute voter support for independent candidates.

In May, Liu Ping, a laid-off worker from a state-owned steel and iron factory in Guangxi Province and the first independent candidate to announce her candidacy, was detained multiple times and kept under house arrest. Authorities also raided Liu's residence and confiscated her campaign material.

On August 18, Liang Shuxin, an independent candidate in Guangdong Province, was visited by three plainclothes security officers who demanded a halt to his campaign activities. On August 25, despite collecting the necessary number of signatures endorsing his candidacy, Liang failed to become a preliminary candidate. Election laws stipulate that anyone with the endorsement of 10 valid voter signatures automatically becomes a preliminary candidate. Local election officials declined to explain why Liang did not become a preliminary candidate.

On October 20, Shu Kexin, an independent candidate in Beijing, published images of a text message sent by an election official in his district reporting to her supervisor that Shu was successfully kept off the ballot. The election official had sent the message to Shu in error.

During the November 9 local people's congress elections in Beijing, authorities deployed a heavy security presence at many polling stations in districts where independent candidates sought office. Beijing Foreign Studies University, where high-profile independent candidates Wu Qing and Qiao Mu both stood for election, closed off the campus on election day to keep out journalists and independent observers. Extra security personnel guarded both entrances to the university and checked the identities of anyone seeking entry.

Political Parties.—Official statements asserted that “the political party system [that] China has adopted is multiparty cooperation and political consultation under” CCP leadership. However, the CCP retained a monopoly on political power, and the government forbade the creation of new political parties. The government officially 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.

During the year the authorities took measures to restrict the participation of independent candidates.

In September 8 local elections in the Guangzhou City, Guangdong, district of Panyu, apparently in response to an effort by an independent candidate's supporters to monitor the election process, election officials allegedly issued a notice prohibiting voters from making audio or visual records of the election proceedings. Earlier the Panyu District authorities in Lijiang Township harassed supporters of independent candidate Liang Shuxin and refused to officially register him as a candidate, even though he collected the required number of supporters, according to online news re-

ports. The local election commission allegedly told him it would be more appropriate for an independent candidate to be female. According to press reports, to avoid a Liang write-in victory, the election commission added an additional 200 voters to the registry in the week prior to the election. On election day plainclothes police and city administration personnel allegedly were on hand during the vote count and cell phone reception had been blocked, thus hindering efforts to monitor the results.

In late August Guangzhou University obstructed the independent candidacy of one of its students for the people's congress election in Baiyun District, Guangzhou City, Guangdong Province. Guangzhou University's School of Foreign Studies announced it would not accept the registration of the student, who had gathered more than 1,000 recommendations in support of his candidacy, because they wanted "a nonpartisan female elite intellectual" to get elected, according to online reports. When the student insisted he be registered as a candidate, the university reportedly created additional demands not required of party-affiliated candidates in order to deter him.

A would-be, independent candidate in Beijing, Wu Lihong, maintained that she was given administrative detention for 15 days and then forced to go to Chongqing to prevent her from taking part in the elections.

In 2009 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. Guo Quan remained imprisoned following his 2009 sentence to 10 years in prison and three years' 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. At year's end more than 30 current or former CDP members—including Chen Shuqing, Sang Jiancheng, Yang Tianshui, and Jiang Lijun—remained in prison or held in RTL camps for their connection to a 2002 open letter calling for political reform and a reappraisal of the 1989 Tiananmen uprising.

Participation of Women and Minorities.—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. Among the 2,987 delegates of the 11th NPC (term 2008-13), 637 were women (21.3 percent of the total). There was one female member of the CCP's 25-member Politburo, who also concurrently served as one of five state councilors. There were three women ministers within the 28 organs of the State Council: Minister of Supervision Ma Wen, Minister of Justice Wu Aiyang, and Head of the National Population and Family Planning Commission Li Bin. According to government-provided information, there were more than 230 female provincial and ministerial officials, more than 670 female mayors—twice the number in 1995—and more than 15 million female CCP cadres (approximately one-fifth of the CCP membership).

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. The election Law provides a general mandate for quotas for female and ethnic minority representatives; however, achieving these quotas often required election authorities to violate the election procedures specified in the election law. During the 2011-12 local people's congresses elections, many electoral districts in which independent candidates campaigned used these quotas as justification to thwart the candidacies of these independent candidates.

A total of 411 delegates from 55 ethnic minorities were members of 11th NPC, accounting for 13.8 percent of the total number of delegates. All of the country's officially recognized minority groups were represented. 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 State Ethnic Affairs Commission, headed by Yang Jing, an ethnic 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 CCP 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 December 2010 the State Council Information Office released its first white paper on Efforts to Combat Corruption and Build Clean Government.

Court judgments often could not be enforced against powerful special entities including government departments, state-owned enterprises, military personnel, and some members of the CCP.

In its 2010 annual work report, the Supreme People's Procuratorate reported that procuratorates nationwide had investigated 32,909 corruption, dereliction of duty, and infringement of human rights cases, an increase of 1.4 percent from the previous year, involving 44,085 suspects, an increase of 6.1 percent. Among them, 2,723 suspects of corruption or bribery were officials at or above county and director level, including 188 at bureau level and six at the province level.

In 2010 the Central Commission for Discipline Inspection (CCDI), the CCP's lead body for countering corruption among members, investigated 139,621 corruption-related cases. A total of 146,517 people were disciplined, and 5,373 were transferred to judicial agencies for criminal proceedings.

In July 2010 the government and CCP issued a regulation requiring officials in government agencies or state-owned enterprises at the county level or above to report their ownership of property, including property in their spouses' or children's names, as well as their families' investment in financial assets and in enterprises. Also in July 2010 the government and CCP announced they would introduce a new collective decision-making procedure in state-owned enterprises, requiring all important decisions, including allocations of capital, arrangements for major projects, and personnel decisions, to be jointly decided by collective leadership. In the wake of the trial and conviction for corruption of former SPC vice president Huang Songyou in January 2010, the SPC reported that it had strengthened internal supervision by appointing anticorruption monitors, sending inspection task forces to local courts, and ordering more discipline.

In February the NPC's Standing Committee amended the criminal law to make citizens and companies paying bribes to foreign government officials and officials of international public organizations subject on conviction to criminal punishments of up to 10 years' imprisonment and a fine.

During the year the SPC urged local courts to ban family members of officials and judges from being lawyers under the local court's jurisdiction. In step with this request, the Higher People's Court of Chongqing Municipality announced a regulation forbidding judges' family members from accepting money from lawyers. The Higher People's Court of Fujian Province also announced a regulation to forbid judges from meeting representatives in a case in private.

In June the People's Bank of China reported that since the mid-1990s, thousands of corrupt officials had stolen nearly 800 billion RMB (approximately \$123 billion) and fled overseas. The officials reportedly used offshore bank accounts to hide the money. The report was later removed from the bank's Web site.

There were numerous cases of public officials and leaders of state-owned enterprises, who generally also hold high CCP ranks, investigated for corruption during the year.

In January the former vice chairman of the Liaoning Province People's Congress, Song Yong, went on trial in Beijing on charges of taking 10.2 million RMB in bribes (approximately \$1.6 million) and was convicted of graft. He was sentenced to death with two years' reprieve, with life-long deprivation of political rights and all personal assets confiscated. He was removed from his post in February 2010.

In March Minister of Railway Liu Zhijun was asked to step down after an investigation of "severe violation of discipline." He was accused of embezzling nearly 750 million RMB (\$121 million).

In August the former governor of Chuxiong Prefecture, Yunnan Province, was expelled from the CCP after investigations linked him to bribery, drug abuse and dereliction of duty. The CCP's Yunnan Provincial Committee reportedly accused Yang Hongwei of having 20 properties and taking bribes worth 10 million RMB (\$1.6 million) and goods valued at 940,000 RMB (\$148,000). Yang was removed from his post in April.

In September, as part of the 12th Five-Year Plan's outline of anticorruption efforts, the Supreme People's Procuratorate announced plans to establish a national Intranet bribery case retrieval database listing all cases involving bribery in local government projects. At year's end the system was operational, and citizens could make requests through Procuratorate Offices.

The Ministry of Supervision and the CCDI are responsible for combating government corruption.

In September 2010 the People's University in Beijing inaugurated its first semester of "anticorruption" postgraduate courses taught by the CCP's leading antigraft officials. He Jiahong, deputy director of the university's criminal law research cen-

ter, said that courses would be taught on advanced investigation techniques, such as “how to obtain testimony from witnesses,” “the observation of facial expressions,” and “lie-detection techniques.” Chen Lianfu, director of the SPP’s Bureau of Anti-Embezzlement and Bribery, and seven other leading SPP antigraft prosecutors were brought to teach their techniques and give guidance. The course had 30 students and “plays a positive role in social anticorruption,” according to Professor Lin Zhe at the CCP School. All students selected for the program “met strict criteria and were tested for aptitude,” reported the *Global Times*, a commercially focused newspaper affiliated with the official daily of the CCP Central Committee.

Freedom of information regulations allow citizens to request information from the government. The regulations require government authorities to create formal channels for information requests and include an appeal process if requests were rejected or not answered. Publicly released provincial- and national-level statistics for freedom of information requests showed wide disparities in numbers of requests filed and official documents released in response.

In August the SPC ruled that citizens could sue any government department that refused to provide unclassified information. In September a Tsinghua University graduate student sued three government ministries after her requests for information were denied. The student requested information regarding the duties of 14 ministries for use in her thesis. The student mentioned that with the exception of the People’s Bank of China, all were “suspicious and careful” about her request.

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 it increased scrutiny of NGOs with financial and other links overseas. Most large NGOs were quasi-governmental, and all official NGOs had to be sponsored by government agencies, although the government piloted new registration procedures in Shenzhen, Shanghai, and Beijing during the year to remove the requirement that NGOs must have a government sponsoring agency to register. If the new registrations procedures are successful, the government plans to allow NGOs to register directly with the Ministry of Civil Affairs. 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 Chinese Human Rights Defenders, 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.

Government Human Rights Bodies.—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.

The government continued to participate in official diplomatic human rights dialogues with foreign governments.

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

There were laws designed to protect women, children, persons with disabilities, and minorities. However, some discrimination based on ethnicity, sex, and disability persisted.

Women.—Rape and Domestic Violence.—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.

Violence against women remained a significant problem. According to reports, 30 to 37 percent of families suffered from domestic violence, and more than 90 percent of the victims were women. 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 victims, and public security forces often ignored situations of domestic violence. The All China Women's Federation (ACWF) reported in 2010 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 occurred 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. The government operated most shelters, some with NGO participation. During the year the government provided 680,000 office spaces in government buildings for women's resource centers.

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.

Sexual Harassment.—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. A 2009 Harvard University study on sexual harassment in the country showed that 80 percent of working women in the country experienced sexual harassment at some stage of their career. The same study found that only 30 percent of sexual harassment claims by women succeeded.

The founder of an education training business in Shenzhen was sentenced to jail during the year after a female employee told the police that he raped her. After his conviction, other employees reported they had been raped or harassed by him as well.

According to information on the ACWF Web site, women who had been sexually harassed had increasingly better access to useful information and legal service hotlines through the Internet. A Beijing rights lawyer told ACWF that approximately 100 to 200 million women in the country had suffered or were suffering sexual harassment in the workplace, but very few legal service centers provided counseling.

Reproductive Rights.—The government restricted the rights of parents to choose the number of children they have. National 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 family-planning officials using physical coercion to meet government goals. Such practices included the mandatory use of birth control and the abortion of unauthorized pregnancies. In the case of families that already had two children, one parent was often pressured to undergo sterilization.

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. In May 2010 a representative of the National Population and Family Planning Commission reported that 85 percent of women of childbearing age used some form of contraception. Of those, 70 percent used a reversible method. However, the country's birth limitation policies retained harshly coercive elements, in law and practice. The financial and administrative penalties for unauthorized births were strict.

From February to April 2010, Xuzhou in Jiangsu Province was the site of a high-profile court proceeding in which a 30-year-old female plaintiff sued the local family-planning bureau, claiming that she had been barred from a civil service position in

the county government for giving birth to a child before marriage. Although she married the father soon after the child's birth, the court ruled that the family-planning bureau's original decree citing the birth as out of wedlock held, which made her ineligible for the government position. In December 2010 in Taizhou, Jiangsu, in a similar case involving a male plaintiff, the court ruled that the male plaintiff also was ineligible for a civil service position.

The 2002 National Population and Family-planning Law standardized 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 were permitted to have a second child (e.g., if each of the would-be parents was an only 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. Ethnic minorities were subject to less stringent rules. 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. According to government statistics, the average fertility rate for women nationwide was 1.8 (representing the number of children each woman of child-bearing age has); in the country's most populous and prosperous city, Shanghai, the fertility rate was 0.8.

The National Population and Family Planning Commission reported that all provinces had eliminated the birth-approval requirement before a first child is conceived, but provinces may still continue to require parents to "register" pregnancies prior to giving birth to their first child. This "registration" requirement can be used as a de facto permit system in some provinces, as some local governments continued to mandate abortion for single women who become pregnant. Provinces and localities imposed fines of various levels on unwed mothers.

Regulations requiring women who violate family-planning policy to terminate their pregnancies still exist in the 25th, 42nd, and 22nd provisions of the Population and Family Control Regulation of Liaoning, Jilin, and Heilongjiang provinces, respectively. An additional 10 provinces—Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan—require unspecified "remedial measures" to deal with unauthorized pregnancies.

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 CCP (membership is an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of private property.

To delay childbearing, the law sets the minimum marriage age for women at 20 and for men at 22. It continued to be illegal in almost all provinces for a single woman to have a child, with fines levied for violations. 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.

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. An administrative reform process initiated pilot programs in some localities that sought to remove this linkage for evaluating officials' performance.

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 ex-

ceed 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.

According to online reports, women who registered newborns in Nanhai District, Foshan, Guangdong Province, were requested to insert an IUD (intra-uterine device). Many posted online complaints that officials threatened to not register the baby if the mother did not comply. This allegedly occurred even when the newborn was the mother's only child.

Government regulations implemented in 2008 make family-planning services compulsory, 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 these compulsory services.

According to 2010 statistics, the maternal mortality ratio was an estimated 30 per 100,000 live births. Regional differences indicated that the maternal mortality ratio in rural areas was much higher than in urban areas and also higher in poorer regions than in more developed regions. Rural, poor, migrant, and ethnic minority women continued to suffer the greatest mortality rates due to a lack of access to quality health services.

Discrimination.—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. 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. In determining child custody in divorce cases, judges make determinations based on the following guidelines: Children under age two should live with their mothers; children two to nine years of age should have custody determined by who can provide the most stable living arrangement; and children 10 and over should be consulted when determining custody.

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 50 (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 earned less than men, despite government policies mandating non-discrimination 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. There were approximately 590 female suicides per day, according to a Chinese Centers for Disease and Control and Prevention report released in September. This was more than the approximately 500 per day reported in 2009. The report noted 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. Government research indicating that 58 percent of all suicides involved the use of pesticide led to the implementation of a trial program in Hunan and Zhejiang provinces to control its sale and storage to attempt to reduce suicide attempts.

The U.N. 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 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.

According to the 2010 national census, the national average male-female sex ratio at birth was 118 to 100. Sex identification and sex-selective abortion (commonly referred to as the "Two Nons") were prohibited under administrative law, but the practices continued because of traditional preference for male children and the birth limitation policy.

Children.—Birth Registration.—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.

Education.—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.

According to a 2008 U.N. Development Program report, the urban-rural gap in literacy rates of young persons had narrowed, from 6 percent in 1990 to 1.6 percent in 2005. 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.

Medical Care.—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.

Child Abuse.—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 kidnapped; however, according to media reports, as many as 20,000 children were kidnapped every year for illegal adoption. Most children kidnapped 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. In 2009 the Ministry of Public Security started a DNA database of parents of missing children and children recovered in law enforcement operations in an effort to reunite families.

Sexual Exploitation of Children.—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 female 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. Offenders in serious cases may receive prison sentences of three to 10 years, 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 age 18 are to be severely punished.

Infanticide.—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.

Displaced Children.—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 2010 the ACWF reported that the number of children in rural areas left behind by their migrant-worker parents totaled 58 million, 40 million under the age of 14.

Institutionalized Children.—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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were no reports of anti-Semitic acts during the year. The government does not recognize Judaism as an ethnicity or religion. According to information from the Jewish Virtual Library, the country's Jewish population was 1,500 in 2006.

Trafficking in Persons.—See the Department of State's Trafficking in Person's Report at <http://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, are the main entities responsible for persons with disabilities. In 2009 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 "minimum-life-guarantee" stipends; 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.

ities, only 2 percent of whom had access to special education that could meet their needs.

According to the China Disabled Persons Federation, in 2010 more than 519,000 school-age children with disabilities received compulsory education, 68.2 percent of them in inclusive education, and 31.8 percent in 1,705 special schools and 2,775 special classes. 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 are required to offer incentives to enterprises that hired persons with disabilities. Regulations in some parts of the country also require employers to pay into a national fund for the disabled when the employees with disabilities do not make up the statutory minimum percentage of the total workforce.

Standards adopted for making roads and buildings accessible to persons with disabilities are 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 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 and institutional discrimination against minorities, which remained the source of deep resentment in the XUAR, Inner Mongolia Autonomous Region, and Tibetan areas.

Ethnic minorities represented approximately 14 percent of delegates to the NPC and more than 15 percent of NPC standing committee members, according to an official report issued in July. A November 19 article in the official online news source for overseas readers stated that ethnic minorities comprised 41.3 percent of cadres in the Guangxi Zhuang Autonomous Region, 25.4 percent of cadres in Ningxia Hui Autonomous Region, and 51 percent of cadres in the XUAR. During the year all five of the country's ethnic minority autonomous regions had chairmen (the chairman in an autonomous region is equivalent to the governor of a province) from minority groups. The CCP secretaries of these five autonomous regions were all Han. Han officials continued to hold the majority of the most powerful CCP and government positions in minority autonomous regions, particularly the XUAR.

The government's policy to encourage Han Chinese migration 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 reversed from 20/ 80 to 80/20 and continued to be a 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 minori-

ties constituted 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 filled 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 reduction of education in ethnic minority languages in XUAR schools and the institution of language requirements that disadvantaged ethnic minority teachers. The government continued to apply policies that prioritized standard 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 continued to implement repressive policies in the XUAR and targeted the region’s ethnic Uighur population. Officials in the XUAR continued to implement a pledge to crack down on the government-designated “three forces” of religious extremism, ethnic separatism, and terrorism and outlined efforts to launch a concentrated antiseparatist 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 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 continued to be sentenced to long prison terms, and in some cases executed without due process, on charges of separatism and endangering state security. The government reportedly pressured third countries to return Uighurs outside the country, who faced the risk of persecution if repatriated.

Freedom of assembly was severely limited during the year in the XUAR.

According to state official media accounts, on July 18, a group of Uighurs attacked a police station in Hotan, XUAR, killing two security guards and taking eight hostages. Police killed 14 of the attackers, captured four, and rescued six hostages; two hostages died in the rescue attempt. On July 30 and 31, through stabbings and bombings, Uighur men in Kashgar, XUAR, killed 13 persons. In the July 30 incident, the civilians killed one of the Uighur attackers and took another into custody. In the July 31 incident, police shot and killed five of the suspects, took four into custody, and subsequently killed two suspects who had initially escaped. Four of the detained Uighurs were subsequently given death sentences for their involvement in the violence.

State media reported that on December 28, security forces in Hotan Prefecture, XUAR, killed seven persons and injured four others while rescuing hostages. Two police officers reportedly were killed in the incident.

In 2009 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 2009 riots in Urumqi. At year’s end the buildings had not been demolished but remained vacant and condemned. Two of Kadeer’s sons also remained in prison.

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 Abdulla Jamal, Adduהלil Zunun, and Nurmuhemmet Yasin.

During the year XUAR and national-level officials defended the campaign against the three forces of religious extremism, splittism, and terrorism and other emergency measures taken as necessary to maintain public order. Officials continued to use the threat of violence as justification for extreme security measures directed at the local population, journalists, and visiting foreigners.

In 2009 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 regulation further bans inciting ethnic separatism or harming social stability. It 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 continued to allot economic investment in, and brought economic improvements to the XUAR, Han residents received a disproportionate share of the benefits.

(For specific information on Tibet, please see the Tibet addendum.)

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—No laws criminalize private consensual same sex activities between adults. Due to societal discrimination and pressure to conform to family expectations, most gay men and lesbians refrained from publicly discussing their sexual orientation. Individual activists and organizations working on lesbian, gay, bisexual, and transgender (LGBT) issues continued to report discrimination and harassment from the authorities.

Authorities continued to harass or prevent the gathering of LGBT persons. For example, in February a Valentine's Day kissing contest that gay couples planned to attend was cancelled abruptly by organizers. The Beijing LGBT Center planned to use the event to raise awareness about gay rights.

In June the Fifth Beijing Queer Film Festival was forced underground due to harassment from local police, officers from the Bureau of Industry and Trade, and the Culture Bureau. The police deemed the event "illegal." Organizers were forced to close the event to the general public and show the films to invited guests only. The venue of the festival was also changed every night to avoid detection.

LGBT persons were also targets of societal pressures. For example, in July LGBT groups complained of censorship by the popular Web site Doudan. The groups reported that posts for events were disappearing, resulting in low attendance. Subsequently the groups began to boycott the site.

In July 2010 a gay man attempted to sue the Beijing Red Cross for discrimination for barring gays and lesbians from donating blood. The court rejected the lawsuit without explanation.

Other Societal Violence or Discrimination.—The Employment Promotion Law, which went into effect in 2008, improves protection against discrimination in employment, and local governments continued their regulations to reflect the 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.

In April 2010 the country eliminated a 20-year travel ban that barred individuals with HIV/AIDS from entering the country. The State Council posted a statement on its Web site announcing that the government had passed amendments in April 2010 revising the Border Quarantine Law, as well as the Law on Control of the Entry and Exit of Aliens; the changes were effective immediately.

Despite provisions in the 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. By December three separate lawsuits had been filed by plaintiffs with HIV/AIDS who were denied employment due to their HIV status. Two of the cases had already been lost by year's end.

HIV/AIDS activist Wan Yanhai, founder and director of the Beijing-based NGO Aizhixing, remained overseas after leaving the country in May 2010. The organization continued to come under intense pressure from the government.

International involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in many 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.

Persons with HIV/AIDS were routinely denied admittance to hospitals for medical care. The hospitals feared that should the general population find out that they were treating HIV/AIDS patients, persons would choose to go to other hospitals. It was common practice for general hospitals to refer patients to specialty hospitals working with infectious diseases.

In August the Global Fund on AIDS, Tuberculosis, and Malaria lifted its freeze on disbursements to China so that work on fighting AIDS could resume. The Global Fund had frozen the assistance due to suspected misuse of funds and the govern-

ment's reluctance to involve NGOs. In response, the government promised to allocate 25 percent of the funds to community organizations and create a separate entity to manage civil society groups.

In February 2010 a nationwide rule banning mandatory hepatitis B virus tests in job and school admissions applications was promulgated. On February 14, 61 percent of state-run companies still had hepatitis B testing as a part of their pre-employment screen.

In September a report from a Beijing-based NGO said that 32 percent of kindergartens surveyed would refuse to enroll children infected with hepatitis B.

In September a HIV-positive man filed a discrimination lawsuit against local authorities claiming that he was denied a job as a primary school teacher. This was the second such discrimination lawsuit in the country. The man reportedly passed a test and interview but was denied the position after authorities learned about the HIV from a routine health test.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law does not provide for freedom of association, as workers are 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 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. While there were no publicly available official statistics on enforcement of laws protecting union representatives, there were periodic media reports of union officials successfully obtaining monetary judgments against companies, usually foreign-invested, which wrongfully terminated them due to union activity.

Regulations require the union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval. There is no legal obligation for employers to negotiate, and some employers refused to do so.

The 2008 Labor Dispute Mediation and Arbitration Law provides for labor dispute resolution through a three-stage process: mediation between the parties, arbitration by officially designated arbitrators, and litigation. The 2008 law improved workers' access to and streamlined this three-stage process. A key article of this 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.

The Trade Union Law specifically addresses unions' responsibility to "coordinate the labor relations and safeguard the labor rights and interests of the enterprise employees through equal negotiation and collective contract system" and to represent employees in negotiating and signing collective contracts with enterprises or public institutions. The Labor Contract Law provides that labor unions "shall assist and direct the employees" in establishing "a collective negotiation mechanism," and that collective contracts can include "matters of remuneration, working hours, breaks, vacations, work safety and hygiene, insurance, benefits, etc." It further provides that there may be industrial or regional collective contracts "in industries such as construction, mining, catering services, etc. in the regions at or below the county level." The labor law permits collective bargaining for workers in all types of enterprises.

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." ACFTU constituent unions were generally ineffective in protecting the rights and interests of members. In response to widespread criticism of the ACFTU's response to several high-profile labor disputes in 2010, the ACFTU advocated for government policies and legal reform to better equip the union to protect workers' rights. However, no measurable progress occurred on this issue.

The ACFTU and its provincial and local branches continued to aggressively organize new unions and add new members, especially in large, multinational enterprises. The ACFTU claimed 93 percent of "Fortune 500" companies in the country had already established unions. Foreign-invested enterprises continued to report demands for increased wages by their workers and threats of walkouts and work stoppages if workers' demands were not met. The pressure to increase worker wages was a result of government policies promoting wage increases, inflation that re-

sulted in rising prices for food and consumer items, and a dearth of skilled labor in the workforce.

Although the law states that trade union officers at each level should be elected, most factory-level officers 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 CCP. In enterprises where direct election of union officers took place, regional ACFTU offices and local CCP authorities retained control over the selection and approval of candidates. The inability to elect their representatives directly continued to be a key issue raised by workers in the Pearl River Delta (PRD).

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 some tolerance for strikes while others continue 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.

As in past years, in spite of the unclear legal status of worker strikes, there were reports of workers throughout the country engaging in strikes, work stoppages, and other protest actions. Although there are no publicly available figures for the number of strikes and protests each year as the government institutes restrictions on media reports, an NGO estimated 30,000 collective protests by workers in 2009, and it estimated a similar number of strikes occurred in 2010 and 2011. Strikes primarily continued to be resolved directly between workers and management without the involvement of the ACFTU. Where labor relations disputes were resolved without resorting to strikes, factory management continued the trend of engaging directly with worker committees rather than through the legally-approved ACFTU.

Despite the collective bargaining article in the 2008 Labor Contract Law, many employers preferred to deal with individual employees directly, allowing for widespread employer abuse of labor contracts. Common cases of noncompliance with the Labor Contract Law during the year included forcing employees to sign blank contracts and not providing workers a copy of their contract. Lack of government resources also undermined effective implementation and enforcement of the Labor Contract Law.

The number of labor disputes nationwide continued to rise as workers’ awareness of the laws increased. The 2008 Labor Contract Law and the global financial crisis both contributed to the growth in labor disputes in the court system. According to the latest figures from the MOHRSS, there were more than 4,800 labor arbitration organizations and 330,000 labor arbitrators by the end of 2009. The MOHRSS announced at an October press conference that from January to September there were 933,000 “labor and personnel disputes” involving 55.3 million workers. Of these, 428,000 were registered arbitration cases, of which 87 percent were resolved. The MOHRSS spokesman did not elaborate on the number of collective disputes.

In July 2010 the Guangdong provincial government issued guidelines on enterprise collective wage bargaining, which included requiring employers to give employee representatives information regarding a company’s operations, including employee pay and benefits, to be used in wage bargaining. The guidelines also gave employees and employers the right to request the labor bureau to act as a mediator to help determine wage increase distribution among employees. There was no progress in advancing debate over collective bargaining legislation that stalled last year in the Guangdong provincial legislature.

Although the Guangdong ACFTU played a prominent role in the resolution of the 2010 strikes at three Honda auto component factories in the PRD in 2010, and indicated that Honda’s Nanhai plant would be a pilot site for allowing union members to elect their own union chair, by year’s end that goal was still not realized despite three rounds of negotiations between workers and factory management.

Labor activists detained in previous years reportedly remained in detention at year’s end, including: Chen Yuqian, Feng Xinchun, Gonpo Lhundrub, Gonpo Thar, Jalo, Tselo, Hu Mingjun, Huang Yunmin, Huang Zhuyu, Jiang Cunde, Jiang Shiye, Li Xiulian, Zhang Chengxiang, Kong Youping, Li Jianfeng, Lin Shunan, Li Shanwen, Li Wuyi, Liu Jian, Liu Jianjun, Luo Xi, Memet Turghun Abdulla, Miao Wanli, Ning Xianhua, Wang Jun, Wang Miaogen, Wang Suhua, Xu Haiyan, Xu Zexin, Xue Minghai, Yang Chunlin, Yuan Xianchen, Zhao Dongmin, Zhu Fangming, and Zuo Xiaohuan.

During the year strikes remained primarily economic in nature (e.g., increased wages, subsidies for food and housing), but other issues such as workplace conditions and social welfare became more prominent. On June 29, construction workers

rallied in front of the municipal government building in Shenzhen, Guangdong Province, to call for improved pension benefits. The government's response to worker protests continued to be a mixture of mediation, conciliation, and coercion. While some jurisdictions sought to develop more flexible strategies to resolve labor disputes, others continued to rely on more repressive measures.

Government officials took a more prominent role in resolving some labor disputes, although not necessarily in the favor of striking workers. For example, a four-day strike by 4,000 workers at a South Korean-owned handbag factory in Guangzhou's Panyu District ended on June 23, when police arrested at least six workers, according to foreign press reports. The strike ended without workers winning any concessions on wages and conditions on which the walk-out was based. Police also were dispatched to break up a 10-day strike by 2,000 workers later in June at a Japanese-owned Citizen Watch plant at Dongguan, Guangdong Province. The strikers, who were protesting against long working hours and the lack of overtime pay for work conducted on a weekend, were forced to return to work under police surveillance.

The closure of factories due to bankruptcy or a decision to move production elsewhere also contributed to labor disputes. In Huizhou, Guangdong Province, more than 1,000 workers at a Sino-American JV electronics factory went on strike May 28 over the compensation package the factory was offering workers who would be laid off when operations ended. The nearly 1,000 striking workers, some of whom had worked at the factory since it was opened 20 years earlier, also claimed the company cut corners in paying their social security benefits. The closure of a factory in Chaozhou, Guangdong Province, prompted a dispute over unpaid wages that triggered rioting in early June, pitting migrant labor workers from Sichuan Province against local communities.

In East China a series of labor protests in the transportation and logistics sector were sparked by accelerating inflation. On April 20, several thousand independent truck drivers stopped work for several days and blocked access to container handling facilities in Shanghai to protest high and illegal fees associated with container transport. The Shanghai Municipal Government responded quickly, announcing a series of measures on April 23 aimed at reducing and eliminating these fees. Taxi drivers led two separate protests in Hangzhou and Shanghai beginning August 1. In Hangzhou media reports indicated that up to 5,000 cab drivers, representing approximately half the total municipal taxi fleet, stopped work to protest rising fuel costs and demanded approval for fare increases. Hangzhou authorities, faced with traffic gridlock, responded quickly and reportedly agreed to raise government-regulated taxi fares—unchanged in eight years. On August 23, the Hangzhou government released for public comment two fare-increase proposals and pledged that higher fare adjustments would take effect by the end of October. A much smaller taxi driver strike in Shanghai was reportedly spurred by complaints that the taxi company was providing inadequate pensions.

b. 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.

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. Implementation of new labor laws, along with workers' increased knowledge of their rights under these new laws, continued to reduce these practices.

Reports of forced labor continued. For example, in Sichuan Province local authorities in Leibo County apologized to the public in August for repeated cases of enslaving, trading, and even killing mentally handicapped workers. According to the county's authorities, 227 victims had been saved by annual crackdown campaigns since 2009. In September a local television station in the capital city of Henan Province, Zhengzhou, reported the existence of a trading center of abducted slave laborers, including many mentally handicapped laborers, near the city's railway station. Many illegal brick kilns with slave labor were found subsequently, and local police rescued a total of 30 slave laborers. Illegal brick kilns using slave labor were also found in Guangdong Province. Fourteen enslaved and abused laborers were rescued in May in Huizhou. Three of the victims were under age 18.

Forced labor remained a serious problem in penal institutions according to the International Trade Union Confederation. 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. Goods and materials likely to be produced by forced labor included toys, garments and textiles, electronics, bricks, and coal.

The Ministry of Justice discussed allegations of exported prison labor goods with foreign government officials, but information about prisons, including associated labor camps and factories, was tightly controlled.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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. However, based on print media and online reports, manufacturing in the electronics industry appeared to have the most prevalent use of child labor, although many reports indicated it occurred in a number of sectors.

In May a south China newspaper report indicated that children under 16 were working in an electronics factory in Huicheng District, Huizhou Municipality, Guangdong Province. One allegedly 15-year-old worker said that a labor dispatch company recruited her and approximately 20 other children from Sichuan and Yunnan provinces to work at the factory. The dispatch company reportedly received a portion of the children's wages each month.

In June Guangdong Satellite TV reported that due to labor shortages, several electronics factories in Nanhai District, Foshan Municipality, Guangdong Province, employed child labor. At one factory relatives who recruited the children received bonuses of 100 RMB (approximately \$16) per child if the child worked for at least three months.

Child labor was not restricted to the electronics industry. One case reported in June in both print and online media involved a Hong Kong-invested plastics factory, producing for foreign markets, in Huizhou Municipality, Guangdong Province, that allegedly employed at least 10 workers between ages 13 and 15. The factory blamed the dispatch agency, which acknowledged that negligence in the screening process might have led to the recruitment of the children, who were from Guizhou and Yunnan provinces.

In November a local woman was arrested in Wuchuan County, Guizhou Province, for hiring children of migrant workers left in their home village under the care of relatives. Eight children were found producing dangerous fireworks in a small factory.

In November local authorities in Nantong City, Jiangsu Province, reported an increase in the use of child labor in local labor-intensive businesses, especially catering, textile, and electronic processing industries. By October authorities investigated 25 suspected cases of child labor, resulting in 15 child laborers rescued. Local authorities attributed an increase in child labor reports in part to local labor shortages.

In March a group of children were rescued from a box/bag-making factory in Jimo City, Shandong Province. They had been forced to work 14 hours a day and were not allowed to leave the factory yard. Authorities learned of the situation after two children escaped.

In March local police in Shenzhen, Guangdong Province, found 21 child laborers trafficked from the Liangshan region of Sichuan Province. The manager of the Hualian Electronics factory where the children were found was quoted as explaining that due to a surge in orders, they used a labor dispatch company to hire temporary workers. However, the dispatch company provided the under-age workers with fake identity cards. According to the report, the dispatch company took a large percentage of the wages paid to the underage workers.

The 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 in mines.

NGOs continued to report some use of child labor in factories producing for export. There continued to be some reports that schools supplied factories with illegal child labor under the pretext of vocational training. There were reports that spot labor shortages, rising wage levels, and more demands made by adult workers, compounded by continued fierce competition, induced some small enterprises to run the risk of hiring child labor and some local authorities to ignore this practice to protect against employers moving to other areas.

International NGOs issued reports of child labor in the PRD, although the cases appeared to be the result of faked documents rather than a concerted effort on the part of employers to hire underage workers. In July a report by the Hong Kong-based NGO Students and Scholars against Corporate Misbehavior accused a Shenzhen factory producing for three foreign firms of employing a 14-year-old.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—There was no national minimum wage, but the labor law requires local and provincial governments to set their own minimum wage according to standards promulgated by the MOHRSS. Monthly minimum wages varied greatly with Shenzhen, Guangdong Province, the highest at 1,320 RMB (\$207) and towns in remote Ningxia Province the lowest at 750 RMB (\$118). During the year the country increased its “rural poverty level” to 192 RMB per month (\$30). These laws apply to all workers. 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.

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 premium pay for overtime work. However, in practice compliance with the law was weak, and standards were regularly violated. While excessive overtime still occurred, in many cases migrant workers encouraged noncompliance by requesting greater amounts of overtime to increase their overall wages.

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 June SAWS issued a regulation providing that companies will be held primarily responsible for accidents and will bear legal liability for covering up or filing fraudulent reports. Submitting accident reports more than one hour after discovering the accident is considered an act of cover up, while deliberately giving false information about an accident, such as the time, place, cause, nature, casualties, people at risk and direct economic loss, is considered lying about the accident. Companies that violate the regulation will have their operations suspended or will be deprived of business certificates and licenses. The regulation also includes detailed measures to protect fraud informants, including privacy clauses that prevent the identities of informants from being disclosed.

While many labor laws and regulations on worker safety are fully compatible with international standards, implementation and enforcement were generally poor due to a lack of adequate resources. Inadequately enforced labor laws and occupational health and safety laws and regulations continued to put workers' livelihoods, health, and safety at risk.

In practice almost all local and provincial governments raised minimum wage levels significantly during the year, as a result of changing economic and demographic conditions. Additionally, increased economic activity, spot shortages of skilled labor, increased inland investment, and successful strikes led to generally increased wage levels for workers in all parts of the country. A decrease in the migration of workers into Guangdong contributed to a changing factory workforce that was older and more likely to be married and have children. As the tenure of the PRD's workers continued to increase, their skills improved, adding additional upward pressure on wages.

Wage disputes and nonpayment of wages remained a problem in many areas. Governments at various levels continued efforts to prevent arrears and recover payment of missing wages and insurance contributions.

Acceptable working conditions questions continued to plague electronics manufacturers such as Foxconn, which opened manufacturing operations in Chengdu to take advantage of lower labor costs. The Chengdu government, together with Foxconn, pursued an aggressive search for employees for the new plant. On May 20, three workers were killed and 15 injured in an explosion in a polishing workshop; in March a Hong Kong-based labor rights organization had documented unsafe working conditions at the shop.

Interviews with employees in March and April by the same Hong Kong labor rights organization revealed that while overtime work was voluntary, employees felt it was necessary in order to earn a living.

On June 10, the mistreatment of a pregnant migrant worker at the hands of local government security personnel triggered several days of rioting in Zengcheng, Guangdong Province. The woman was reportedly selling jeans in the evening at an informal stall she had set up. Rumors that she had been killed or had lost the child she was carrying triggered violent protests by migrant laborers in the area. The government deployed riot police to control more than 1,000 migrant demonstrators who gathered in front of the offices of local government officials, restricting access to the city in the process.

The June migrant worker riots in Zengcheng and Chaozhou prompted the Guangdong Provincial Communist Party Committee to pass the "Decision on Strengthening Social Construction" on July 13, as an effort to better address the social dislocation facing migrant workers. The document called on government authorities to better absorb migrant workers through grassroots organizations or employment as civil servants and said that the province's people's congresses and CPPCC should also allow migrant workers to be members.

The Institute for Global and Human Rights, formerly the National Labor Committee, issued a report in March claiming that a plastics and hardware product company in Dongguan, Guangdong Province, denied workers appropriate days off, sometimes requiring them to work 30 days per month, did not use available safety devices in order to increase production, resulting in at least four employees losing fingers over the past three years, and did not provide training to new workers prior to using dangerous equipment.

According to the State Administration for Coal Mine Safety (SACMS), there was a 20.4 percent drop in the number of coal mine accidents during the first seven months of the year. The number of people killed in coal mine accidents during the period dropped by 31 percent from a year earlier to 1,083 deaths.

SAWS and the U.S. Department of Labor engaged in a Mine Safety Exchange Program to promote the development of improved safety procedures and protocols. In November 2010 SACMS ordered all mines to complete the installation of new facilities, including coal mine monitoring equipment, pressure fans, water supplies, and communications systems, to improve coal mine safety. Despite the drop in mortality rates and the regulations imposed by SACMS, significant mine safety problems remained.

During the summer more than 80 coal and iron ore miners were trapped underground following incidents at four separate mines. More than 50 miners were trapped in two separate mine incidents in Shandong Province following a fire at a coal mine and a flooded shaft at an iron ore mine. A dozen miners were trapped following a cave-in at a coal mine in Dalian, Liaoning Province, and 23 miners were trapped in a flooded coal mine in Guangxi Zhuang Autonomous Region, Guizhou Province. In late June eight miners were killed and five injured when an illegal iron ore mine in Fujian Province's Yongding County collapsed. According to government officials, who were made aware of the accident by local residents, police detained one of the mine's owners who had tried to flee after the incident.

In early July heavy rains caused the Heshan mine in Guangxi Region to collapse, killing 22 of the 71 miners inside. Coal mine safety advocates claimed that the company, which operated 19 other coal mines, required the miners to work underground despite the heavy rains and the known risk of a cave-in. The incident prompted Guangxi authorities to order inspections of coal mines to determine whether they were safe to operate in heavy rains. On August 23, a flood in a coal mine in Qitaihe City, Heilongjiang Province, killed four people.

Other coalmine accidents may have been covered up and underreported. For example, in April two coalmine gas explosions occurred and a total of 18 people were killed in Xuanwei City, Yunnan Province. Domestic media reported that the local coalmine industry authority tried to help the mines cover up one of the accidents. Local residents also reported that four people died and two were injured during an April 24 flood in a coal mine in Shuangyashan City, Heilongjiang. The mine owner did not report the accident to local authorities. On April 26, a gas explosion in a coal mine in Jixi City, Heilongjiang, killed nine workers. The owner of the coal mine attempted to cover up the accident by hiding the corpses. He later turned himself in after the police placed him on the wanted list.

Data from the Ministry of Health showed that occupational diseases and hazardous workplaces remained challenges. According to the ministry, 27,240 occupational illness cases were reported in 2010; 23,812 were pneumoconiosis, or black lung disease, and more than 80 percent of the victims were classified as migrant workers. Official data also showed that 37.8 percent of the victims did not receive compensation. An NGO report revealed that people claiming to have an occupational

disease had to follow a medical and legal process that took, on average, three years and 54 days to complete.

Tibet

EXECUTIVE SUMMARY

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China (PRC). The Chinese Communist Party (CCP) Central Committee's United Front Work Department, headed by Du Qinglin since late 2007, oversees the PRC's Tibet policies. As in other predominantly minority areas of the PRC, ethnic Han CCP members hold almost all top government, police, and military positions in the TAR and other Tibetan areas. Ultimate authority rests with the 25-member Political Bureau (Politburo) of the CCP and its nine-member Standing Committee in Beijing. Chen Quanguo succeeded Zhang Qingli as TAR Party Secretary on August 25. Civilian authorities generally maintained effective control of the security forces.

The TAR and other Tibetan areas continued to be under increasingly intense and formalized systems of controls, many of which appeared to be aimed at facilitating enforcement of "social stability" and undermining the religious authority of the Dalai Lama. The government's attempts to assert control over all aspects of Tibetan Buddhist monastic and religious practice through such means as compulsory "patriotic education" and "legal education" campaigns at monasteries, compulsory denunciation of the Dalai Lama, establishing permanent CCP and security personnel presence at monasteries, and taking over the identification and training of reincarnated lamas (tulku), provoked acts of resistance among the Tibetan population, who saw it as a threat to the foundations of Tibet's distinct religious, linguistic, and cultural identity. These acts of resistance, in turn, led to enhanced attempts by PRC authorities to maintain control, thus creating cycles of repression that resulted in increasingly desperate acts by Tibetans, such as a series of self-immolations by Tibetan Buddhist clergy and laypersons in China's Tibetan areas.

There was severe repression of the freedoms of speech, religion, association, and movement. Authorities continued to commit serious human rights abuses, including extrajudicial killings, torture, arbitrary arrests, extrajudicial detentions, and house arrests. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage and unique high plateau environment remained a concern. As in prior years, authorities intensified controls over speech, travel, assembly, and religious practice in the TAR and other Tibetan areas prior to and during politically sensitive dates, such as the third anniversary of the March 2008 protests and riots in Tibetan areas, the observance of "Serf Emancipation Day" on March 28 (see Academic Freedom and Protection of Cultural Heritage), the 90th anniversary of the founding of the CCP on July 1, and the 60th anniversary of the "peaceful liberation" of Tibet on July 19. 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 consequences of the 2008 protests continued to affect the human rights situation in Tibetan regions of the PRC. People's Armed Police (PAP) presence remained at high levels in many communities across the Tibetan Plateau. In March all major monasteries in the TAR and other Tibetan areas outside of the TAR were guarded by security forces, and many shops in Lhasa closed March 14 to mark the anniversary of the demonstrations and police crackdown. Students and monks in several areas were detained after reportedly demanding freedom and human rights and expressing their support for the Dalai Lama.

Deprivation of Life.—There were reports that the government or its agents committed arbitrary or unlawful killings; however, it was not possible to verify independently all of these reports. There were no reports that officials investigated or punished those responsible for such killings.

According to sources cited by the International Campaign for Tibet, on December 9, police beat to death Chonjor, a Tibetan man in his twenties in Xiahe (Sangchu), Gansu Province, reportedly in a case of mistaken identity. Authorities reportedly paid his family one million RMB (approximately \$158,000) as compensation.

Jampa Pelsang (also known as Puloe), one of several Ganden Monastery monks imprisoned for reportedly defying a "patriotic education" campaign implemented by the TAR government in 1996, was released from Qushui (Chushur) Prison May 6, reportedly in grave physical condition, and died at his home on May 23.

Trinley, a native of Ganzi (Kardze) County, Ganzi (Kardze) Tibetan Autonomous Prefecture (TAP), died August 10, reportedly due to injuries sustained from severe beatings he endured during seven months in custody following his 2009 detention for participating in protests in Ganzi.

Disappearance.—Jigme Guri, a Tibetan Buddhist monk from Labrang Monastery in southern Gansu Province, reportedly was taken into police custody on August 25. His whereabouts and the charges against him were unknown at year's end. In 2008 Jigme Guri recorded a YouTube video detailing abuses he allegedly suffered at the hands of prison officials during previous detentions. By his own account, the prison beatings left him unconscious for six days and required two hospitalizations.

The whereabouts of the Panchen Lama, Gedun Choekyi Nyima, Tibetan Buddhism's second-most prominent figure after the Dalai Lama, remained unknown. In 2010, a government official in Tibet stated that Gedun Choekyi Nyima was "living a very good life in Tibet" and that he and his family "want to live an ordinary life."

Torture and Other Cruel and Degrading Treatment.—According to the PRC's constitution, "the State respects and protects human rights." In practice, however, judges cannot apply the constitution in court cases since its interpretation is reserved exclusively to the Standing Committee of the National People's Congress. PRC law prohibits torture and the unlawful taking of life. China signed and ratified the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment but made a reservation on Article 20 that exempts it from accepting investigations of abuse allegations.

The police and prison authorities in Tibetan areas employed torture and degrading treatment in dealing with some detainees and prisoners.

Torture.—Tibetans returned from Nepal reportedly suffered torture while incarcerated or otherwise in official custody, including electric shocks, exposure to cold, and severe beatings, as well as being forced to perform heavy physical labor. Security forces routinely subjected prisoners to "political investigation" sessions and punished them if they were deemed insufficiently loyal to the state.

According to the Dharamsala-based Tibetan Center for Human Rights and Democracy (TCHRD), on March 16, police severely beat Phuntsog, a monk at Kirti Monastery in Aba (Ngaba), Tibetan and Qiang Autonomous Prefecture (T&QAP), Sichuan Province, after he set himself on fire. Phuntsog succumbed to his injuries the next day, after which up to 1,000 local Tibetans reportedly staged a peaceful protest that was violently suppressed by the PAP. A series of 12 reported self-immolations by Tibetan Buddhist clergy and laypersons followed during the year. Eight of the 12 Tibetans who self-immolated were affiliated with Kirti and other monasteries located in Aba (Ngaba), T&QAP, Sichuan Province, where repression was particularly intense. Of the remaining four self-immolations, three took place in Ganzi (Kardze) TAP, Qinghai Province, and one in the TAR.

On July 25, the Tibet Post International (an online publication of Tibetan journalists in exile) reported that Wangchuk, a political activist from Qinghai Province, was diagnosed with brain damage following his June 8 release from prison after serving a three-year sentence for separatist activities. Wangchuk reportedly was arrested in 2008 for planning to demonstrate with a Tibetan flag outside a monastery.

According to the TCHRD, Sonam Choedon, a nun detained after participating in a 2008 protest at Pangri-Na Nunnery in Lhoba Township, Ganzi (Kardze) County, Ganzi (Kardze) TAP, was released from detention in October 2010, reportedly suffering from severe mental disability after having been pistol whipped in detention.

Prison and Detention Center Conditions.—In 2009 the deputy director of the TAR Justice Bureau told a foreign diplomat that there were 3,000 prisoners in the five TAR prisons, which are separate from the Reform Through Labor (RTL) system.

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 or sheets. Former detainees reported being confined side by side with 20 to 30 cellmates for many days. In addition prison authorities banned religious observances.

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. Former detainees also complained that they often failed to receive money, food, clothing, and books sent by their families because such items routinely were confiscated by prison guards.

According to local sources in Lhagong Township, Kangding (Dardo) County, Ganzi (Kardze) TAP, Yondan Gyatso, a 30-year-old monk, was released to his family in early 2010 following three months of detention. Blind, deaf, and unable to walk or remember anything at the time of his release, Yondan Gyatso reportedly recovered some memory but remained severely disabled following his ordeal. Local Tibetans

who know the monk suspected that authorities used psychoactive drugs that resulted in permanent physical and mental damage. There were other reports of suspected abuse of psychiatric drugs with detainees in Tibetan areas.

Arbitrary Arrest or Detention.—Arbitrary arrest and detention continued to be a problem in Tibetan areas. With a detention warrant, police legally may detain persons for up to 37 days without formally arresting or charging them. Police must notify the relatives or employer of a detained person within 24 hours of the detention. Following the 37-day period, police must either formally arrest or release the detainee. In practice, police frequently violated these requirements. Many prisoners were subject to the RTL system operated by the Ministry of Public Security or to other forms of detention not subject to judicial review.

During the sustained official crackdown on the Kirti Monastery in Sichuan's Aba (Ngaba) County following the self-immolation of a Tibetan monk there in March, authorities forcibly removed hundreds of monks from the monastery, sending some back to their hometowns and detaining others. The several hundred monks who remained in the monastery were required to spend months participating in small-group "legal education" sessions led by approximately 100 government officials.

Denial of Fair Public Trial.—Legal safeguards for Tibetans detained or imprisoned were inadequate in both design and implementation. In 2009 a TAR Justice Bureau official claimed that all seven city- and prefectural-level administrative divisions in the TAR had established legal assistance centers that offered services in the Tibetan language. Prisoners had the right to request a meeting with a government-appointed attorney, but in practice many defendants, particularly political defendants, did not have access to legal representation. During the year the heads of the TAR Legal Affairs Committee, Justice Department, Procuratorate, and Public Security Department were all ethnic Han.

Trial Procedures.—In cases that authorities claimed involved "endangering state security" or "separatism," 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 2008 unrest. Authorities sentenced Tibetans for alleged support of Tibetan independence regardless of whether they were alleged to have committed violent acts.

According to the Tibet Daily (the official TAR Party newspaper), the TAR was implementing a policy of strengthening the CCP's management of lawyers in the region to ensure their work was carried out "in the correct direction." According to an April 18 Tibet Daily article, as of 2009 there were 17 law firms and 101 attorneys in the TAR, as well as 72 government law offices operating under the direct supervision of the TAR Justice Bureau. Of the 17 law firms, 11 had their own CCP committee and six shared a CCP committee with the Justice Bureau in their prefecture. As is required throughout the PRC, a CCP development leader was assigned to law firms that had no party organization.

Political Prisoners and Detainees.—An unknown number of Tibetans were detained, arrested, and/or sentenced as a result of their political or religious activity. Many prisoners were held in extrajudicial RTL prisons and never appeared in public court.

Based on information available from the U.S. Congressional-Executive Commission on China's (CECC) political prisoner database, as of September 1, 527 Tibetan political prisoners were imprisoned in Tibetan areas. The actual number of Tibetan political prisoners and detainees was believed to be much higher, but the lack of access to prisoners and prisons, as well as the dearth of reliable official statistics, made this impossible to determine. An unknown number of prisoners continued to be held under the RTL system. Of the 527 Tibetan political prisoners tracked by the CECC, 483 were ethnic Tibetans detained on or after March 10, 2008, and 44 were Tibetans detained prior to March 10, 2008. Of the 483 Tibetan political prisoners who were detained on or after March 10, 2008, 264 were believed or presumed to be detained or imprisoned in Sichuan Province; 160 in the TAR, 23 in Gansu Province, 34 in Qinghai Province, one in the Xinjiang Uighur Autonomous Region, and one in Beijing Municipality. There were 113 persons serving known sentences, which ranged from 1st years to life imprisonment; the average sentence length was seven years and two months. Of the 113 persons serving known sentences, 62 were monks, nuns, or Tibetan Buddhist teachers.

On August 30, Xinhua News Agency reported that the Ma'erkang (Barkham) People's Court located in Aba (Ngaba), T&QAP convicted three monks from the Kirti Monastery of "intentional homicide" in relation to the March self-immolation of Phuntsog (see Torture and Other Cruel and Degrading Treatment above). The court sentenced Tsering, Tenzin, and Tenchum to 13 and 10 years in prison, respectively, for allegedly instigating and assisting Phuntsog's self-immolation. In a separate

trial, another Kirti monk, Phuntsog's uncle Drongdru, was sentenced to 11 years in prison on similar charges.

A number of monks were sentenced to prison terms in the lead-up to and during the politically sensitive period when China celebrated the 90th anniversary of the founding of the CCP on July 1 and the 60th anniversary of the "peaceful liberation" of Tibet on July 19. Several of the monks were from Kirti Monastery.

According to TCHRD, eight monks (Karma Samten, Jigtak, Sherab, Gaya Tashi, Urgen Samten, Karma Soepa, Karma Monlam, and Dosam) from Surmang Monastery, Nangchen County, Yushu (Yulshul) TAP, Qinghai Province, were arrested July 12 for refusing to celebrate the CCP anniversary. The eight reportedly were detained and taken to Nangchen County Police Detention Center after approximately 300 monks walked out of a mandatory "legal education" meeting convened by county and PSB officials at the monastery.

TCHRD reported that on July 10, PSB officials severely beat and took into custody three young men—Lobsang Phuntsok, Samphel Dhondup, and Lobsang Lhundup—all students in Dhargye Norzin Village, Ganzi (Kardze) County, Ganzi (Kardze) TAP, who shouted slogans and distributed pamphlets that contained the phrases "Freedom in Tibet," "Bring Back the Dalai Lama," and "May the Dalai Lama and all Tibetans Unite Soon" at Ganzi (Kardze) County market in Ganzi (Kardze) TAP. According to TCHRD, a Ganzi (Kardze) County court sentenced Samphel Dhondup to three years in prison on August 20 and released Lobsang Phuntsok and Lobsang Lhundup the same day.

According to human rights groups, the Aba (Ngaba) County Court sentenced two Kirti Monastery monks, Lobsang Dhargye and Kunchok Tsultrim, to three-year prison terms in May. Although the charges against the two monks were unknown, Lobsang Dhargye had previously been detained for five months after appearing on film participating in the March 2008 protests.

Status of Freedom of Speech and Press.—Freedom of Speech.—Tibetans who spoke to foreign reporters, attempted to relay information to foreigners outside the country, or communicated information regarding protests or other expressions of discontent through cell phones, e-mail, or the Internet were subject to harassment or detention. The whereabouts of 59 individuals convicted in 2009 for "creating and spreading rumors" after the 2008 unrest remained unknown. Lhasa residents reported they avoided sensitive topics even in private conversations in their own homes.

According to reports, Tibetan writer Kalsang Tsultrim was sentenced on December 30 to four years' imprisonment by the Kanlho Intermediate People's Court, Gansu Province, for releasing a video message with political content.

Freedom of Press.—The government severely restricted travel by foreign journalists to Tibetan areas. The entire TAR was closed to foreigners in the lead-up to and during the politically sensitive month of July, when the PRC celebrated the 90th anniversary of the founding of the CCP on July 1 and the 60th anniversary of the "peaceful liberation" of Tibet on July 19. Foreign journalists reported they could gain access to the TAR only by participating in highly structured government-organized tours, where the constant presence of government minders made independent reporting difficult. Outside the TAR, foreign journalists frequently were expelled from Tibetan areas despite government rules, adopted in 2008, which stated that foreign journalists did not need the permission of local authorities to conduct reporting.

On June 11, the "All-China Project Everest Conference on Sweeping Out Pornographic and Illegal Publications" was held in Lhasa. The conference highlighted the achievements of "Project Everest," which was initiated in 2009 to crack down on publications in the TAR and other Tibetan areas that contained content related to Tibetan independence.

The government continued to jam radio broadcasts of Voice of America's (VOA) and Radio Free Asia's (RFA) Tibetan- and Chinese-language services in some Tibetan areas, as well as the overseas-based Voice of Tibet. In Tibetan areas of southern Gansu Province and the Ganzi (Kardze) TAP in 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 dishes were replaced with government-controlled cable television systems. Some Tibetans reported they were able to listen to overseas Tibetan-language radio and television broadcasts through the Internet.

In June official news media reported that the Lhasa City Radio and Television Bureau confiscated 100 illegal satellite dishes in Lhasa. Tibetan sources confirmed that such official seizures were common across the TAR and Tibetan areas of Sichuan, Qinghai, Gansu, and Yunnan provinces.

Domestic journalists generally did not report on repression in Tibetan areas, and the postings of bloggers who did so were promptly censored, and their authors sometimes faced punishment. Official media rarely referred to unrest in Tibetan areas, although some official publications targeting the overseas Chinese community published articles blaming the “Dalai clique” and other “outside forces” for instigating the Tibetan self-immolations. Journalists who worked for the domestic press were tightly controlled and could be hired and fired on the basis of political reliability. For example, on March 19, the Lhasa Daily contained an advertisement from the Tibet Justice Daily, which was seeking five new reporters. According to the advertisement, applicants had to meet five conditions, the first of which was that they must support the CCP party line, principles and policies, safeguard national unity, and be politically steadfast.

Violence and Harassment.—On July 5, PSB officers reportedly removed writer Pema Rinchen from his home in Luhuo (Draggo) County, Ganzi (Kardze) TAP. He was brought the next day to the county hospital for emergency treatment for injuries sustained during severe beatings while in police custody. Pema Rinchen had self-published a book in January entitled *Look*. The book included interviews with Tibetans who had been arrested and tortured in connection with the 2008 protests, as well as criticism of government policies, including the official suppression of the 2008 protests and the official response to the April 2010 earthquake in Yushu (Yulshul) TAP, Qinghai Province.

Internet Freedom.—Cellular phone and Internet service in the TAR and Tibetan areas of Sichuan, Qinghai, and Gansu provinces were curtailed during politically sensitive periods, such as the March anniversaries of the 2008 protests and “Serf Liberation Day” (see Academic Freedom and Protection of Cultural Heritage) and the July anniversaries of the founding of the CCP and the “peaceful liberation” of Tibet. In addition many Web sites were shut down and Internet cafes closely monitored during major religious, cultural, and political festivals in Tibetan areas.

Official censorship greatly hampered the development of Tibetan-language Internet sites. Although government-funded projects designed to improve Tibetan-language computer interfaces made Tibetan language computing easier, 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 indiscriminate censorship, with entire sites closed down even when the content did not appear to touch on sensitive topics. The popular social media microblogging site QQ in 2009 ceased permitting users to log on in Tibetan.

Official media reported that the Internet Security Supervision Detachment of the Lhasa PSB required the owners of 104 Lhasa Internet cafes to attend an April 29 “Internet Cafe Security Management” meeting, where they had to sign a “responsibility document” pledging to ensure Internet security. The stated purpose of the meeting was to “purify the Internet, safeguard national security and ensure social stability” in the lead-up to and during the dual celebrations in July (i.e., the 90th anniversary of the founding of the CCP and the 60th anniversary of the “peaceful liberation” of Tibet). Also in April, law enforcement officials in Changdu (Chamdo) County, TAR, raided 15 Internet cafes, confiscating equipment that promoted illegal “separatist” or “Tibet independence” content.

In August, following the self-immolation of monk Tsewang Norbu in Tawu (Daofu), Ganzi(Kardze) TAP, local authorities cut off all Internet and text-messaging services in the area.

Most foreign Tibet-related Web sites critical of official policy in Tibetan areas were blocked to users in China throughout the year.

Tibet activists inside and outside of China have been harassed by well-organized computer-hacking attacks originating from within China, according to a foreign-based study group.

Academic Freedom and Cultural Events.—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 the PRC who publicly criticized 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. Authorities frequently denied permission to Tibetan academics to travel overseas for conferences and academic or cultural exchanges.

In a January speech, the director of the TAR Academy of Social Sciences called on the academy to serve as the TAR Party Committee's think tank and as a strong ideological force for fighting separatism and exposing the "Dalai clique." At a January 16 meeting in Lhasa chaired by then TAR Party Secretary Zhang Qingli to discuss propaganda priorities for the year, TAR Party and government leaders were urged to continue to criticize the "Dalai clique," investigate and prevent the influx of toxic cultural influences, and promote such themes as "communism, socialism, and the People's Liberation Army are good" and "love the Party and the motherland."

In an opinion piece published in official media in January, the director of the TAR State Security Bureau called for the development of Tibet's tourism and cultural industries to combat the weakening of national identity and other "negative" effects of placing "too much emphasis on the promotion of Buddhist religious faith."

Policies promoting planned urban economic growth, rapid infrastructure development, the influx of non-Tibetans to traditionally Tibetan areas, the expansion of the tourism industry, the forced resettlement of nomads and farmers, and the weakening of Tibetan-language education at the middle and high school levels continued to disrupt traditional living patterns and customs.

From December 2010 to February 2011, authorities in Lhasa launched another in a series of annual winter "Strike Hard" campaigns. According to official reports, in the early days of the campaign, approximately 575 police raided more than 1,262 guest houses, Internet cafes, entertainment centers, and bars, while 300 police raided Lhasa schools. Although ostensibly an anti-crime 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. Reportedly, even certain ringtones were deemed subversive and could lead to detention.

On March 28, the TAR marked its third annual observance of "Serf Emancipation Day," commemorating the day in 1959 that China's rulers formally dissolved the Kashag, the Tibetan local government. During the official celebration, government officials and representatives from rural villages and monasteries were required to denounce the Dalai Lama.

Some observers expressed concern that development projects and other central government policies disproportionately benefited non-Tibetans and resulted in a considerable influx of ethnic Han and Hui people into the TAR. Infrastructure upgrades such as improved roads, more frequent air service, and the TAR-Qinghai railway, which made travel more affordable, increased the frequency with which non-Tibetans from other parts of the PRC visited the TAR. According to the official Xinhua News Agency, in 2006 there were 180,000 ethnic Han with household registration in the TAR. According to an official TAR report, by 2011 this number had increased to 245,000. Many people from outside the TAR who had spent years living in the TAR maintained their official registration in another province and thus were not counted as TAR residents.

Even in areas officially designated as "autonomous," Tibetans generally lacked the right to play a meaningful role in the protection of their cultural heritage and unique natural environment and faced arrest and intimidation if they protested against mining or other industrial activities that they felt were harmful to the environment or sacred sites. In November 2010, 15 Tibetans, including five monks from nearby Lingka Monastery, were detained, and several others injured when armed riot police and PSB officials were dispatched to suppress hundreds of Tibetans who attempted to disrupt operations at the controversial Xietongmen (Shethongmon) copper-mining project near Rikaze (Shigatse), TAR. The detained monks, Khenpo Kelsang, Jamyang Tsering, Tsewang Dorje, Rigzin Pema, and Jamyang Rigsang, reportedly were taken to detention centers in Xietongmen (Shethongmon) and Rikaze (Shigatse).

Tibetan and Mandarin Chinese are official languages in the TAR, and both languages appeared on some, but not all, public and commercial signs. Inside official buildings and businesses, including banks, post offices, and hospitals, signage in Tibetan was frequently lacking, and in many instances, forms and documents were available only in Mandarin. Mandarin was widely spoken and was used for most official communications. 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 1.2 percent in 2011. Many observers questioned that figure, and some contended that the actual illiteracy rate among Tibetan youth and working-age adults was between 40 and 50 percent.

The Tibetan-language curriculum for primary and middle schools in Tibetan areas was predominantly translated directly from the standard national Mandarin-language curriculum, offering Tibetan students very little insight into their own culture and history. Few elementary schools in Tibetan areas used Tibetan as the primary language of instruction. In Kangding (Dardo), Ganzi (Kardze) TAP, elementary schools did not offer instruction in Tibetan. Despite guarantees of cultural and linguistic rights, in middle and high schools—even some officially designated as Tibetan-language schools—Tibetan was usually used only to teach classes on Tibetan language, literature, and culture, and all other classes were taught in Mandarin. Of more than 15 middle and high schools in Aba (Ngaba), T&QAP, Sichuan Province, only three schools taught primarily in Tibetan. Early in the year, the TAR government launched an effort to strengthen free compulsory bilingual preschool education in rural areas by establishing 217 bilingual kindergartens in the region. Qinghai Province and Ganzi (Kardze) TAP and Aba (Ngaba), T&QAP in Sichuan Province announced similar programs during the year.

Proficiency in Mandarin was essential to qualify for higher education in the PRC. China's most prestigious universities provided no instruction in Tibetan or other ethnic minority languages. "Nationalities" universities, established to serve ethnic minority students and ethnic Han students interested in ethnic minority subjects, only offered Tibetan-language instruction in courses focused on the study of the Tibetan language or culture and were widely considered to offer a lower quality education overall. Since Tibetan-language instruction was not offered in other higher-education subjects, there was a dearth of technically trained and qualified ethnic Tibetans, and jobs in Tibetan areas that required technical skills and qualifications were typically filled by migrants from other areas of China. Tibetan Buddhist monks, in some cases the leading scholars on Tibetan studies, were barred from teaching at universities due to their religious office and lack of academic credentials recognized by the Ministry of Education.

See the Department of State's International Religious Freedom Report at <http://state.gov/jdrl/irf/rpt>.

Freedom of Movement.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, in practice, the government severely restricted travel and freedom of movement of ethnic Tibetans.

In-country Movement.—Freedom of movement, particularly for monks and nuns, was severely limited within Lhasa and throughout the TAR, as well as in Tibetan areas of Qinghai, Gansu, and Sichuan provinces. Anecdotal evidence indicated this was less of a problem in Tibetan areas of Yunnan Province, where Tibetans made up only one quarter of the population, and rarely protested against government policies. The PAP and local PSBs set up roadblocks and checkpoints on major roads, in cities, and on the outskirts of cities and monasteries, particularly around sensitive dates. Tibetans traveling in monastic 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 visiting monks to stay temporarily at a particular monastery for religious education.

Non-ethnic Tibetan Buddhist monks, particularly ethnic Han, were allowed only temporary visits to Tibetan Buddhist monasteries. Local religious affairs authorities often prohibited ethnic Han or foreign Tibetan Buddhists from staying in monasteries for long-term study.

Foreign Travel.—Many Tibetans, particularly prominent religious and cultural figures, scholars, and activists, as well as those from rural areas, reported increased difficulties in obtaining new or renewing existing passports. Some attributed this to what they believed to be official attempts to limit Tibetan attendance at Buddhist teaching conferences (Kalachakra) convened by the Dalai Lama. Some Tibetans reported they were able to obtain passports only after having paid substantial bribes or making promises not to travel to India. In other cases, Tibetan students with scholarships to foreign universities were precluded from study abroad because authorities refused to issue them passports. Some monks from Tibetan areas of Yunnan Province who left the PRC for India without proper documentation reported being able to return on a limited basis and then allowed to leave again for India.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes. According to reports, ethnic Tibetan government and CCP cadres in the TAR and Ganzi (Kardze) TAP were not allowed to send their children to study abroad. Tight border controls sharply limited the number of persons crossing the border into Nepal and India. During the year 739 Tibetan refugees transited Nepal through the Tibetan Reception Center run by

the U.N. High Commission for Refugees in Kathmandu en route to permanent settlement in India, down from 874 in 2010 and 2,156 in 2007.

The government restricted the movement of Tibetans in the lead-up to and during sensitive anniversaries and events and increased controls over border areas at these times. There were reports of arbitrary detentions 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 detainees. Travel became increasingly difficult and communications were sometimes cut off, particularly in Sichuan's Aba (Ngaba), T&QAP as the series of self-immolations at Kirti Monastery that began in March continued.

The government regulated travel by foreigners to the TAR. In accordance with a 1989 regulation, foreign visitors must obtain an official confirmation letter issued by the government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies. Foreign tourists were generally only permitted to enter the TAR by airplane or rail; obtaining permission to drive to the TAR was difficult.

In what has become an annual phenomenon, foreign tourists were banned from the TAR in the lead-up to and during the March anniversary of the 1959 Tibetan uprising and the dual anniversaries in July of the founding of the CCP and the "peaceful liberation" of Tibet. During the times that foreign tourists were permitted to enter the TAR, the requirement that they remain with organized tour groups was enforced more strictly than in the past.

Officials continued to restrict severely the access of diplomats and journalists to Tibet. Foreign officials were able to travel to the region only with the permission of the TAR Foreign Affairs Office (FAO), and even then only on closely chaperoned trips arranged by the FAO. Such permission was difficult to obtain. During the year authorities denied three out of four U.S. government requests for official travel to the TAR. Official visits to the TAR that were approved were supervised closely, and delegation members were afforded very few opportunities to meet local residents not previously approved by the authorities. Foreign diplomats who legally traveled in some Tibetan areas outside of the TAR, such as the Ganzi (Kardze) TAP and Aba (Ngaba), T&QAP, were repeatedly approached by local police and forced to leave without reasonable explanation. With the exception of a few highly controlled trips, authorities repeatedly denied requests for international journalists and observers to visit the TAR and other Tibetan areas.

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

Women.—Rape and Domestic Violence.—There was no confirmed information on the incidence of rape or domestic violence in Tibetan areas, although a Tibetan resident of a Tibetan area of Sichuan Province said that gender-based violence, including rape, was common among Tibetan herders and often went unreported.

Reproductive Rights.—Family planning policies permitted ethnic Tibetans and members of some other minority groups to have more children than ethnic Han. Some ethnic Tibetans who had permanent employment in urban areas, or were CCP members or served as government officials, were limited to two children, as were some ethnic Han living in Tibetan areas. Depending upon the county, rural Tibetans in the TAR were sometimes encouraged to limit births to three children. The TAR was one of the few areas of the PRC that did not have a skewed sex ratio resulting from sex-selective abortion and inadequate health care for female infants.

Lack of knowledge about HIV transmission and economic pressure led many female sex workers to engage in unprotected sex. Diagnosis and treatment of sexually transmitted diseases, including HIV/AIDS, appeared to be nondiscriminatory.

Discrimination.—There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. Women were underrepresented at the provincial and prefectural levels of government, however. According to an official Web site, female cadres in the TAR accounted for more than 30 percent of the TAR's total cadres.

Children.—According to official policy, primary education was compulsory, free, and universal. According to official TAR statistics, during the year, 99.2 percent of children between the ages of six and 13 attended school, and 90 percent of the TAR's primary school students attended lower middle school, for a total of nine years of education. In 2003 the U.N. special rapporteur on the right to education reported that official PRC education statistics did not accurately reflect attendance and were not independently verified.

Societal Violence.—Feuds among Tibetan herders and the resulting violence, in some cases including killings, was a serious problem. Some Tibetans in Ganzi

(Kardze) TAP commented that lack of police protection in cases of violence among Tibetans was also a serious issue.

In mid-December a fight broke out between ethnic Han and ethnic Tibetan students at the Chengdu Railway Vocational High School in Chengdu, Sichuan Province. Reportedly the culmination of tensions relating to ethnic bullying and anger at preferential treatment given to minority students, the brawl resulted in an unknown number of injuries.

Ethnic Minorities.—Although TAR census figures showed that as of November 2010, Tibetans made up 90.5 percent of the TAR's permanently registered population, official figures did not include a large number of long-, medium-, and short-term ethnic Han residents, such as cadres (government and party officials), skilled and unskilled laborers, military and paramilitary troops, and their respective dependents. According to a Lhasa city official, 260,000 of the 450,000 individuals living in downtown Lhasa during the year belonged to this "floating" population.

Migrants to the TAR were overwhelmingly concentrated in urban areas. Government policies to subsidize economic development often benefited ethnic Han more than ethnic Tibetans, causing resentment. Small businesses, mostly restaurants and retail shops, run by ethnic Han and Hui migrants predominated in cities throughout Tibetan areas. Ethnic Tibetans continued to make up nearly 98 percent of those registered as permanent residents in rural areas, according to official census figures.

The government continued its campaign to resettle Tibetan nomads into urban areas across the TAR and other Tibetan areas. Officials also offered nomads monetary incentives to kill or sell their livestock and move to newly created Tibetan communities in rural areas. There were reports of compulsory resettlement where promised compensation was either inadequate or not paid at all. According to a January Xinhua report, 274,800 households in the TAR, including 1.4 million farmers and herders, were covered by a resettlement project that provided funds for the construction of permanent housing. A November 2010 article in the official press claimed that such resettlement programs were the "foundation for fighting the Dalai clique," and resettled farmers and herders would "pray to Buddha less and study culture and technology more."

Improving housing conditions, health care, and education for Tibet's poorest were among the stated goals of resettlement, although there was a pattern of settling herders near townships and roads and away from monasteries, which were the traditional providers of community and social services. A requirement that villagers build houses according to official specifications within two or three years often forced resettled families into debt to cover construction costs.

Although a 2010 state media report noted that ethnic Tibetans and other minority ethnic groups made up 70 percent of government employees at the provincial level in the TAR, the top CCP position of TAR Party Secretary continued to be held by an ethnic Han, and the corresponding position in approximately 90 percent of all TAR counties was also held by an ethnic Han. Also within the TAR, ethnic Han continued to hold most of the top security, military, financial, economic, legal, judicial, and educational positions. Tibetans holding government and CCP positions were often prohibited from openly worshipping at monasteries or otherwise practicing their religion. Of Chinghai Province's six TAPs, five were headed by ethnic Han party secretaries, and one by an ethnic Tibetan party secretary. Gansu Province's sole TAP was headed by an ethnic Han party secretary. There were several ethnic Tibetan party secretaries at the county level in Tibetan areas of Qinghai, Sichuan, Gansu, and Yunnan provinces.

Economic and social exclusion was a major source of discontent among a varied cross section of ethnic Tibetans, including business operators, workers, students, university graduates, farmers, and nomads. Some ethnic Tibetans reported that they experienced discrimination in employment, and some job advertisements in the TAR expressly noted that ethnic Tibetans were not welcome to apply. Some claimed that ethnic Han were hired preferentially for jobs and received higher salaries for the same work. Some Tibetans reported that it was more difficult for ethnic Tibetans than ethnic Han to obtain permits and loans to open businesses. Restrictions on international nongovernmental organizations (NGOs) that provided assistance to Tibetan communities resulted in the elimination of many beneficial NGO programs and the expulsion of most foreign NGO workers from the TAR and other Tibetan areas.

Government propaganda against alleged Tibetan "pro-independence forces" contributed to growing societal discrimination against ordinary Tibetans. Sources reported that security personnel targeted individuals in monastic attire for arbitrary questioning and other forms of harassment on the streets of Lhasa and other cities and towns. Many Tibetan monks and nuns chose to wear non-religious garb to avoid

such harassment when traveling outside their monasteries and around China. Some Tibetans in Chengdu reported that taxi drivers refused to stop for them.

The TAR tourism bureau continued its policy of refusing to hire ethnic Tibetan tour guides who had been 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 inland China, apparently for their greater political reliability, and put to work after receiving a crash course on Tibet.

Hong Kong

EXECUTIVE SUMMARY

Hong Kong 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 2008 elections that were generally free and fair. Security forces reported to civilian authorities.

The three most important human rights problems reported were the limited ability of citizens to participate in and change their government; an increase in arbitrary arrest or detention and other aggressive police tactics hampering the freedom of assembly; and a legislature with limited powers in which certain sectors of society wield disproportionate political influence.

Other areas of reported concern include increasing limitations on freedom of the press and self-censorship; increasing denial of visas for political reasons; alleged election fraud; trafficking in persons; and societal prejudice against certain ethnic minorities.

The government took steps to prosecute and punish officials who committed abuses.

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 January 21, the High Court (Court of First Instance) dismissed a judicial review challenging the inquest in the case of ethnic Nepali Dil Bahadur Limbu. A police constable shot and killed Limbu in 2009 when he resisted the constable's request to examine his identity documents. The High Court ruled that the coroner had misapplied the law regarding the scope of the inquest. In May 2010 a jury ruled that Limbu's death was a lawful killing.

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, but there were some reports that government officials employed them. In the first half of the year, the police force's Complaints Against Police Office (CAPO) received 120 complaints that involved 137 allegations of assault by police officers on persons in custody. Thirty-two cases were found "not pursuable," 65 were withdrawn, and 40 were pending investigation and endorsement by the Independent Police Complaints Council (IPCC). There were 14 allegations of assault by police officers on persons not in custody. Five were found "not pursuable," three were withdrawn, one was found unsubstantiated, one false, and four were pending investigation as of June.

In May, Alex Diallo Mamadou, an asylum seeker from West Africa, claimed undercover police detained him for 48 hours in September 2010 in a police station where he was physically abused with his hands bound by a plastic cord. Diallo said he was jogging when police detained him with a group of suspected Pakistani illegal immigrants. He also said the police beat him and the Pakistanis. According to CAPO, police arrested Diallo for unlawful assembly and possession of offensive and prohibited weapons. CAPO is investigating Diallo's complaint on the "police's use of plasticuffs for long hours."

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards, and the Correctional Services Department (CSD) permitted visits by independent human rights observers.

During the year the CSD managed 24 penal institutions with a certified accommodation capacity of 11,144 places. As of September 30, Hong Kong's total prison population was 9,456. The average occupancy rate for all penal institutions was 88 percent. The CSD admitted overcrowding was a problem in certain types of penal institutions, such as remand facilities and maximum-security institutions. Prisoners generally had access to potable water. The Hong Kong Human Rights Monitor reported that some detainees at the Lo Wu Correctional Institution complained about poor airflow due to a lack of adequate windows and electric fans in the summer and little warm clothing for inmates during the winter.

There were two deaths in police custody; both were under investigation. In the first six months of the year, there were seven reported deaths of persons in custody of the Correctional Services Department. Inquest results had not been reported by year's end.

Prisoners and detainees were able to send and receive letters, receive regular visits, manifest their religious beliefs or practices, and attend available religious services in correctional institutions. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship, request investigation of credible allegations of inhumane conditions, and initiate legal action against any alleged inhumane conditions. Judicial authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions, and there was an external Office of the Ombudsman. There were no reports of steps taken to improve recordkeeping or use alternatives to sentencing for nonviolent offenders.

The government permitted human rights groups to conduct prison visits. In the first six months of the year, there were eight media visits, one visit by a human rights organization, and 218 visits by justices of peace. Justices of the peace may make suggestions and comments on matters such as physical environment facilities, overcrowding, staff improvement, training and recreational programs and activities, and other matters affecting the welfare of inmates.

The government regularly assessed how to expand prison capacity and provide vocational training and educational opportunities to the incarcerated.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest or detention, but a number of incidents this year resulted in an increased use of arbitrary arrest and detention.

Role of the Police and Security Apparatus.—Civilian authorities maintained effective control over the Hong Kong Police Force, and the government had effective mechanisms to investigate and punish abuse and corruption.

There were no reports of impunity involving the security forces during the year.

Human rights activists and some legislators expressed concern that all IPCC members were appointed by the Chief Executive (CE) and that the IPCC's lack of power to conduct independent investigations limited its oversight capacity. The IPCC cannot compel officers to participate in its investigations, and the media reported cases of police officers declining to do so. In response, IPCC Chairman Jat Sew-tong told the media he was confident that, if needed, he could approach the police commissioner and any officer so requested would be ordered to participate.

There was a widespread public perception that police abuse of power increased dramatically during the year. Public dissatisfaction with the police rose to a record high of 20 percent.

Arrest Procedures and Treatment While in Detention.—Suspects generally were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. They 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 law provides accused persons with the right to a prompt judicial determination, and authorities respected this right effectively in practice. Detainees were informed promptly of charges against them. There was a functioning bail system, and detainees were allowed ready access to a lawyer of their choice and family members.

Arbitrary Arrest.—The Civil Human Rights Front reported that, for the first time since the 1997 handover, police detained one of Hong Kong's most well-known and respected human rights activists, Law Yuk-kai, after his participation in the annual July 1 march commemorating the 1997 handover.

In August, during PRC Vice Premier Li Keqiang's visit to Hong Kong, unidentified security personnel detained a man wearing a "vindicate June 4" (a reference

to the 1989 Tiananmen massacre) t-shirt during a visit to a public housing complex, and police detained three student demonstrators during Li's speech at the University of Hong Kong (HKU) in what has now become known as the "818" incident. The police behavior raised a public outcry. HKU Vice Chancellor Tsui Lap-chee later resigned, although he claimed his decision was unrelated. The police formed a committee to investigate the circumstances surrounding the visit, including the conduct of some officers involved in the incident. The independent Bar Association issued a statement critical of police security arrangements following Vice Premier Li's visit.

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 interpreter 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, Legco president, and 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 degrade the court's authority.

In September the Court of Final Appeal requested the NPC/SC's interpretation, for the first time since the former British colony returned to Chinese rule in 1997, on a sovereign immunity case involving the Democratic Republic of the Congo. Activists complained that the court did not need to seek Beijing's input and that doing so jeopardized Hong Kong's judicial autonomy. The court claimed that the case involved a foreign policy issue, and it was therefore bound by the Basic Law to seek the NPC/SC's interpretation.

Trial Procedures.—The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. Trials were by jury except at the magistrate and district court level. An attorney is provided at the public's expense if defendants cannot afford counsel. Several activists complained that legal aid did not provide attorneys who were interested in committing significant attention to their pro bono clients. 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 law a current or former government official who maintained a standard of living above that commensurate with his or her 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 were conducted in either Chinese or English, the SAR's two official languages.

Political Prisoners and Detainees.—There were very limited reports of political prisoners or detainees. Following artist Ai Weiwei's detention in mainland China in April, Hong Kong police detained two local activists who protested Ai's treatment. Activists claimed Beijing pressured Hong Kong police to assign officers from their serious crimes units to apprehend a Hong Kong street artist who painted images of Ai and wrote "Who's Afraid of Ai Weiwei" on pavements and public buildings throughout Hong Kong. When activists chalked copycat drawings, police detained several before eventually releasing them.

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 law provided that no personal data may be used for a purpose other than that stated at the time of its collection without the data subject's consent. Specific exemptions allowed SAR authorities to transfer personal data to permit prevention,

detection, or prosecution of a crime when certain conditions were met. Data may be transferred to a body outside of the SAR for purposes of safeguarding the security, defense, or international relations of the SAR or for the prevention, detection, or prosecution of a crime, provided conditions set out in the ordinance were met. The Office of the Privacy Commissioner for Personal Data worked to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner.

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." The law establishes 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\$1 million (approximately U.S.\$129,000).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The law provides for freedom of speech and 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.

Freedom of Press.—The Hong Kong Journalists' Association (HKJA) alleged there were severe restrictions on the media during Vice Premier Li's visit to Hong Kong. Police prevented journalists from reporting at about 20 of Li's scheduled activities and were granted access to less than half of his program, according to the HKJA. The Government Information Office had exclusive coverage rights for most of the events. The HKJA also alleged that police performed an arbitrary security check on at least one member of the media and a security officer hit a cameraman's recording device to block him from taping. Then chief secretary for administration Henry Tang claimed that allegations press freedom was undermined during the visit were "complete rubbish."

In January the employees union at the government-owned broadcaster Radio Television Hong Kong (RTHK) complained that RTHK had cancelled a live webcast of democratic leader Szeto Wah's funeral because of political pressure. Other major television stations had live coverage of the service.

Violence and Harassment.—The International Federation of Journalists (IFJ) alleged that on July 1 police arrested and detained two reporters in a police station for more than 10 hours because they did not produce press cards. Police Commissioner Tsang denied the arrests had ever occurred. On August 11, the police detained three journalists for six hours on accusations of attempted burglary at the New Government Complex. The police later released the journalists without charge.

Censorship or Content Restrictions.—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 business interests.

Actions to Expand Press Freedom.—In May Legco member Cyd Ho introduced a nonbinding motion calling on the government to "safeguard freedom of the press and the right to expression." Only after pro-Beijing legislators added language stating "in accordance with the Basic Law and the principle of one country, two systems" did the Legco pass the bill.

Internet Freedom.—There were no government restrictions on access to the Internet; there was some monitoring of the Internet. Democratic activists claimed central government authorities closely monitored their e-mails and Internet use. In a Netizens Power survey, 33 percent of users of Golden Forum, a popular local Internet community forum, said they had some of their online posts deleted over the past year and almost half indicated this was because their posted content was "too politically sensitive."

Activists complained that the government's Copyright Amendments Bill prohibiting unauthorized use of copyright material in any medium without permission would threaten freedom of speech. They claimed the changes would negatively affect works of satire or parody on the Internet because there would be no "fair-use exception." Some pan-democratic activists and supporters termed the bill a "cyberspace Article 23" (a reference to controversial anti-subversion measures the government

proposed in 2002 that led to Hong Kong's largest-ever street demonstrations). The government's position was that the amendments would strengthen intellectual property rights.

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 "Letter of No Objection" for public meetings and demonstrations, and the overwhelming majority of protests occurred without serious incident. Government statistics indicate that an average of seven to eight "public events" occurred every day. However, activists and pan-democratic legislators expressed concern that the government took a more restrictive view of protests at the Central Government Liaison Office, which saw several clashes with protesters end in arrests. Activists alleged the police were acting under instructions from Beijing, which police denied. The number of protesters arrested during the year increased from 57 in 2010 to 440. Authorities claimed these figures reflected the growth in "radical protests."

The IFJ claimed that, after the appointment of Hong Kong Police Commissioner Andrew Tsang in January, there was a "rapid erosion" in basic civil liberties and that the government and "in particular the police" were becoming more aggressive against protesters. In one incident the police refused to apologize for spraying pepper spray at an eight-year-old boy during the March 6 protests over the government's budget that led to the arrests of 113 individuals.

Activists and some lawmakers expressed concern about the lack of clear guidelines about whether a person arrested on assault charges related to public demonstrations would be charged under the Police Force Ordinance (PFO) or the Offences Against the Person Ordinance (OAPO). Both criminalize assault on a police officer on duty, but while the PFO carries a maximum penalty of six months' imprisonment and a HK\$5,000 (US\$644) fine, the OAPO carries a maximum penalty of two years' imprisonment. Some activists also alleged that police faced no penalty for making arrests that ultimately were not prosecuted or were dismissed by the courts, allowing them to use arrest as a means to intimidate and discredit protesters. The Civil Human Rights Front nongovernmental organization (NGO) alliance reported that law enforcement was charging an increasing number of protest participants under the tougher OAPO.

Organizers of the annual July 1 demonstration complained of heavy-handed police actions, including excessive force in the arrest of 231 participants and the indiscriminate use of pepper spray against media observers and protesters. According to media reports, at least 10 people were injured, including two Legco members, and the police detained another Legco member and his party's chairman. According to law enforcement authorities, the protesters' actions had halted traffic in a major thoroughfare for seven hours. One activist was convicted and fined for erecting a replica of the Goddess of Democracy statue, the statue raised in Tiananmen Square in 1989.

Freedom of Association.—The law provides for this right, and the government generally respected it in practice.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the SAR, foreign travel, emigration, and repatriation, 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 make determinations regarding claims under the U.N. Convention Against Torture (CAT) independently. As of July there were 6,716 torture claims pending Immigration Department determination.

The government cooperated with the Office of the U.N. 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 continued to be cases in which persons traveling to the SAR 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 that the

refusals, usually of persons 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. Authorities denied entry permission to a number of exiled mainland dissidents including Wang Dan, Wu'er Kaixi, and Wang Chaohua, who sought to attend the funeral of democratic leader Szeto Wah in January. In October the authorities' denial of entry to Yang Jianli, another noted dissident, raised questions about the integrity of Hong Kong's immigration policy.

In March the High Court overturned the Immigration Department's January 2010 decision to deny visas to six technicians of the Shen Yun Performing Arts company, a Falun Gong-affiliated music and dance troupe.

On September 30, in a landmark decision on the controversial issue of the right of abode for foreign domestic workers, the Court of First Instance granted Filipina domestic helper Evangeline Banao Vallejos, who lived in Hong Kong for 26 years, the right to apply for permanent residency. The decision was extremely unpopular, as most Hong Kongers did not wish to extend right of abode to thousands of "temporary workers," claiming doing so would open the "floodgates" to requests for education, health, employment, and other benefits. At year's end the government's appeal remained before the Court of Appeal.

Foreign Travel.—Most residents easily obtained travel documents from the SAR government. However, PRC authorities did not permit some Hong Kong human rights activists and most prodemocracy legislators to visit the mainland. Eleven incumbent legislators were denied "Home Return Permits" to visit the mainland.

Emigration and Repatriation.—Government policy was to repatriate undocumented migrants who arrived from the mainland, and authorities did not consider them for refugee status. As of June 30, 2,618 immigration offenders and illegal immigrants were repatriated to the mainland. The government did not recognize the Taiwan passport as valid for visa endorsement purposes, although convenient mechanisms existed for Taiwan passport holders to visit Hong Kong. Beginning in September, Taiwan visitors to Hong Kong were able to stay for a month if they held a mainland travel permit.

Protection of Refugees.—*Access to Asylum.*—The SAR 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 law does not provide foreigners the right to have asylum claims recognized. 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's practice was to refer refugee and asylum claimants to a lawyer or the UNHCR.

The government does not recognize a legal obligation to grant protection under the CAT, leaving this to the discretion of the director of immigration, but in practice generally reviewed claims made under the CAT. Claimants had access to legal counsel from the Duty Lawyer Service, whose lawyers received training in refugee and torture claims from the Hong Kong Academy of Law. There was also a system to appeal decisions by the Immigration Department, with reviews conducted by experienced magistrates. Several observers, including the Bar Association and the Law Society, suggested processing refugee and CAT claims simultaneously to avoid duplicate filings.

Access to Basic Services.—The government, in collaboration with an NGO, has offered in-kind assistance, including temporary accommodation, food, clothing, appropriate transport allowance, counseling, medical services, and other basic necessities, to asylum seekers and torture claimants who were deprived of basic needs while their claims were being processed. As of July, 5,759 persons were receiving assistance.

Employment.—Those whose claims were pending have no legal right to work, and those granted either refugee status by the UNHCR or relief from removal under the CAT were permitted to work only with approval from the director of immigration. They were also ineligible for training by either the Employees Retraining Board or Vocational Training Council. Applications to attend school or university were considered on a case-by-case basis at the discretion of the director of immigration.

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

The Basic Law limited the right of residents to change their government peacefully. A portion of the Legco was elected by a subset of voters representing "func-

tional constituencies" (FC) which speak for key economic and social sectors; under this structure some individuals were able to control multiple votes for Legco members. The constituencies that elected the 30 FC Legco seats had fewer voters in total than the constituency for a single Geographical Constituency (GC) seat. The government stated that the current method of selecting FC legislators did not conform to principles of universal suffrage, but it took no steps to eliminate the FCs.

The Basic Law prohibited the Legco from putting forward bills that affect public expenditure, political structure, or government policy. The SAR sent 36 deputies to the mainland's National People's Congress (NPC) and had 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 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.

The CE used his authority to appoint 68 of the 534 members of the District Council, Hong Kong's lowest form of elected government, despite earlier promises to eliminate all appointed seats. The government stated that it would work on phasing the nonelected seats out in two tranches in 2016 and 2020, but pan-democrats complained that this was a violation of a previous understanding between the Legco and the government.

Elections and Political Participation.—Recent Elections.—In 2007, the CE Election Committee selected incumbent Donald Tsang Yam-kuen, and the PRC's State Council formally appointed him. In 2008 voters in five GCs 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 incumbents returned uncontested.

In January 2010, five legislators resigned to force a by-election they declared to be a "referendum" on political reform, particularly on achieving universal suffrage. While the government stated that neither the Basic Law nor local law establishes a legal process by which to conduct a referendum, on May 16, the government held the by-election. Supporters of the by-election criticized the government for not making the traditional efforts to encourage citizens to vote in the by-election. They also criticized the publicly announced decision of the CE and senior officials not to cast ballots in the election. The by-election itself, which saw a turnout of approximately 17 percent, was generally free and fair, and the five "incumbents" were reelected.

Responding to this event, and arguing that the democrats used a loophole to abuse the electoral system and waste public money, the government presented draft legislation on June 8 to eliminate by-elections. Angered by the government's efforts to rush the bill through the Legco, thousands of Hong Kongers (organizers claimed 218,000 participants and the police put the number at 54,000) marched in the biggest July 1 protest since 2004. The government responded by holding a public consultation on the reforms and presenting four proposals for filling vacant seats; many commented that the government's options were undemocratic. At year's end the Constitutional and Mainland Affairs Bureau had not sent the government's draft legislation to the Legco.

Following the District Council elections in November, the Independent Commission Against Corruption (ICAC) received more than 1,182 complaints about the races, including voter tampering and fraud. By the end of the year, the ICAC was investigating 730 vote-rigging cases involving 7,700 voters at 2,300 addresses. Some prodemocracy activists claimed pro-Beijing forces manipulated over 10 percent of the final results to ensure their supporters' victories. Law enforcement arrested 53 people in relation to these cases.

Political Parties.—Pan-democratic parties faced a number of institutional challenges preventing them from holding a majority of the seats in the Legco or having one of their members become chief executive. The unique nature of voting for Legco members ensures pro-business representatives and Beijing's allies control a majority. Additionally, the Central Government and its business supporters provided generous financial resources to parties that support Beijing's political agenda in Hong Kong, ensuring these organizations will control the levers of government and all senior positions.

Participation of Women and Minorities.—Seven of the 30 members of the Executive Council (cabinet-level secretaries and "nonofficial" councilors who advise the CE) were women. Seven of the 30 directly elected Legco members were women, and women held four of the 30 FC seats. Two political parties represented in the Legco were headed by women. 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 officeholder have a legal right of abode only in the SAR. There were no members of ethnic minorities in the Legco. The government regarded ethnic origin as irrelevant to civil service appointment and did not collect data on the number of non-ethnic Chinese serving in the civil service, a practice that some observers criticized as preventing the government from monitoring hiring and promotion rates for non-ethnic Chinese.

Section 4. Official Corruption and Government Transparency

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

During the year the ICAC received 4,010 corruption reports, an increase of 13 percent from 3,535 reports in 2010. Pursuable reports increased by 12 percent to 3,072. Of the reports, 2,664 concerned the private sector, 1,117 were related to government departments, and 229 involved public bodies. A total of 283 persons were prosecuted with convictions in 84 percent of the cases.

In October, ICAC agents arrested five police officers on allegations that they were either running a brothel or accepting free sexual services from prostitutes in return for not reporting the brothel.

There were no legal protections for whistleblowers.

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 to do so biennially. Policy bureaus may impose additional reporting requirements for positions seen as having a greater risk of conflict of interest.

There was no freedom of information legislation. An administrative code on access to information served as the framework for the provision of information by government bureaus and departments and the ICAC. However, they may refuse to disclose information if doing so would cause or risk causing harm or prejudice in several broad areas: national security and foreign affairs (which were reserved to the central government); immigration issues; judicial and law enforcement issues; direct risks to individuals; damage to the environment; 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 were not a justifiable basis for withholding information. Through September the ombudsman received 29 complaints relating to the code.

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.

Government Human Rights Bodies.—There are 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. EOC Commissioner Lam Woon-kwong continued to serve as a vocal public advocate on minority rights, access to public and commercial buildings for persons with disabilities, and other issues within the EOC's responsibility.

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

The law provided that all permanent residents were equal, and the government enforced this in practice. The EOC is responsible for enforcing the relevant laws.

Women.—Rape and Domestic Violence.—Rape, including spousal rape, is criminalized under the law, and police enforced the law effectively. Through June, 55 rape cases and 674 indecent assault cases were reported to the police. Of these, 51 rape cases and 451 indecent assault cases were investigated, leading to 57 and 446 arrests, respectively.

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. Through June 957 cases of domestic violence were reported to, and investigated by, the police. The law 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 ordi-

nances. The government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders.

The law covers molestation between married couples and heterosexual cohabitants, former spouses or cohabitants, and immediate and extended family members. It protects 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 law also empowers the court to require that the abuser 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 provided intervention and counseling to batterers. Eight integrated family service centers and family and child protective services units offered services to domestic violence victims and batterers. The government continued its public information campaign to strengthen families and combat violence, and increased public education on the prevention of domestic violence.

Sexual Harassment.—The law prohibits sexual harassment or discrimination on the basis of sex, marital status, and pregnancy. The law applies to both males and females. Through July the EOC received 197 new complaints and handled 316 complaints (including complaints carried forward from the previous year).

Reproductive Rights.—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, coercion, and violence. Access to information on contraception, skilled attendance at delivery, and prenatal and postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Discrimination.—Women enjoy the same legal status and rights as men. As of March 31, women filled 35 percent of the civil service at all ranks. Women made up 64 percent of the Legco Secretariat workforce and 54 percent of its senior “directorates” ranks, including the Secretary General and Assistant Secretary General. Twenty-three percent of judges and judicial officers were women.

According to gender rights activists and public policy analysts, 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. Despite the fact that the law makes it illegal to discriminate against people of both sexes, a study by HKU found that women were paid 24 percent less, even after adjusting for age, education, industry, and occupation, than men in Hong Kong.

According to the Women’s Foundation, women held 9 percent of board positions listed on the Hang Seng Index. The foundation also found that 14 percent of senior academic positions were held by women, 17 percent of the SAR’s senior judges were women, and there were no female judges on the Court of Final Appeal, the SAR’s highest court.

The law establishes the EOC to work towards the elimination of discrimination and harassment as well as to promote equal opportunity between men and women. There was a Women’s Commission that served as an advisory body for policy-making, and a number of NGOs were active in raising problems of societal attitudes and discrimination against women.

Children.—Birth Registration.—All Chinese nationals born in Hong Kong or abroad to parents, of whom at least one is a PRC-national Hong Kong permanent resident, acquired both PRC citizenship and Hong Kong permanent residence, the latter allowing 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.

Child Abuse.—Through June, 673 cases of crimes against children were reported to police: 254 involved physical abuse (referring to victims younger than 14 years of age), and 419 involved sexual abuse (referring to victims younger than 17 years of age). The law mandates protection for victims of child abuse such as battery, assault, neglect, abandonment, and sexual exploitation, and the government enforced the law. The law allows for the prosecution of certain sexual offenses, including against minors, committed outside the territory of the SAR.

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.

Sexual Exploitation of Children.—The media reported on a growing number of boys engaged in “compensated dating,” which was already a concern 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. 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.

The legal age of consent for heterosexuals is 16. Under the law, 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 law makes it an 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 creation, publication, or advertisement of child pornography is eight years’ imprisonment, while possession carries a penalty of five years’ imprisonment.

International Child Abductions.—The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community numbered approximately 5,000-6,000, and reported a few acts of anti-Semitism during the year. According to the media, during a Legco policy debate in October, financial services sector representative and Legco lawmaker Chim Pui-chung accused “Jewish funds in the United States” of committing “a major financial robbery every five years and a minor robbery every three years.” He reportedly said these funds “bullied” Hong Kong and hurt Chinese funds and bankers. There were concerns within the Jewish community about some religious sermons in the otherwise peaceful Muslim community. Some anti-Semitic graffiti, harassment of Jewish students, and hateful Web sites set up by foreign-born Hong Kong residents were reported to the police.

Trafficking in Persons.—See the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other state services, and the government effectively enforced these provisions. The government generally implemented laws and programs to ensure that persons with disabilities have access to buildings, information, and communications, although some restrictions were reported.

The Social Welfare Department, directly or in coordination with NGOs and employers, provided training and vocational rehabilitation services to assist persons with disabilities. As of September a total of 16,634 persons were participating in these various programs.

As of March 31, the government employed 3,317 civil servants with disabilities, out of a total workforce of 156,886. Persons with disabilities filled 2 percent of Legco Secretariat positions, 1 percent of judicial positions, and 2 percent of nonjudicial positions in the judiciary.

Instances of discrimination against persons with disabilities persisted in employment, education, and the provision of some public services. The law calls for improved building access and sanctions against those who discriminate. As of July 31, the EOC received 346 complaints under the ordinance and handled 520 cases (including cases carried over from the previous year).

Despite inspections and the occasional closure of noncompliant businesses, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities. Following Chief Executive Tsang’s October 12 policy address, a number of persons with disabilities protested that the government discriminated against them. They claimed persons with severe disabilities who lived with their families could only qualify for social security by moving out of their families’ homes and living alone or if every member of their families quit their jobs.

National/Racial/Ethnic Minorities.—Although 95 percent ethnic Chinese, the SAR is a multiethnic society with persons from a number of ethnic groups recog-

nized 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 law. 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. 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. As of July 31, the EOC received 49 complaints and handled 63 cases.

The Constitutional and Mainland Affairs Bureau sponsored a cross-cultural learning program for non-Chinese speaking youth through grants to NGOs.

The government had a policy to integrate non-Chinese students into Hong Kong's schools. The government also provided a special grant for designated schools with a critical mass of non-Chinese students to develop their own programs, share best practices with other schools, develop supplementary curriculum materials, and set up the Chinese-language support centers to provide after-school programs. However, activists expressed concern that there was no formal government-provided course to prepare students for the General Certificate for Secondary Education exam in Chinese, a passing grade from which is required for most civil service employment. Activists also noted that government programs encouraging predominantly Chinese schools to welcome minority students backfired, turning whole schools into "segregated institutions." These schools did not teach Chinese to the non-ethnically Chinese students. Students who did not learn Chinese had significant difficulty entering the labor market, leading to a cycle of problems including unemployment and poverty, according to reports from the government and nongovernmental organizations.

The EOC established a working group on Education for Ethnic Minorities in July 2010, which presented a set of recommendations to the Education Bureau in March and July. According to activists and the EOC, the Education Bureau has not responded to the recommendations.

Minority group leaders and activists complained that government requirements that all job applicants speak Chinese kept nonnative Chinese speakers out of civil service and law enforcement positions. Despite the fact that both English and Chinese were official languages, reports indicated that little more than one third of government departments regularly issued their press releases in both.

Following Chief Executive Tsang's calls for support to ethnic minorities in the October policy address, the government's Community Care Fund endorsed a new program to support minorities and new arrivals with Chinese language training.

Activists and the government disputed whether new immigrants from the mainland should be considered as a population of concern under antidiscrimination legislation. While concerns were raised that new immigrants do not qualify to receive social welfare benefits until they have resided in the SAR for seven years, the courts 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 were no laws criminalizing consensual same-sex sexual activity. 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. The Law Reform Commission continued a review of sexual offenses in common and statute law. In the interim, enforcement of the law was in accordance with the 2005 decision. There were no specific laws governing age of consent for female-female relations.

On June 17, the government sponsored a seminar on "homosexual conversion therapy." According to gay rights groups, the seminar's contents explained homosexuality as deriving from "unhealthy parent-children relationships," "experience of sexual abuse or same-sex sexual behavior," or "serious emotional harm caused by the opposite sex."

During an International Day Against Homophobia and Transphobia rally on May 15, police stopped a dance that was part of the program, alleging some participants had violated public entertainment laws. Activists from the gay rights community claimed this was the first time in over a dozen years police had stopped a rally of this sort.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS or against other groups not covered above.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law protects the right of workers to form and join independent unions without previous authorization or excessive requirements, and conduct legal strikes. However, the law does not guarantee the right to collective bargaining. Trade unions must register with the government's Registry of Trade Unions and must have a minimum membership of seven persons for registration. Unions could affiliate, and workers were not prevented from unionizing.

The law prohibits the use of union funds for political purposes, required the CE's approval before unions can contribute funds to any trade union outside of the SAR, and restricted the appointment of persons from outside the enterprise or sector to union executive committees.

The law provides for the right to strike, although there are some restrictions on this right for civil servants. In addition, while the law protected workers against dismissal for trade union activities, there is no legal entitlement to reinstatement in these cases, and the law does not cover other forms of antiunion discrimination.

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. During a labor dispute the Unit facilitated conciliation so that the labor disputes could be settled with a minimum friction and disruption.

Worker organizations were independent of the government and political parties. However, only progovernment unions were able to participate substantively in the tripartite process, while the democratic Hong Kong Confederation of Trade Unions was consistently excluded. Antiunion discrimination did not occur in practice.

Although there was no legislative prohibition against 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. Several strikes took place throughout the year.

Local trade unions and NGOs escalated efforts to advocate for legislation that would guarantee collective bargaining rights, but as of the end of the year there was no progress on a bill addressing this concern.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, and the government effectively enforced such laws. There were concerns that some migrant workers faced high levels of indebtedness assumed as part of the terms of employment, creating a risk they could fall victim to debt bondage. Hong Kong prohibits the collection of employment-related debt, but prosecution was hampered by looser restrictions in some countries that send workers. Some Hong Kong-licensed employment agencies were suspected of colluding with Indonesian agencies to profit from a debt scheme, and some Hong Kong agencies illegally confiscated the passports, employment contracts, and ATM cards of domestic workers and withheld them until their debt had been repaid. The government conveyed its concerns about these cases to a number of foreign missions.

There also were reports that some employers illegally forbade domestic workers to leave the residence of work for non-work-related reasons, effectively preventing them from reporting exploitation to authorities. SAR authorities actively pursued reports of such violations.

According to a Catholic Commission for Labor Affairs survey of Indonesian foreign domestic workers in October, 70 percent of respondents claimed they were underpaid, 67 percent had personal items such identity cards and passports confiscated, and 48 percent did additional work outside of their contracts.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—There were laws to protect children from exploitation in the workplace. Regulations prohibit employment of children under the age of 15 in any industrial establishment. Other 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., and 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 effectively enforced these laws and regularly inspected workplaces to enforce compliance with the regulations. In the first nine months of

the year, the Labor Department conducted 96,788 inspections. Two employers were convicted of offenses and fined.

d. Acceptable Conditions of Work.—The SAR's first statutory minimum hourly wage, HK\$28 (US\$3.60), came into force in May. Approximately 760,000 Hong Kong residents live under the locally defined poverty line (annual income of about HK\$47,213 [US\$6,053] for an individual, HK\$75,598 [US\$9,692] for a two-person unit, HK\$100,168 [US\$12,842] for a three-person family, etc.).

In practice wages were often set by employers and employer associations. Additionally, unionists alleged that workers 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 minimum wage for foreign domestic workers was HK\$3,740 per month (US\$482). The government's Standard Employment Contract 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 could 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 pursued complaints through legal channels may be granted leave to remain; however, they were not able to work, leaving them either to live from savings or to depend on charitable assistance.

During the first six months of the year, three employers were convicted for wage offenses relating to the employment of foreign domestic workers. During the same period 75 foreign domestic workers filed criminal suits, 37 of which were against employers for maltreatment including rape (one), indecent assault (seven), and injury and serious assault (29).

There was no law concerning working hours, paid weekly rest, rest breaks, or compulsory overtime for most employees. For certain groups and occupations, such as security guards and certain categories of drivers, there were regulations and guidelines on working hours and rest breaks. According to the General Household Survey conducted by the Census and Statistics Department during the year, about 17.1 percent of Hong Kong employees worked 60 hours or more per week. The law stipulates that employees are entitled to 12 days of statutory holidays and employers must not make payment in lieu of granting holidays.

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 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 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."

Laws exist to ensure health and safety of workers in the workplace, and these laws were effectively enforced. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

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. In the first three quarters, the Labor Department's 200 inspectors conducted 88,514 workplace inspections. There were 778 convicted summonses, resulting in fines totaling HK\$6.2 million (US\$800,000). 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, the department served 607 improvement notices and 50 suspension notices.

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 19,163 occupational injuries, including 6,436 classified as industrial accidents. In the same period there were 13 fatal industrial accidents. Employers are required to report any injuries sustained by their employees

in work-related accidents. Labor activists raised the issue of the increase in deadly industrial accidents, mainly due to construction and infrastructure projects in Hong Kong.

There are no laws restricting work during typhoon or rainstorm warning signals except for a Labor Department recommendation that employers have only essential staff come to work during certain categories of typhoon or rainstorm warnings. Both pro-Beijing and pan-democratic unions called for a review of protections for workers during inclement weather, including legal protections.

Macau

EXECUTIVE SUMMARY

Macau 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). Chief Executive Fernando Chui Sai-on, who took office in December 2009, headed the government after being elected in July 2009 by a 300-member commission. Security forces reported to civilian authorities.

Three prominent human rights abuses reported during the year included limits on citizens' ability to change their government, concerns over press freedom, and concerns over workers' rights.

Although trafficking in persons remained a problem, there was a lack of prosecutors to pursue trafficking cases. Moreover, national security legislation, passed in 2009 in accordance with Article 23 of the Basic Law, remained a source of concern, but by year's end no cases had been brought under the law.

The government took steps to prosecute and punish officials who committed abuses. There was no impunity for government officials.

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 year there was one case of death in police custody. The police indicated the individual had committed suicide, and at year's end the procuratorate was investigating the case. In the first half of the year, there were four cases of police mistreatment, all involving off-duty officers. At year's end the procuratorate was investigating the cases. During the first half of the year, the Commission Against Corruption received two complaints of police mistreatment, but both cases were deferred due to insufficient information.

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. According to the government, no independent human rights observers requested or made any visit to the SAR's only jail, the Macau Prison. Judges and prosecutors visited the Macau Prison once a month and the Youth Correctional Institution (for offenders between the ages of 12 and 16) once every three months.

The SAR has a maximum prison capacity of 1,341 persons, and the occupancy rate was approximately 70 percent during the year. The age of criminal responsibility is 16. The total prison population for persons of this age and above for the first half of the year was 943. Of the total number of inmates, there were 801 male prisoners and 142 female prisoners. Offenders between the ages of 12 and 16 were subject to an "education regime," which could include incarceration depending on the offense. During the first half of the year, 44 minors were detained in the Youth Correctional Institution.

The SAR reported that prisoners had access to potable water. In addition ombudsmen are able to serve on behalf of prisoners and detainees. The government took steps to improve recordkeeping and the use of alternative sentencing for nonviolent offenders.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. The law allows prisoners and detainees to submit complaints to judicial authorities without censorship and request investigations, and judges and prosecutors made monthly visits to prisons to hear prisoner complaints.

Macau Prison was designed to hold 1,297 inmates; with the addition of 101 new prisoners during the year, the government recognized that the facility was reaching its capacity and expanded the female section with a further 100 beds, in addition to constructing a new prison.

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 official 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 government. Detainees 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. According to the government, defendants should be tried within the “shortest period of time.” The prosecutor’s inquiry stage must end within six months for detained defendants and within eight months for cases with no detained defendants; the pretrial inquiry stage must be concluded within two months whenever there are detained defendants, or four months if there are no detained defendants. 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. Judges often refused bail in cases where sentences could exceed three years.

Law enforcement received two complaints for alleged offenses committed by police officers against persons in custody in the first half of the year. Disciplinary proceedings were instituted for the officers in both cases with one case closed and one pending criminal proceedings. There was one complaint in the first half of the year of assault by a police officer against a person in custody.

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. Before making their final judgment, which is not subject to appeal, the courts must seek an interpretation of the 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.”

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 when the court *ex officio* or upon request rules otherwise, to “safeguard the dignity of persons, public morality, or to ensure the normal functioning of the court.” Defendants have the right to be present at their trials, confront witnesses, and 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. Defendants also have the right to appeal. 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. The Office for Personal Data Protection acknowledged a continual increase in complaints and inquiries on data protection.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The law provides for freedom of speech and press, and the government generally respected these rights in practice.

The Law on Safeguarding National Security (Article 23 of the Basic Law), which entered into force in March 2009, 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 specify the use of violence, and the government stated that the law would not infringe on peaceful political activism or media freedom.

Freedom of Press.—The independent media were active and expressed a wide range of views, and international media operated freely. Major newspapers were heavily subsidized by the government and tended to closely follow the PRC government’s policy on sensitive political issues, such as Taiwan; however, they generally reported freely on the SAR government, including reports critical of the government.

Violence and Harassment.—Some journalists who wrote about issues disparaging of the government complained about undue disciplinary actions such as temporary suspensions, delayed promotions, and editors assigning them to cover less important stories. In June one news editor received several threatening letters warning him not to publicize concerns over the government-owned broadcaster’s in-house management and leadership issues.

Censorship or Content Restrictions.—Activists raised concerns over some media self-censorship particularly due to the fact that news outlets and journalists worried some critical coverage might limit government funding.

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

The Strike against Computer Crime Law 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 police the authority to take these actions without a court order under some circumstances.

The media reported that several Web sites, among them Facebook, YouTube, and Skype, which are blocked on the PRC Mainland, were blocked on government-provided free WiFi service. The government denied any intention to restrict access, stating that the main problem was available bandwidth and pointing out that the mobile version of Facebook was available. Twitter, which is banned on the Mainland, was available.

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. In cases in which authorities tried to restrict access to public venues for demonstrations or other public events, the courts generally ruled on the side of the applicants. Police may redirect march routes, and organizers had the right to challenge such decisions in court.

On May 1, approximately 2,300 workers demonstrated without major incident, although police stopped one reporter from taking photos. Law enforcement claimed this was to help the journalist from being hit by a moving van. A court found the allegations of the journalist to be unsubstantiated due to lack of evidence. Activists claimed the protests were calm during the year because the government had given out cash payments to participants of the controversial May 2010 march.

Freedom of Association.—The Basic Law and the civil code provide for freedom of association. No authorization is required to form an association, and the only restriction is that the organization not promote violence, crime, or disruption of public order. During the first half of the year, the Identification Bureau registered 383 new associations, but it did not issue “proof of adoptable name of association” in 33 cases because intended group names were the same or similar to registered organizations.

c. Freedom of Religion.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the SAR, 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, receive assistance with language interpretation, and consult a lawyer. The Immigration Department cooperated with the Office of the U.N. 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 Internal Security Law grants police the authority to prevent entry and deport nonresidents who are regarded under the law as unwelcome, deemed to constitute a threat to internal security and stability, or are suspected of transnational crimes. Legislators and activists alleged that police used this law to prevent Hong Kong democracy and rights activists from entering the SAR, including when the purpose of travel was merely tourism or personal business. Police declined to discuss the circumstances of individual cases.

According to the International Trade Union Confederation's annual survey of violations of trade union rights, the government denies entry into Macau of labor leaders or democratic activists from Hong Kong. Macau continued to ban Hong Kong Legislative Council member Lee Cheuk-yan, a prominent labor leader, from entering the SAR. The government claimed the commander of the Public Security Police "based on the public interest may refuse entry of any nonresident whose status is found to be inappropriate."

Protection of Refugees.—Access to Asylum.—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. Persons granted status enjoyed the same rights as other SAR residents, while persons with pending applications were eligible to receive government support, including basic needs such as housing, medical care, and education for children.

According to the government, during the year there were four pending cases for refugee status, but their determination could take several years to process. One Afghan asylum seeker was in his ninth year waiting. Paul Pun Chi, secretary general of the Caritas social welfare organization, said the process was "long and drawn out" and the procedures and isolation pushed applicants into a "hopeless situation."

In December the Court of Second Instance overturned Chief Executive Chui's June 2010 decision to uphold a Macau Refugee Commission ruling denying refugee status to the family of a Kurdish human rights activist from Syria. The court's unanimous verdict also harshly criticized the Macau Refugees Commission for claiming there was no evidence of Syrian discrimination directed at Kurds and for ignoring a UNHCR report that sided with the asylum seekers.

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

The law limits citizens' ability to change their government. Only a small fraction of citizens play a role in the selection of the Chief Executive (CE), who is chosen by a 300-member Election Committee consisting 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.

Elections and Political Participation.—Recent Elections.—Despite calls for an increase in the number of directly elected Legislative Assembly seats, the government quickly dispelled an October news report that it was considering plans to expand the number in 2013. Of the 29 seats in the Legislative Assembly, only 12 are directly elected. The last election, held in 2009, was generally free and fair.

There are limits on the types of bills 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 appoint members of the SAR Executive Council from among the principal officials of the executive authorities, members of the legislature, and public figures.

Political Parties.—The SAR has no laws on political parties; politically active groups therefore registered as societies or companies. These groups were active in promoting their political agendas, and those critical of the government did not face restrictions. Such groups participated in protests over government policies or proposed legislation without restriction.

Participation of Women and Minorities.—There were four women in the 29-member 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. Fifteen of the SAR's 46 judges were women. Women made up more than 41 percent of the senior-level executive, 48 percent of the judiciary, and almost all of the senior legislative staff (i.e., not including legislators). There were two members of ethnic minorities in the Legislative Assembly. One Executive Council member was from an ethnic minority, as was the police commissioner general.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and there were few reported instances of officials engaging in corruption.

The Commission against Corruption (CAC) investigated the public and private sectors and had the power to arrest and detain suspects. The Ombudsman Bureau within the CAC reviewed complaints of maladministration or abuse by the CAC. There was also an independent committee outside the CAC, the Monitoring Committee on Discipline of CAC Personnel, which accepted and reviewed complaints about CAC personnel.

By law the CE, his cabinet, judges, members of the Legislative Assembly and Executive Council, and executive agency directors are required to disclose their financial interests upon appointment, promotion, and retirement, and at five-year intervals while in the same position.

The law does not provide for public access to government information. However, the executive branch published online, in both Portuguese and Chinese, extensive 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.

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

The law stipulates that residents shall be free from discrimination based on race, gender, disability, language, or social status, and many laws carry specific prohibitions against discrimination; the government effectively enforced the law.

Women.—Rape and Domestic Violence.—The law criminalizes rape, including spousal rape, and the government effectively enforced the law. In the first half of the year, there were nine complaints of rape lodged with the police. The police and courts acted promptly on rape cases, arresting four individuals accused of rape.

Although there is not a specific law on domestic violence, laws that criminalize the relevant behaviors, including “ill-treatment of minors or spouses,” were used by the government effectively to prosecute domestic violence. However, various nongovernmental organizations (NGOs) and government officials considered domestic violence against women to be a growing problem. Domestic violence falls under several crimes in the criminal code, including the crime of mistreatment of minors, persons with incapacity, or spouses. These crimes are punishable with imprisonment ranging from one to five years. If mistreatment leads to serious physical injuries or death of the victim, the penalties may be increased to imprisonment of two to eight years for cases resulting in physical injuries and five to 15 years for cases resulting in death. During the first half of the year, 197 complaints of crimes related to domestic violence were reported to the police. Of the 197 cases, 121 involved spousal abuse. In February the Women's General Association of Macau released a survey noting that 80 percent of the women in its shelter had suffered physical, psychological, or sexual abuse. The Legislative Assembly began debate in September on a government-drafted antidomestic violence bill setting tough penalties for abusers and creating a victim protection scheme.

The government made referrals for victims to receive medical treatment, and medical social workers counseled victims and informed them of social welfare services. During the first half of the year, the Social Welfare Bureau (SWB) handled 36 domestic violence cases involving 44 victims. The government funded NGOs to provide victim support services, including housing, until their complaints were resolved. The government also supported two 24-hour hotlines, one for counseling and the other for reporting domestic violence cases.

NGOs and religious groups sponsored programs for victims of domestic violence, and the government supported and helped 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 range of counseling services was available to persons who requested them at social centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence.

Sexual Harassment.—There is no law specifically addressing sexual harassment, unless it involves the use of a position of authority to coerce the performance of physical acts. Harassment in general is prohibited under laws governing equal opportunity, employment and labor rights, and labor relations. Between January and June, one complaint of gender discrimination was filed with the Labor Affairs Bureau (LAB) but was later withdrawn.

Reproductive Rights.—Couples and individuals have the right to decide the number, spacing, and timing of their children and have the information and means to do so free from discrimination or coercion. Access to contraception, prenatal care, 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, including HIV.

Discrimination.—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 cases to the LAB 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. No complaints of discrimination were lodged with the police, LAB, or CAC.

Children.—The government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citizens. The law defines abuse, neglect, violence, and maltreatment of children as criminal offenses. In the first half of the year, three physical abuse cases were reported to the police, and the SWB received nine cases of child abuse, which involved nine children. The Health Bureau handled four child abuse cases. The SWB arranged residential placements and other support services for these abused children.

Birth Registration.—In accordance with the Basic Law, children of Chinese national residents of Macau born in or outside the SAR and children born to non-Chinese national permanent residents inside the SAR are regarded as permanent residents. There is no differentiation between these categories in terms of access to registration of birth.

Sexual Exploitation of 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 as the age for participation in the legal sex trade. Child pornography is prohibited by law. During the first half of the year, there were two complaints of sexual abuse of children and five complaints of sexual acts with minors lodged with the police. Law enforcement arrested one individual in the case of the sexual abuse of children and three individuals for sexual acts with minors.

International Child Abductions.—The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish population was extremely small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, 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,

information, and communications for persons with disabilities. The government enforced the law effectively. The Social Welfare Institute is primarily responsible for coordinating and funding public assistance programs to persons with disabilities. There is a governmental commission to rehabilitate persons with disabilities, with part of the commission's scope of work addressing employment.

National/Racial/Ethnic Minorities.—Although the government made efforts to address the complaints of individuals of Portuguese descent and the Macanese minority, members of these two groups continued to claim they were not treated equally by the Chinese majority. While they participated in political and cultural circles, some activists claimed businesses refused to hire employees who are not ethnically Chinese.

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

There are no laws criminalizing consensual same-sex sexual activity and no prohibition against lesbian, gay, bisexual, or transgender persons forming organizations or associations. 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. Freedom of Association and the Right to Collective Bargaining.—The law, including Article 27 of the Basic Law, provides for the right of workers to form and join unions or "labor associations" of their choice without previous authorization or excessive requirements. However, to register as an official union, the government requires the organization to provide all of its members' names and personal information. There is no law specifically defining the status and function of labor unions, nor are employers compelled to negotiate with them. While there are no legal restrictions preventing companies from refusing to hire union workers, union membership is not a legitimate basis for dismissal under the Law on Labor Relations.

Workers in certain professions, such as the security forces, are forbidden to form unions, take part in protests, or strike. Such groups had organizations that provided welfare and other services to members and that could speak to the government on behalf of their members. Migrant workers do not have the right to recourse for unlawful dismissal, and neither migrant workers nor public servants have the right to bargain collectively.

Under Article 27 of the Basic Law, workers have the right to strike, but there is no specific protection in the law from retribution if workers exercised 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.

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. Independent lawmakers continued to push for the government to introduce a trade union and collective bargaining law.

The law prohibits antiunion discrimination and employer interference in union functions.

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 Commissioner against Corruption and Administrative Illegality, which also functions as ombudsman.

There were no reports that the government failed to enforce strike provisions during the year. Although strikes, rallies, and demonstrations were not permitted in the vicinity of the CE's office, the Legislative Assembly, and other key government buildings, in practice some protests occurred near government headquarters.

Some union leaders complained that while laws may exist that protect worker rights, the government did not respond to official complaints (for which the LAB charges the unions a fee to process) on working conditions or abuse, nor did the government punish employers that withheld pay when employees made such complaints. To register as an official union, the government requires the organization to provide all of its members' names and personal information. Union leaders also claimed that the government maintained a "blacklist" of labor "agitators."

In October several lawmakers urged the government to protect nonresident workers' rights, claiming it was difficult to punish employers due to problems in the law. According to one legislator, the LAB had received a total of 135 court rulings regarding illegal work involving 258 illegal workers. A total of 114 employers were convicted, but 89 of these had their jail sentence suspended. The LAB claimed it had hired and was training 43 new labor inspectors to deal with these issues.

During the year the Union for Democracy Development Macau expressed concern that the law contains no explicit provisions that bar discrimination against unions. The United Free Union of Gaming and Construction Workers of Macau complained of police monitoring of its activities.

Even without formal collective bargaining rights, companies often negotiated with unions, although the government regularly acted as an intermediary. Pro-PRC unions traditionally have not attempted to engage in collective bargaining. Migrant workers do not have the right to bargain collectively.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

Also see the Department of State's Trafficking in Persons Report at <http://www.state.gov/j/tip>.

c. 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. Additionally, the law governing the number of working hours (eight hours a day, 40 hours a week) was equally applicable to adults and minors, but minors cannot work overtime hours. Minors are forbidden from certain types of work, including but not limited to domestic work, any employment between 9 p.m. and 7 a.m., and at places where admission of minors is forbidden. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted.

d. Acceptable Conditions of Work.—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements. There is no mandatory minimum wage, except for government-outsourced security guards and cleaners and foreign domestic workers. The law also sets maximum hours, rest days, statutory holidays, and premium pay rules. Article 70 of the 2008 Labor Relations Law allows employers to dismiss staff "without just cause" provided that economic compensation, indexed to the employee's length of service, is paid.

In October Secretary for Economy and Finance Francis Tam announced that the government had submitted a request to the Central Government to allow maids from Mainland China to work in Macau, with the possibility of establishing a minimum wage for this group. Tam explained the minimum wage for this group might be higher than the \$320 minimum monthly salary for foreign domestic workers, who were mainly from the Philippines, Vietnam, and Indonesia.

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 to circumvent obligations to pay for workers' benefits, such as pensions, sick leave, and paid holidays. The short-term nature of the contracts also made it easier to dismiss workers by means of nonrenewal.

Labor legislation provides for a 48-hour workweek (many businesses operated on a 40-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. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees' right to continued employment if they refused to work under dangerous conditions.

According to the government's Human Resources Office, there were approximately 90,000 imported workers at the end of September, mostly from Mainland China, Hong Kong, Indonesia, the Philippines, and Vietnam. These workers, commonly engaged in the restaurant and hotel industry but also serving as foreign domestic workers, gaming and entertainment employees, and engaged in the construction and retail sectors, often complained of discrimination in the workplace. The Macau Lawyers Association claimed these foreign workers often faced unequal pay in comparison with their Macau counterparts. In October a group of 90 foreign workers won

a court battle against their former employer for nonpayment of overtime and holiday bonus as well as the elimination of food and other bonuses.

Nonresident worker associations and the International Labor Organization expressed concern about the Law on the Employment of Nonresident Workers, which requires foreign workers who left their jobs for any cause not held to be just to depart the SAR for six months. Labor officials stated that the law, meant to deter “job hopping” by migrant workers, would be implemented only if the worker could not demonstrate just cause for wishing to terminate the contract himself (such as abuse, nonpayment of wages, and contract violation) or if the employer dismissed the worker after three days’ unauthorized absence (in accordance with the labor law). However, the lack of coordination between the LAB, which handled complaints, and the Immigration Department, which granted or withdrew permission for migrant workers to remain in the SAR, meant that workers filing complaints could be dismissed from their positions, lose their immigration status, and be forced to depart prior to the resolution of their complaints. While the government noted that workers under such circumstances could apply for special extensions to remain, a senior SAR labor official was quoted in the media as stating that dissatisfied workers “can always go back to their homeland to find another job.”

FIJI

EXECUTIVE SUMMARY

Fiji is a republic under a military-led government since armed forces commander Commodore Josaia Voreqe (Frank) Bainimarama overthrew the elected government in a bloodless coup in 2006. In 2009 the interim government headed by Prime Minister Bainimarama abrogated the constitution, imposed a state of emergency, and continued its rule by decree, a situation that remained at year’s end. During the year the country had no constitution or parliament. Security forces did not report to civilian authorities.

The leading human rights problems during the year included the government’s continued denial of citizens’ right to change their government peacefully; the government’s targeting of opponents and human rights and labor activists for harassment, arbitrary arrest, and abuse; and continued enforcement of the wide-ranging Public Emergency Regulations (PER) issued in 2009.

The PER imposed a state of emergency that remained in force at year’s end, giving the military and police power to arrest and detain persons without a warrant and limiting freedoms of speech and press, assembly, association, and movement. The PER also gave military and police authority to use whatever force they deem necessary to enforce PER provisions, resulting in impunity for abuses. Freedom of the press was further restricted by a 2010 media decree. By year’s end the government had begun taking steps to ease enforcement of the PER and the media decree. The Essential National Industries Decree implemented in September severely restricts trade union and collective bargaining rights for workers in designated industries and corporations deemed essential to the national economy.

Other human rights problems included poor prison conditions, interference with judicial independence, prosecution of regime critics and human rights activists, restriction of freedom of religion for members of the Methodist Church, attacks against religious facilities, government corruption, deep ethnic divisions, violence and discrimination against women, and sexual exploitation of children.

The government did not take steps to prosecute and punish police and military officials who assaulted persons in custody. The military continued to act with impunity in detaining, and in many cases abusing, persons deemed critics of the government, including journalists, politicians, trade unionists, and Methodist Church officials, ostensibly claiming authority under the PER to do so.

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.—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.

During the year military officers threatened and beat a number of politicians and trade unionists at the Queen Elizabeth Barracks outside Suva, the capital. The gov-

ernment took no action to investigate credible reports of such abuses or punish the alleged abusers. For example, on February 21, the military detained at the barracks politician Sam Speight, a cabinet minister in the deposed government of Laisenia Qarase. Soldiers repeatedly beat him until he lost consciousness. He was released on February 24. The military continually denied knowledge of Speight's whereabouts to his wife and other family members during his detention. Others assaulted in military custody included trade unionists Felix Anthony and Maika Namudu and politicians Gaffar Ahmad, Poseci Bune, and Benjamin Padarath.

In December the University of New South Wales in Australia released a report on the commercial sex industry in Fiji that alleged military abuse of prostitutes. According to the report, a number of prostitutes, particularly in the Lautoka area, charged that soldiers took them into custody, brought them to military barracks, and forced them to partially strip and perform humiliating physical activities such as squatting in mud. The government denied the allegations.

Throughout the year various persons detained by police accused police of beating them to obtain confessions. For example, in September five persons arrested on robbery charges earlier that month told the High Court that they were assaulted by police officers while in custody and made confessions obtained unlawfully by this assault.

Prison and Detention Center Conditions.—Prison conditions were harsh and did not meet international standards. The national prison system was seriously underfunded and overcrowded, with deteriorating infrastructure and complaints about delivery of essential services. Prisoners had access to potable water, but the system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. However, there were no reports of inmate deaths during the year due to poor prison conditions.

A June 14 report on Radio Fiji news stated that the number of inmates in the country's prisons exceeded capacity. According to the report, at that time 12 institutions held 1,223 inmates, including both convicted prisoners and pretrial detainees, 156 more than capacity. The number of pretrial detainees continued to rise during the year, in part because the courts generally refused to grant bail (see section 1.d.). According to the prison commissioner, there was capacity for 95 pretrial detainees in the system, but at year's end there were 374 pretrial detainees in detention. During the year authorities continued to hold some pretrial detainees in Naboro and Nasinu prisons, due to lack of adequate capacity at the Korovou pretrial detention center.

In general pretrial detainees and convicted prisoners were separated at shared facilities, although in some cases they were held together.

The Corrections Department started construction of a new remand center for Suva within the Korovou Prison complex. An addition to the Nasinu Prison was completed during the year to hold pretrial detainees when their number exceeded the capacity at the existing Korovou Prison remand center.

Prisoners and detainees were permitted access to visitors, including family members; telephone calls; and religious observance. The law allows prisoners to submit complaints to judicial authorities, but the government reviews all prisoner letters and has the authority to seize them. Authorities did not investigate or document in a publicly accessible manner credible allegations of inhumane conditions.

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 permitted without third parties present.

Although the Ombudsman Act authorizes the ombudsman to investigate maladministration in government departments, decreases in the staffing and budget levels for the Ombudsman's Office since the 2009 abrogation of the constitution greatly reduced its capacity to carry out its statutory duties, which in previous years included investigating allegations of prisoner abuse or neglect, overcrowding, and recordkeeping problems. There were no alternatives to incarceration for nonviolent offenders; however, the Corrections Department conducted a trial program of outside job placements for inmates with less than a year to serve to ease their return to society. The department also continued use of compulsory supervision orders, under which inmates with less than a year to serve can be released into the community to serve the remainder of their sentence performing community service at a local church or other community center.

Various programs initiated in 2010 to build skills and generate income for prison inmates were augmented or continued during the year. The Corrections Department accorded a high priority to prisoner rehabilitation and community reintegration, requiring considerable prison staff retraining to advance these goals. According to the prison commissioner, recidivism declined during the previous two-year period.

d. Arbitrary Arrest or Detention.—The abrogated constitution prohibits arbitrary arrest and detention, but the government did not always respect this prohibition in practice. The PER authorize security forces to detain a person for up to seven days before bringing charges. Various persons accused of breaching the PER and the Public Order Act during the year were held up to six days without charge and in some cases were not charged at all.

Role of the Police and Security Apparatus.—The Ministry of Defense, headed by the minister for defense, oversees the Fiji Police Force, which is responsible for law enforcement and the maintenance of internal security. Historically responsible for external security, the Republic of Fiji Military Force (RFMF), also under the minister for defense, has maintained since 2005 that 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 police Ethical Standards Unit is responsible for investigating complaints of police misconduct. The Fiji Independent Commission against Corruption (FICAC) also 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 the use of force deemed necessary to enforce PER provisions. The government did not investigate credible charges of security force abuse of government opponents or punish the alleged perpetrators (see section 1.c.).

In addition, since the 2006 coup the government has issued three decrees granting immunity to the military and police in certain circumstances. The latest decree, the 2010 Limitation of Legal Liability Decree, extends immunity to the military and the national police against criminal charges or civil liability suits relating to their roles in the 2000 and 2006 coups and the 2009 abrogation of the constitution. The effect of the decrees was to prevent legal challenges to the 2006 coup, the abrogation of the constitution, and the PER, and to enable the government to avoid paying court-ordered compensation to victims of security force violence and their family members.

Arrest Procedures and Treatment While in Detention.—By law police officers may arrest persons without a warrant for violations of the 2010 Crimes Decree, which replaced the preexisting 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 Bail Act gives accused persons the right to bail, unless it is not in the interests of justice that bail be granted. Under the Bail Act, both police and the courts can grant bail. There is a presumption in favor of granting bail, although this may be rebutted by the prosecution if it objects to bail, and in cases where the accused has been convicted and is appealing or has previously breached bail conditions. Despite these provisions, during the year a magistrate announced that the government had issued a directive to the magistrates’ courts advising against granting bail for indictable offenses and stating that bail applications for such offenses would be handled only by the High Court. The directive requires accused persons to demonstrate why they should be granted bail, in effect negating the Bail Act’s presumption in favor of granting bail. Police retained authority to grant bail for nonindictable offenses but during the year refused to grant it to persons charged with drunk driving. Beginning in 2010 the courts made it more difficult for accused persons to apply for bail, requiring this to be by motion and affidavit that required the services of a lawyer.

Detainees generally were allowed prompt access to counsel and family members, but some journalists and others detained by the military 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. However, there were delays in the provision of legal aid to some accused persons who requested assistance, due to lack of adequate legal aid staff and resources.

Arbitrary Arrest.—There were cases of arbitrary detention. For example, following the flight to Tonga of the former Third Fiji Infantry Regiment commander, Lieutenant Colonel Tevita Mara, the military and police arbitrarily detained and questioned his wife, sisters, and other family members. They were released without charge. Other regime critics also were detained by the military under the PER and the Public Order Act and then released without charge.

Pretrial Detention.—In 2010 the number of pretrial detainees approximately doubled compared with 2009 because of a pattern of refusal of bail by the courts. This pattern continued during the year. In addition, the courts had a significant backlog of cases, worsened by the government's 2009 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.

There were allegations of politically motivated prosecutions of government critics. A woman charged with drug offenses accused the attorney general of encouraging her to make rape allegations against her lawyer, the son of former prime minister Mahendra Chaudhry.

The 2009 Administration of Justice Decree 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, 2009; and all government decrees since December 2006.

The chief registrar continued to prosecute lawyers for disciplinary breaches. Civil society organizations criticized these additional duties as infringing on the independence of the judiciary.

A 2010 amendment to the Administration of Justice Decree that removed the courts' jurisdiction to hear challenges to government decisions on judicial restructuring, terms and conditions of remuneration for the judiciary, and terminated court cases remained in force. Various other decrees contained similar clauses limiting the jurisdiction of the courts on decisions made by the cabinet, ministers, or government departments.

The government continued to prohibit an International Bar Association delegation from visiting the country to evaluate judicial independence. The government also reiterated its refusal to allow the U.N. special rapporteur on the independence of judges to visit the country for the same purpose.

Trial Procedures.—In most cases defendants have the right to a public trial, and the court system generally enforced this right during the year; however, the PER permit trials for violations of PER provisions to be held in camera. In December the chief magistrate ruled that the trial of five men charged with sedition under the Crimes Decree for an antigovernment graffiti campaign in August would be held in closed court on grounds of national security.

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. The Crimes Decree defines which offenses may be tried in the magistrates' courts and which must be tried in the High Court. Serious offenses, including murder, rape, trafficking in persons, bribery, treason, sedition, and mutiny, can be heard only 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.

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 persons 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 abrogated constitution an individual also could complain to the Fiji Human Rights Commission (FHRC), but under a May 2009 decree, the FHRC is prohibited from investigating cases filed by individuals and organizations relating to the 2006 coup and the 2009 abrogation of the constitution.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The abrogated constitution prohibits such actions, but the government frequently ignored these prohibitions in practice. The PER permit military personnel to search persons and premises without a warrant from a court and to take photographs, fingerprints, and measurements of any person. Police and military officers also may enter private premises to break up any meeting considered unlawful.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The abrogated constitution provides for freedom of speech and press, but the government generally did not respect these rights in practice. The PER gave the government the power to detain persons on suspicion of “endangering public safety or the preservation of the peace”; the government used this provision to intimidate and in some cases detain persons who criticized the government. In addition the PER and the Media Decree provide for government censorship of the media.

Freedom of Speech.—The Crimes Decree includes criticism of the government in its definition of the crime of sedition. This includes statements made in other countries by any person, who can be prosecuted on return to Fiji. Two former military officers and several labor leaders and graffiti vandals were charged with sedition during the year.

At year's end the 2010 case of former politician Peceli Rinakama, charged in connection with comments he reportedly made to a passing bystander relating to the conviction of eight persons charged with conspiring to assassinate Bainimarama, had not yet come to trial. Rinakama was charged under the Public Order Act with uttering words calculated to bring death or physical injury to a person or injury to the lawful authority of the government.

Freedom of Press.—Independent media could not operate freely. The government published fortnightly supplements in the Fiji Sun newspaper. The country's television news program production was owned and operated by Fiji One, one of two national noncable television stations. A company whose board is appointed by the minister for indigenous affairs (a position held by Prime Minister Bainimarama during the year) on behalf of the 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 launched a television station in November. The Ministry of Information news bulletin was broadcast daily on both the FBC TV station and the third station, Mai TV.

Violence and Harassment.—On February 18, the government detained journalist Felix Chaudhry and two trade union officials after the Fiji Times newspaper published an article on maintenance problems at Fiji Sugar Corporation's Rarawi sugar mill. Chaudhry was released the same day. Soldiers warned him not to publish any more articles about Fiji Sugar Corporation or certain other corporations in which the government held a significant share.

Censorship or Content Restrictions.—The PER authorize the Ministry of Information, military media cell officers, 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.

The Media Decree penalizes the media for “irresponsible reporting.” Under the decree the directors and 90 percent of the shareholders of locally based media must be citizens of, and permanently resident in, the country. The Fiji Media Industry Development Authority is responsible for enforcing these provisions. The authority has the power to investigate journalists and media outlets for alleged violations of the decree, including powers of search and seizure of equipment. The decree also establishes a media tribunal to decide complaints referred by the authority, with the power to impose jail terms of up to two years and fines of up to F\$1,000 (\$565) for journalists, F\$25,000 (\$14,116) for publishers and editors, and F\$100,000 (\$56,465) for media organizations. The tribunal is not bound by formal rules of evidence. The decree strips the judiciary of power to challenge the decree itself or any proceedings or findings of the Media Authority, the tribunal, or the information minister.

At year's end the tribunal provided for in the decree had not yet been appointed. The Media Council, a voluntary private watchdog group of media and academic figures, received and resolved complaints of bias and malfeasance within the media. However, the continuous extension of the PER and the promulgation of the Media Decree gave the government control over media content through censors.

During the year the attorney general initiated a lawsuit against the Fiji Times newspaper for publishing a quote from an international soccer official questioning the independence of the country's judiciary.

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. The government monitored Internet traffic in an attempt to control antigovernment reports by anonymous bloggers.

A 2010 decree requires all telephone and Internet service users to register their personal details with telephone and Internet providers, including their name, birth date, home address, and photographic identification. The decree imposes fines of up to F\$100,000 (\$56,465) on providers who continue to provide services to unregistered users and up to F\$10,000 (\$5,647) on users who do not update their registration information as required under the decree. Vodafone, one of two mobile telephone providers, also required users to register their nationality, postal address, employment details, and both thumbprints.

Academic Freedom and Cultural Events.—Academic freedom was generally respected, but government work-permit stipulations prohibit foreigners from participating in domestic politics. Contract regulations of the University of the South Pacific effectively restrict most university employees from running for or holding public office or holding an official position with any political party. During the year the university terminated its contract with Wadan Narsey, a prominent Fijian economist and long-time critic of the military government, allegedly at the direction of the government.

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 nongovernmental organizations (NGOs), and to regulate—including by use of such force as deemed necessary—the use of any public or private place by three or more persons for a political meeting. Under the PER police and military officers also may enter any public or private premises to break up any meeting or assembly deemed unlawful. Although some civic organizations were granted permits to assemble, permits for all political demonstrations and marches were denied, as were some permits for meetings of religious groups. For example, the government refused a permit for the Methodist Church, which historically has been associated with indigenous Fijian nationalism, to hold its annual three-day conference during the year and for its 52 divisions to hold their quarterly meetings. Police stated that Christmas parties held in private premises would not need a permit.

In February the government withdrew charges lodged in 2010 against former prime minister Mahendra Chaudhry and five associates for allegedly holding a “political meeting” without a permit in breach of the PER.

Freedom of Association.—The abrogated constitution provided for freedom of association, but no decree provides for this right following the constitution’s abrogation. During the year the government did not restrict individuals from joining NGOs, professional associations, or other private organizations, but some NGOs were not permitted to hold meetings with their members.

c. Freedom of Religion.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 government provided nominal cooperation with the Office of the U.N. 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.

In-country Movement.—The PER authorize the government to prohibit, restrict, or regulate movement of persons, but the government did not restrict any person’s in-country movement during the year.

Foreign Travel.—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.

The government continued to limit the travel of government critics. Former prime minister Laisenia Qarase, charged in 2008 with abuse of office, continued to be subject to strict bail conditions prohibiting him from traveling out of the country, on the grounds that such travel would pose a “threat to national security.” At year’s end his case remained pending.

Protection of Refugees.—*Access to Asylum.*—The law provides for the granting of asylum or refugee status, but the government has not established a system for pro-

viding protection to refugees. There were no applications for asylum or refugee status during the year.

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

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, the 12 elected municipal councils, and the Great Council of Chiefs remained suspended. The government denied citizens the right to change their government peacefully, although the abrogated constitution provides citizens the right to do so.

Elections and Political Participation.—Recent Elections.—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 Indian-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 Bainimarama's leadership during the 2006 coup.

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. In September the government announced it would start electronic voter registration in 2012 as part of preparations for promised 2014 parliamentary elections and invited tenders from interested companies. A government official also announced in September that political party "manifestos" or published platforms would not be allowed in future elections, and that all competing parties would have to uphold the government's Charter for Peace, Change, and Progress.

Political Parties.—In March military personnel raided the SDL party's office in Suva and confiscated its computers. The office closed after the raid but reopened by year's end.

Participation of Women and Minorities.—There was one woman in the 11-member cabinet. Indigenous women played important roles in the traditional system of chiefs, and some became chiefs in their own right.

There were two Indian-Fijian ministers in the cabinet and no other minority ministers. Indian-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. Indian-Fijians comprised approximately 35 percent of the civil service overall. The "disciplined services"—the military, police, and prison services—were predominantly ethnic Fijian; however, Indian-Fijians comprised approximately one-third of the police force.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and it has been a significant problem for post-independence governments. 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 published articles on the reports and conclusions of the government-appointed Public Accounts Committee and reports of FICAC investigations on abuse of office, but the government censored independent media reporting on some government corruption. In 2008 the auditor general announced that in the absence of a sitting parliament, audit reports would be submitted to the cabinet and would not be made public. This practice continued during the year. The cabinet referred such reports to the Public Accounts Committee for review. Media continued to highlight the reports up to 2005 that had been examined by the committee, but the reports from 2006-11 were not publicized.

Public officials are not subject to financial disclosure laws. FICAC is the primary body responsible for combating government corruption. During the year the former lead prosecutor for FICAC alleged inappropriate interference in FICAC by the attorney general and Military Council. In September the government lost its appeal against the acquittal of government critic Ratu Sakiusa Tuisolia on abuse of office charges and charges relating to licensing of his restaurant business. Tuisolia had maintained that the charges, brought by FICAC, were politically motivated.

The corruption case of former prime minister Qarase, initiated by FICAC in 2008, remained pending at year's end.

Although the abrogated constitution instructed Parliament to enact a freedom of information law as soon as practicable, no such law was enacted. The government was frequently unresponsive to public requests for government information. A 2008 amendment to the FICAC 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 others without authorization.

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 cooperative and responsive only to the views of NGOs that avoided criticizing the 2006 coup and the government.

There were several NGOs that concentrated on a variety of local human rights causes, such as the Citizens’ Constitutional Forum, Fiji Women’s Rights Movement, and Fiji Women’s Crisis Center.

NGOs were constrained in their operations by the Crimes Decree, which includes criticism of the government in its definition of sedition, and the Media Decree, which requires all publications to be vetted by the Ministry of Information (see section 2.a.).

On July 1, police dispersed an internal workshop of the Fiji Women’s Rights Movement because it did not have a permit under the PER. The NGO said it did not seek a permit because the workshop was an internal planning meeting of its board and staff members.

U.N. and Other International Bodies.—The ICRC continued to operate in the country. A number of U.N. organizations concerned with human rights had regional offices in the country and sought to address reports of human rights abuses. The country remained suspended from the Commonwealth of Nations and the major regional organization Pacific Islands Forum (PIF), 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, including human rights violations, expressed in statements by the PIF and the Commonwealth.

Government Human Rights Bodies.—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. It did not enjoy a high level of public trust.

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

The abrogated 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 2007 Employment Relations Promulgation (ERP), which came into force in 2008, had similar provisions, but these are limited to workers and industrial relations matters.

Women.—Rape and Domestic Violence.—Rape, domestic abuse, incest, and indecent assault were significant problems. The Crimes Decree provides for a maximum punishment of life imprisonment for rape; under the decree rape is an indictable offense, which can be tried only in the High Court. The 2010 Domestic Violence Decree recognizes spousal rape as a specific offense. The NGOs Fiji Women’s Rights Movement and Fiji Women’s Crisis Center pressed for more consistent and severe punishments for rape in practice.

The Domestic Violence Decree created a specific domestic violence offense. 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. The decree gives the police authority to apply to a magistrate for restraining orders in domestic violence cases, but police often told the victims to apply for such orders themselves. Police officers were not always aware they had the power to apply on the woman’s behalf. As a result, complainants sometimes were obliged to seek legal assistance from a lawyer or an NGO. Courts dismissed some cases of domestic abuse and incest or gave perpetrators light sentences. Incest was widely believed to be underreported. Traditional and religious practices of reconciliation between aggrieved parties in both ethnic Fijian and Indian-Fijian communities were sometimes taken into account to mitigate sentences in domestic violence cases. In many cases, offenders were released without a conviction rather than

jailed on the condition they maintain good behavior. An active women's crisis center 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.

Sexual Harassment.—The 2009 Human Rights Commission Decree 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 ERP workers can file complaints on the grounds of sexual harassment in the workplace. The Ministry of Labor reported that one sexual harassment complaint filed with the Employment Relations Tribunal (ERT) under the ERP in a prior year was withdrawn during the year. Two other sexual harassment complaints were filed with the ERT during the year, but information on their status at year's end was not available.

In response to various complaints in 2009 from some indigenous village and provincial councils about a purported breakdown of order in villages, in 2010 the Ministry of Indigenous Affairs drafted a model village bylaw addressing issues raised by the councils, including women's dress. The draft model bylaw included a prohibition on wearing of shorts, t-shirts, and long hair by women. During the year the government announced that the bylaw was a draft only that the councils should not yet enforce. Despite the announcement, councils continued to enforce their own versions of the bylaw, and some village chiefs were charged with assaults on persons judged to be in breach of it.

Sex Tourism.—While there is no specific sex tourism offense, sex tourism is illegal under laws prohibiting soliciting for prostitution and commercial sexual exploitation of children. Nonetheless, sex tourism 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.

Reproductive Rights.—Couples and individuals generally 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 private physician. 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 prenatal, obstetric, and postpartum care were available.

Discrimination.—Women have full rights of inheritance and property ownership by law but in practice often were excluded from the decision-making process on disposition of iTaukei (indigenous) communal land, which constituted more than 80 percent of all land. Women have the right to a share in the distribution of iTaukei land lease proceeds, but in practice this right was seldom recognized. Other than a prohibition on working underground in mines, there were no legal limitations on the employment of women, and many women were successful entrepreneurs. Several prominent women led civil society, NGO, and advocacy groups.

The ERP prohibits discrimination on the basis of sex. 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 semi-subsistence employment or were self-employed.

The Ministry for Women worked to promote women's legal rights.

Children.—Birth Registration.—Citizenship is derived both by birth within the country and through one's parents. Births generally were registered promptly.

Education.—School is mandatory until age 15, but the inability of some families to pay for uniforms and school fees limited attendance for some children.

Child Abuse.—Corporal punishment was common in both homes and 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 Marriage.—The legal age for marriage is 18, although children between 16 and 18 years of age can marry with parental consent. Some NGOs reported that child marriage was a problem, especially in rural areas, where girls often married

at age 16, preventing them from completing their secondary school education. In indigenous villages girls under 16 who became pregnant could begin to live as common-law wives with their child's father after the men presented traditional apologies to the girls' families, thereby avoiding the filing of a complaint to police by the families. The girls frequently married the fathers as soon as legally permissible, at age 16.

Sexual Exploitation of Children.—The Court of Appeal has ruled that 10 years is the minimum appropriate sentence in child rape cases; however, in such cases police often charged defendants with “defilement” rather than rape because defilement is easier to prove in court. Defilement or unlawful carnal knowledge of a child under age 13 has a maximum penalty of life imprisonment, while the maximum penalty for defilement of a child between ages 13 and 15 or of an intellectually impaired person is 10 years’ imprisonment. Women’s NGOs complained that magistrates imposed shorter sentences, from two to eight years, in child defilement cases.

Child prostitution was reported among high school students and homeless and jobless youth. Commercial sexual exploitation of children continued to occur. Under the Crimes Decree, commercial sexual exploitation of children is an indictable offense that must be tried in the High Court. The decree makes it an offense for any person to buy or hire a child under age 18 for sex, prostitution, or other unlawful purpose, punishable by imprisonment for up to 12 years. 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 for these offenses during the year.

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 child under age 13 and 10 years’ imprisonment in the case of a person who has sexual relations with a child between ages 13 and 15. In the latter case it is considered a sufficient defense to establish that the perpetrator had “reasonable cause” to believe the child was 16 or older. Despite the maximum penalties under the law, magistrates sometimes imposed sentences as low as two years’ imprisonment in such cases.

Child pornography is illegal. The maximum penalty for violators is 14 years’ imprisonment and/or a maximum fine of F\$25,000 (\$14,116) for a first offense and life imprisonment and/or a fine of up to F\$50,000 (\$28,232) for a repeat offense, and the confiscation of any equipment used in the commission of the offense. A child welfare decree promulgated in 2010 requires mandatory reporting to police by teachers and health and social welfare workers of any incident of child abuse.

International Child Abductions.—The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—Under the abrogated constitution, 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. By law all new office spaces must be accessible to persons with disabilities. There were only a small number of disabled-accessible vehicles in the country. The Fiji Disabled People’s Association, an NGO, reported that most persons with disabilities were unemployed due to lack of sufficient education and training and negative attitudes of employers. There were no programs to improve access to information and communications for persons with disabilities, in particular those with hearing or vision impairments, had difficulty accessing public information. There were a number of community organizations to assist those with disabilities, particularly children.

Most persons with mental and intellectual disabilities were separated from society and typically were supported at home by their families. The 2010 Mental Health Decree stipulates that treatment should be provided for persons with mental and intellectual disabilities in the community, public health, and general health systems. Institutionalization of persons with severe mental disabilities was in a single underfunded public facility in Suva. There were a number of special schools offering

primary education for persons with physical, intellectual, and sensory disabilities; however, cost and location limited access. Opportunities for a secondary school education for those with disabilities were very limited.

The Fiji National Council for Disabled Persons, a government-funded statutory body, 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 Indian-Fijians has been a longstanding problem. Indigenous Fijians make up 57 percent of the population, Indian-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, although Indian-Fijians dominated the commercial sector. Indigenous Fijians dominated the civil service, including senior positions.

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 constitution’s abrogation.

In an effort to address the sensitive question of ethnic and national identity, in 2010 the government decreed that the country’s citizens would henceforth be known as “Fijians,” a term that previously was understood to refer only to the ethnic indigenous population. Indigenous Fiji Islanders would become known as “iTaukei” (literally, “owners” in the Fijian language). The decree requires that anywhere the word “indigenous” or “native” appears in the law and in government publications and communications, it is to be replaced by the term “iTaukei.” Some commentators, writing in blogs or overseas publications, observed that the lack of prior consultations with the indigenous community about the change and its promulgation by decree could complicate its implementation, given the historical opposition by indigenous Fijians to making “Fijian” the common name for all citizens. (The 1997 constitution used the term “Fiji Islander” to refer to all citizens.)

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 held. Most cash-crop farmers were Indian-Fijians, the majority of whom are descendants of indentured laborers who came to the country during the British colonial era. Virtually all Indian-Fijian farmers were obliged to lease land from ethnic Fijian landowners. Many Indian-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 Indian-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.

In 2010 the government promulgated the Land Use Decree to improve access to land. The decree establishes a “land bank” in the Ministry of Lands for the purpose of leasing land from indigenous landowning units through the iTaukei Land Trust Board (TLTB, formerly the Native Land Trust Board) and subleasing the land to individual tenants for lease periods of up to 99 years. The TLTB is the legal custodian of indigenous lands under the iTaukei Land Trust Act and holds all indigenous land in trust for the benefit of indigenous landowning units. In practice, however, the Land Bank began leasing land directly to tenants, without any involvement of the TLTB. The first lease by the Land Bank was granted to Xinfu Aurum, a Chinese mining company, for a bauxite mine in Vanua Levu.

Beginning in January the government changed the existing formula for distributing lease proceeds to indigenous landowners, under which 35 percent of revenues had gone to chiefs and 15 percent was deducted by the TLTB for administrative expenses. The new process abolishes the system of chiefly privilege in land lease income distribution and provides for a “one person, one share” system. This change contributed to an increase in lease renewals, as individual members of landowning units receive a greater share of lease monies than under the previous system.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The Crimes Decree does not criminalize consensual same-sex sexual activity and for the first time recognizes male-on-male rape as a crime. The ERP prohibits discrimination in employment based on sexual orientation.

There was some societal discrimination against persons based on sexual orientation and gender identity, 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. Freedom of Association and the Right to Collective Bargaining.—The law gives workers the right to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies. The law also gives workers the right to strike and bargain collectively.

All unions must register with the government, which has discretionary power to refuse to register any union with an “undesirable” name, as well as to cancel registration of existing unions in cases provided for by law. The ERP allows restrictions on the right of association if necessary in the public interest or to protect national security. Police, military, and prison personnel are prohibited from forming or joining a union.

Freedom of expression and association subsequently were restricted after the abrogation of the constitution. Under the PER unions reported considerable government interference with, and denial of, their right to organize.

The law provides for the limited right to strike, except that police, military, and prison personnel may not strike. Unions can conduct secret strike ballots, but must give the registrar 21 days’ notice. More than 50 percent of all paid-up union members—not only paid-up members who actually cast ballots in the election—must vote in favor of a strike in order for the strike to be legal. 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 emergency, health, fire, sanitary, electrical, water, and meteorological services; telecommunications; air traffic control; and fuel supply and distribution—must give an employer 49 days’ notice. The ERP also 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 after the referral. There were no strikes during the year.

Under the ERP any trade union with six or more members may enter into collective bargaining with an employer. Individual employees, including nonunionized workers as well as unions, can bring a dispute with employers before the permanent secretary for labor for mediation. 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 and then the Supreme Court. The ERP also gives unions the right to appeal to the ERT against an adverse decision by the trade union registrar.

The Essential National Industries Decree (ENID), published in July, severely restricts trade union and collective bargaining rights for workers in designated industries and corporations deemed essential to the national economy. On September 9, the government officially designated 11 corporations—in finance, telecommunications (including the Fiji Broadcasting Corporation), the public sector, and the airline industry—as covered by the decree. Once a corporation is designated, collective agreements previously negotiated between the corporation and unions remain valid only for 60 days. Before the end of this period, workers must renegotiate the agreements with their company. The government has the final say on such agreements. The decree excludes professional trade unionists from holding office in unions for these corporations and from representing the workers in negotiations with employers.

The authorities did not always respect fundamental labor rights in practice. Since the constitution was abrogated, unions have 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. In addition, under provi-

sions of the ENID, preexisting trade unions at the 11 corporations designated in September ceased to exist 60 days after the companies' designation. Groups that had at least 75 members were able to set up new bargaining units to negotiate with management. Such units were not registered as trade unions under the ERP and did not enjoy the other rights and protections accorded trade unions under the ERP; registered trade unions may not undertake negotiations in companies covered by the ENID. For groups of at least 75 workers who formed bargaining units under the ENID and renegotiated agreements with their employers by year's end, in most cases the companies and government entities appeared to have preserved the majority of benefits provided under previous collective bargaining agreements.

In September, after the ENID was issued, the government denied permits to the two trade union umbrella bodies, the Fiji Trades Union Congress (FTUC) and the Fiji Islands Council of Trade Unions, to hold their council meetings.

While not promoted by the ERP, individual contracts were common. Employers tended to offer advantageous packages to new employees, particularly skilled labor, to promote individual contracts, which according to labor groups reduced the possibilities for collective bargaining and weakened unions. Under the former Compulsory Recognition Act, only unions with 30 percent workforce membership could negotiate with an employer. However, the ERP allows any six individual employees to form a union and start negotiating with an employer—another provision seen by existing unions as weakening worker unity and hence bargaining power.

In August two unionists were charged with breach of the PER for holding a meeting without a permit. The two individuals—Daniel Urai, president of the FTUC and general secretary of the hotel workers union, and union organizer Nitin Goundar—had met with two workers fired from an island resort. At year's end the case had not come to trial. In November Urai was arrested again and charged with sedition; the government alleged he urged certain persons to overthrow the government. He was released on bail and was awaiting trial at year's end.

Under the ERP 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 other interference by employers, particularly when operating on company premises. Labor groups reported continuing difficulties organizing workers in the Tax Free Zones due to fear of employer reprisals.

Major trade unions reported instances of the government using the ERP in a biased fashion to shut down negotiations and appeals.

In 2010 the Fiji Sugar Corporation ceased the so-called check-off facility (direct deduction of union dues) for two registered unions: the national farmers' union (Kisan Sangh) and the Fiji Cane Growers' Association. As of year's end this check-off facility had not been reinstated.

In May the government ceased the check-off facility for civil service unions. An August decree excluded civil servants from the ERP and its tribunals, courts, and mediation services. Under the decree the check-off facility is not a right but a service, which the government can choose not to provide. This greatly hampered the ability of civil service unions to represent their members. In June another decree gave civil servants the same rights to equality and nondiscrimination as other workers covered by the ERP.

b. Prohibition of Forced or Compulsory Labor.—The ERP prohibits forced or compulsory labor, but there were reports that such practices occurred. The Labor Inspectorate is responsible for enforcing the law but did not have sufficient inspectors for full enforcement.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—Under the law children under age 12 may not be employed except in a family-owned business or agricultural enterprise. Any such employment must not interfere with school attendance and is to be of limited duration. Although the law provides that education is compulsory up to age 15, children between 12 and 15 may be employed on a daily wage basis in nonindustrial "light" work not involving machinery, provided they return to their parents or guardian every night. Children between ages 15 and 17 may be employed in certain occupations not involving heavy machinery, hazardous materials, mines, or heavy physical labor; however, they must be given specified hours and rest breaks. The ERP provides for imprisonment of up to two years, fines of up to F\$50,000 (\$28,232), or both for employers who violate these provisions.

The Ministry of Labor deployed inspectors nationwide to enforce compliance with labor laws, including those covering child labor. However, enforcement of existing child labor regulations was inadequate. The government established a multiagency

task force led by the Ministry of Labor to work toward the elimination of the worst forms of child labor.

Increasing poverty led to more children working as casual laborers, often with no safeguards against abuse or injury. 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. Children also worked in the production of other agricultural products, including coconuts and root vegetables.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—There was no single, national minimum wage, although the Wages Councils, comprising representatives of both workers and employers, set minimum wages for certain sectors. The 11 corporations designated by the ENID are excluded from the ambit of the Wages Councils. There was no current official poverty-level income figure, but minimum wage levels in regulated industries and entry-level wages in unregulated and informal sectors did not provide a decent standard of living for a worker and family.

There is no single national limitation on maximum working hours for adults, but there are restrictions and overtime provisions in certain sectors. The ENID bans overtime payments for work in the 11 designated corporations unless agreed upon by the employer.

There are workplace safety laws and regulations, including the Health and Safety at Work Act and the Workman's Compensation Act. The law accords employees the right to remove themselves from a hazardous worksite without jeopardizing their employment, and safety standards apply equally to both citizens and foreign workers.

The Labor Ministry uses its Labor Inspectorate to enforce minimum wages, but the inspectorate did not have sufficient capacity to enforce the law fully. The ERT and the Employment Court adjudicate cases of employers charged by the Labor Inspectorate with violating minimum wage orders and decide on workmen's compensation claims filed by the inspectorate on behalf of workers. The Occupational Health and Safety Inspectorate in the Ministry of Labor monitors workplaces and equipment and investigates complaints from workers. Although mines are excluded from the Health and Safety at Work Act, the Mining Act empowers the director of mines and his inspectors to enter and inspect all mines with a view to the health, safety, and welfare of the employees.

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. Workers in some industries, notably transportation and shipping, worked excessive hours. Government enforcement of safety standards suffered from a lack of trained personnel and delays in compensation hearings and rulings. Few workers chose to leave the workplace, even if it posed hazards to their health, out of fear of dismissal.

INDONESIA

EXECUTIVE SUMMARY

Indonesia is a multiparty democracy. In 2009 Susilo Bambang Yudhoyono was re-elected president in free and fair elections. Domestic and international observers judged the 2009 legislative elections free and fair as well. Security forces reported to civilian authorities.

Major human rights problems included instances of arbitrary and unlawful killings by security forces and others in Papua and West Papua provinces, societal abuse against certain minority religious groups, and abridgement of the rights of particular religious minorities to freely practice their religion by regional and local governments. Official corruption, including within the judiciary, was a major problem, although the Anticorruption Commission (KPK) took some concrete steps to address this.

Other human rights problems included: occasionally harsh prison conditions; some narrow and specific limitations on freedom of expression; trafficking in persons; child labor; and failure to enforce labor standards and worker rights.

The government attempted to punish officials who committed abuses, but judicial sentencing often was not commensurate with the severity of offenses, as was true in other types of crimes as well.

Separatist guerillas in Papua killed members of the security forces in several attacks and injured others. Nongovernment actors engaged in politically related violence, including murder, in Aceh Province.

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 killed some alleged criminals and terrorists in the course of apprehending them. In addition, there were a number of reports accusing security forces of excessive use of force leading to death, particularly when handling protests. On October 19, police and military units dispersed participants in the Third Papuan People's Congress in Jayapura, Papua. The Indonesian National Human Rights Commission (Komnas HAM) found that Demananus Daniel, Yakobus Samsabara, and Max Asa Yeuw, whose dead bodies were found near the Congress area, had been shot. Komnas HAM called for an investigation (see section 2.b.). In another incident, on December 24, police fired upon protesters on Bima Island, West Nusa Tenggara, killing two and wounding 14.

On March 31, Sergeant Sukirman and First Inspector Jefry Pantouw of Biau Police Precinct were charged with abuse with regard to the August 2010 death of Kasmir Timumun in police custody in Buol, Central Sulawesi. Police initially reported that Timumun committed suicide, but credible nongovernmental organization (NGO) sources reported that his body bore evidence of abuse. On September 24, both officers were convicted of torture by the Central Sulawesi Court and sentenced to one year in prison. The prosecution appealed, seeking longer sentences. Prosecutors also filed charges against a third officer, Amirullah Haruna, for allegedly shooting Ikhsan Mangge during the protest riot that followed Timumun's death. Haruna was found not guilty and freed on October 27.

Violence affected the provinces of Papua and West Papua during the year. Due to the remoteness of the area it was difficult to confirm reports of burned villages and civilian deaths. Much of this violence was connected to the Free Papua Movement (OPM) and security force operations against OPM. For example, OPM forces wounded three soldiers in a July 5 exchange of fire. In another incident on July 12, attackers, whom the government alleged were OPM-affiliated, injured four soldiers and two civilians. On October 24, alleged OPM-affiliated attackers shot and killed the chief of the Mulia police station.

Following a military investigation, three soldiers from the 753 Infantry Battalion faced a court martial for the March 2010 killing of Pastor Kinderman Gire in Puncak Jaya, Papua. On August 11, the court sentenced Private Herry Purwanto, First Sergeant Saut Sihombing, and Private Hasirun to 15, seven, and six months in prison respectively for disobeying lawful orders. The soldiers were not charged with the more serious crimes of assault or murder. The military investigation and trial reportedly did not take into account nonmilitary testimony or evidence.

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. Unknown attackers perpetrated a number of shootings and killings along a road near the Freeport McMoRan's (Freeport's) Indonesia-operated Grasberg gold and copper mine in Timika, Papua, killing security forces, Freeport employees, and local civilians. For example, in an April 7 attack, unknown assailants murdered two unarmed Freeport security personnel. On October 14, unknown attackers killed three Freeport workers and burned their vehicle.

In June Polycarpus Budihari Priyanto, who was previously convicted in the 2004 poisoning of human rights activist Munir Said Thalib, appealed his conviction with the Central Jakarta District Court, claiming new evidence. In 2008 the South Jakarta District Court acquitted retired army general Muchdi Purwoprandjono on charges of planning Munir's murder. In 2009 the Supreme Court upheld the acquittal and remanded the case to the district court. In September the Attorney General's Office (AGO) stated no further action in the case against Muchdi Purwoprandjono was warranted, despite claims from civil society organizations that new evidence against Muchdi merited review of his acquittal.

b. Disappearance.—The government and civil society organizations 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 2009 the House of Representatives (DPR) approved the formation of an ad hoc court to pursue investigations of and possible prosecutions for the 1998 abductions of prodemocracy activists. Despite this approval in 2009, at year's end, the government had not established this ad hoc court.

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 and other cruel, 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 rarely were tried under this statute. More recently the government made some efforts to hold members of the security forces responsible for acts of torture but these efforts did not constitute full accountability. In 2007 the U.N. special rapporteur on torture 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 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.

Local nongovernmental organizations (NGOs) reported that torture continued to be commonplace in police detention facilities. During the year the Legal Aid Institute of Jakarta conducted a survey on the prevalence of torture in Papua that found 61 percent of survey respondents suffered physical abuse while being arrested and 47 percent of respondents suffered physical abuse during questioning. In a December 2010 report the Legal Aid Institute of Jakarta reported that torture was used particularly in the course of gathering evidence. The NGO Commission on the Disappeared and Victims of Violence (KontraS) reported that between January and June, it received reports of five cases of torture with fifteen victims.

In a case of military-instigated torture, on March 13, members of the 744th Infantry Battalion tortured Charles Mali to death in Futubena-Atambua in East Nusa Tenggara Province. The incident stemmed from an altercation between young men and members of the battalion. Mali reportedly was beaten to death. Five other men reportedly were tortured as well. During a military investigation, 23 suspects from the 744th were questioned in connection with this incident. Eight soldiers were convicted of involvement in Mali's death and received sentences from a military court ranging from eight to 12 months in prison.

Abuse of detainees in Papua came under heightened scrutiny when, in October 2010, a graphic video was posted on YouTube that showed several Indonesian Armed Forces (TNI) personnel threatening one detainee, Telangga Gire, with a knife to the throat and applying a smoldering stick to the genitals of another detainee, Tunaliwor Kiwo. This was believed to have taken place in late May 2010 during a military operation in the Puncak Jaya region of Papua. On January 24, after a military trial in Jayapura, Papua, Second Sergeant Irwan Rizkianto received a 10-month prison sentence, Private Yakson Agu received a sentence of nine months, and Private Thamrin Mahagiri received a sentence of eight months. All were charged with disobeying orders, but not with the more severe charge of abuse. At year's end, none had been removed from the military.

During the year in Aceh, according to one NGO source, 33 persons were caned publicly in five separate instances for violating Sharia (Islamic law) laws dealing with gambling, adultery, consuming alcohol, and for selling food in daylight hours during the fasting month of Ramadan.

According to an October 11 expose by Tempo Magazine, two Police Academy cadets were injured so severely in hazing incidents that they had to be discharged from the academy for physical disability; one cadet suffered from partial paralysis and the other dealt with decreased motor function. The Tempo Magazine article reported that between January and September, the academy had received at least 13 reports of hazing-related violence. Academy administrators set up military police patrols around the campus and dormitories to prevent future abuses. No information regarding accountability in these cases was available at year's end.

A series of newspaper articles in February implicated Papua police in multiple sexual assault cases. In one case, four policemen and three civilians allegedly raped and tortured a fifteen-year-old girl in Biak, Papua, in February. In a second case, a female detainee at the Jayapura police detention center claimed she was forced to perform sexual acts with three police officers between November 2010 and January 2011. Following the publication of a report on this second case, the involved officers received a punishment of 21-days' administrative detention. The district police chief of Jayapura City offered his resignation, but the regional police chief did not accept it.

Prison and Detention Center Conditions.—Conditions at the country's 428 prisons and detention centers were sometimes harsh and life-threatening. Overcrowding was widespread. At the end of the year, data from the Ministry of Law and Human Rights indicated that there were 141,981 detainees in the system, in comparison

with a designed capacity of 96,891. Prisons and detention centers in the Jakarta region were operating at 228 percent of capacity. For example, according to the government, the Pondok Bambu Detention Facility in Jakarta, designed for 504 prisoners, held 1,092. The facility had two types of cells, small and large. A small cell was 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 government figures, 352 prisoners died between January and August, compared with 842 throughout the year in 2010.

NGOs noted authorities sometimes did not provide prisoners adequate medical care. According to informed NGO sources, the medical budget for prisoners was approximately 1,000 rupiah (approximately \$0.11) per prisoner per day.

Guards regularly extorted money from and mistreated inmates. There were widespread reports the government did not supply sufficient food to inmates, and family members often brought food to supplement their relatives' diets. Family members reported prison officials often sought bribes to allow relatives to visit inmates. Wealthy prisoners paid for special treatment and more comfortable lodging. Officials held unruly detainees in solitary confinement for up to six days on a rice-and-water diet.

One international source stated that 5.8 percent of prisoners were women and 5.6 percent were juveniles. There are six women-only prisons in the country, five in Java and one in North Sumatra. According to the Directorate General for Corrections, at year's end there were 2,179 juvenile detainees and 3,337 juvenile prisoners. One local NGO assessed that conditions for women prisoners generally were equal to or better than those for men.

By law, children convicted of serious crimes should serve their sentences in juvenile prisons. However, according to a 2007 statement by the U.N. special rapporteur on torture, children were incarcerated with adults in both pretrial detention centers and in prisons. According to a domestic NGO, of the 16 facilities designated as prisons for children, only one was used exclusively as such. By law prisons held those convicted by courts, while detention centers held those awaiting trial; in practice pretrial detainees at times were held with convicted prisoners.

Prisoners were permitted religious observance. Prisoners and detainees had reasonable access to visitors, although this access reportedly was limited in some cases. International and local NGOs reported that in some cases, prisoners did not have ready access to clean drinking water. The government actively monitors prison and detention center conditions.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegation of inhumane conditions.

Since 2009 the government has denied the International Committee of the Red Cross (ICRC) access to monitor prison conditions and treatment of prisoners nationwide. In addition, the government requested the ICRC to close field offices in Aceh and Papua provinces. Negotiations continued without resolution throughout the year to restore ICRC access to Papua.

The criminal procedure code does not incorporate alternative sanctions or sentencing for nonviolent offenders.

The national ombudsman can advocate on behalf of prisoners and detainees on a variety of issues, including monitoring conditions and treatment of prisoners; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. In the past, the ombudsman has investigated prison issues and communicated his findings to the minister of law and human rights and the Supreme Court. The Ombudsman's Office and the Directorate General for Correctional Facilities have signed a Memorandum of Understanding on Supervision of Public Service for detainees and prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention but lacks adequate enforcement mechanisms. Some authorities 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 Indonesian National Police (INP) has 415,557 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 domestic security responsibilities. In Aceh the Sharia Police, a provincial body, is responsible for enforcing Sharia.

The Internal Affairs Division and the National Police Commission within the INP investigated complaints against individual police officers. Additionally, Komnas HAM and NGOs conducted external investigations with the knowledge and cooperation of the police. During the year, 207 officers were charged criminally and 3,429 received disciplinary infractions.

In 2009 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. Since the approval of the Use of Force Police Action policy, the INP has trained over 65,000 personnel on this policy and has worked to integrate this policy into the INP's overall training program.

In 2009 the INP implemented regulations that standardized human rights regulations in the normal course of police duties. However, impunity and corruption remained problems.

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 for up to four months before charges must be filed any person who, based on adequate preliminary evidence, is strongly suspected of committing or planning to commit any act of terrorism.

By law suspects or defendants have the right to 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 an independent judiciary; however, in practice the judiciary remained susceptible to influence from outside parties, including business interests, politicians, and the security forces. Low salaries and poor oversight continued to encourage acceptance of bribes, and judges were subject to pressure from government authorities and other groups, which appeared to influence the outcome of cases.

Widespread corruption throughout the legal system continued (see section 4); specialized task forces in the AGO attempted to prosecute such corruption.

At times, authorities did not respect court orders, and decentralization created additional difficulties for the enforcement of these orders. For example, local authorities in the city of Bogor failed to honor a December 2010 Supreme Court decision related to a construction permit for the GKI Yasmin Church.

During the year a number 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. Civil so-

ciety organizations and other observers criticized the short length of prison sentences imposed by military courts.

NGO sources stated some military court proceedings were not public and occasionally complained about access to hearings; for example, NGOs complained about limited information from and access to the trial of soldiers implicated in the death of Charles Mali (see section 1.c.). However, the January court martial of three soldiers for the videotaped torture of a Papuan detainee was public and attended by international observers (see section 1.c.).

Four district courts located in Surabaya, Makassar, Jakarta, and Medan are authorized to adjudicate cases of systematic gross human rights violations with the recommendation of the Komnas HAM. 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 Sharia 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 regulations for the implementation of Sharia law were procedurally ambiguous, leading to inconsistencies in its application. For example, defendants had a right to legal aid, but this right was inconsistently implemented. Although Sharia 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 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, in some cases 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 804 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. Defendants enjoy the ability to access the prosecution's evidence through application to the hearing panel's presiding judge.

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 an attorney be appointed if the defendant is indigent and requests counsel. In theory indigent defendants may obtain private legal assistance, and NGO lawyer associations provided free legal representation to indigent defendants. For example, Jakarta Legal Aid handled 959 cases during the year. 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 notable exceptions of Sharia court proceedings in Aceh and some military trials, trials are public.

Political Prisoners and Detainees.—Credible international NGOs estimated that there were more than 80 political prisoners at the end of the year. Most were incarcerated under statutes banning the display of banned separatist symbols (see section 2.a.). Government officials affirmed publicly that they would not tolerate the display of separatist symbols.

Activists with the separatist Republic of South Molucca (RMS) organization continued to be imprisoned for displaying banned separatist symbols. Authorities arrested RMS activists in Ambon for allegedly planning to fly banned RMS flags during an August 2010 visit by President Yudhoyono. Human rights activists reported that security forces, including the police, abused these detainees during arrest and questioning.

A number of Papuan independence activists, including Filep Karma, were in detention or prison for raising a banned separatist flag. Some prominent prisoners incarcerated for flag raising offenses, such as Buchtar Tabuni, received standard remissions on Independence Day and were released from prison early. Local human rights observers noted that enforcement of flag-raising laws was not always consistent but was widespread across Papua and West Papua provinces. These observers asserted that persons arrested for political offenses often faced harsh treatment including withholding of necessary medical care.

Local human rights activists reported that local activists and family members generally were able to visit political prisoners, although some prisoners were held far from their families on other islands.

Civil Judicial Procedures and Remedies.—The civil court system can be used to seek damages for victims of human rights violations; however, widespread corruption and political influence limited victims' access to this remedy. In one example of a petitioner winning redress, on February 17, the Supreme Court ruled that Garuda Indonesia Airlines must pay compensation of 3.38 billion rupiah (approximately \$386,000) to Suciwati, the widow of the late human rights activist Munir (see section 1.a.).

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."

Security officials occasionally broke into homes and offices. Authorities occasionally conducted warrantless surveillance on individuals and their residences and monitored telephone calls. The Law on State Intelligence passed on October 11, granted new authorities to the State Intelligence Agency (BIN) regarding surveillance and intercepting communications. Some international and domestic NGOs warned that the law could empower the government to stifle journalists, political opponents, and human rights activists.

The government used its authority, and at times intimidation, to expropriate or to facilitate private acquisition of 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 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, although evictions of squatters living on government land and of street vendors continued to decrease in Jakarta. The Agrarian Reform Consortium (KPA) recorded 163 agrarian conflicts during the year, an increase from 106 cases in 2010. According to KPA, conflicts during the year involved 69,975 families and 1,166,449 acres of land. According to city officials, the Jakarta administration carried out evictions during the year, forcing persons out of their homes. Eviction cases continued to be particularly contentious in rural areas close to extractive industries and plantations and occasionally led to violence.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution and the law provide for freedom of speech and freedom of the press; however, the government and private actors 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.

Freedom of Speech.—Individuals and organizations have the right to criticize the government publicly and privately and could discuss almost all matters of public interest without reprisal. The law criminalizes content that advocates separatism. Some NGOs and other organizations reported government monitoring of their organizations, and a number of laws limited the rights of individuals to engage in speech deemed to be pro-separatist.

Freedom of Press.—The independent media were active and expressed a wide variety of views. However, regional- and national-level regulations were at times used to restrict the media. For example, the government continued to restrict foreign media, NGOs, and government personnel 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 ostensibly for reasons regarding the safety of foreign visitors.

Inconsistent application of national broadcasting laws restricted the ability of some specifically targeted radio stations to broadcast. For example, local and national officials targeted Radio Erabaru, a Chinese-language, Falun Gong-affiliated radio station. On September 6, Radio Erabaru Director Gatot Machali, was convicted of broadcasting without a license and sentenced to six months in prison, one year's probation, and fined 50 million rupiah (approximately \$5,800). At year's end, Machali was appealing the decision. Although the case was under appeal, on Sep-

tember 11, police and frequency monitoring officials forcibly closed Radio Erabaru and confiscated the station's broadcasting equipment.

Violence and Harassment.—The Indonesian Press Legal Aid Institute (LBH Pers) reported that during the year, there were at least 96 cases of media intimidation. The Alliance of Independent Journalists (AJI) reported 49 cases of intimidation against journalists during the year down from 51 cases in 2010.

For example, on March 3, two unidentified men stabbed journalist Banjar Ambarita in the chest and abdomen in Jayapura, Papua. Ambarita had written two articles linking police to sex abuse scandals (see section 1.c.).

On May 7, police in Surabaya beat journalists covering the police action interfering with a parade connected to the Falun Gong movement.

Citing discovery of new evidence, Press Legal Aid requested the Supreme Court review the August 2010 stabbing and killing of television reporter Ridwan Salamun while he was filming a fight between two villages in Southeast Maluku. Judicial authorities had not responded to the request by year's end.

Censorship or Content Restrictions.—In October 2010 the Constitutional Court ruled unconstitutional a long-standing law that gave the AGO the authority to ban written material. The Constitutional Court ruled that the AGO maintains the authority to monitor written material and to request a court order to ban written material.

Under the Blasphemy Law, "spreading religious hatred, heresy and blasphemy" is punishable by up to five years in prison. On February 8, a district court in Temanggung, Central Java sentenced a man to five years in prison on blasphemy charges.

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. Unlike in previous years, there were no reported new arrests related to the display of the RMS flag. However, police continued to imprison individuals for raising the Morning Star flag in Papua. For example, on August 18, the Manokwari District Court sentenced Melkianus Bleskadit to two years in prison and on August 23, sentenced Daniel Yenu to seven months and 16 days' imprisonment.

Libel Laws/National Security.—During the year the practice of public figures and institutions involved in corruption or personal disputes filing criminal and civil defamation complaints with police continued. For example, Anas Urbaningrum, chair of the Democrat Party, filed a defamation complaint against former Democrat Party treasurer Muhammad Nazaruddin. Anas filed the complaint in response to Nazaruddin's public corruption accusations against Urbaningrum. In another case, Mustar Bonaventura and Ferdi Semaun, two activists from the nationalist group Bendera, were sentenced on October 13 to seven months in prison for failing to prove allegations that members of the president's family and his election team embezzled funds related to the Bank Century bailout.

Internet Freedom.—The government attempted to restrict access to the Internet via the 2008 Information and Electronic Transaction Law. The law, meant 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 (\$110,000) or both.

The Ministry of Communications and Information Technology requests Internet service providers (ISPs) block access to pornographic Web sites and other offensive content. On September 27, the minister announced restrictions on over 900 Web sites deemed to be connected to violent extremist groups. The ministry did not have any internal mechanisms to block the Web sites in question. Enforcement of these restrictions depended upon individual ISPs, and a failure to enforce these restrictions could result in the revocation of an ISP's license.

Academic Freedom and Cultural Events.—The government generally did not restrict academic freedom; however, there were continued restrictions on cultural events.

In 2008 the DPR passed an anti-pornography bill. Critics considered its definition of pornography too broad and feared 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. In March 2010 the Constitutional Court ruled the anti-pornography bill constitutional and not in violation of the freedom of religion and expression provisions of the constitution.

During the year the government-supervised Film Censorship Institute continued to censor domestic and imported movies for content deemed pornographic, religiously offensive, or otherwise offensive. As recently as 2009, the Film Censorship

Institute censored politically sensitive films. Societal pressure led to self-censorship by some media outlets.

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 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.).

On September 7, presidential security personnel assaulted several human rights activists during a demonstration in front of the presidential palace. Major national newspapers published photographs showing a Presidential Security Force member grabbing a prominent human rights activist by the throat. The Presidential Security Force commander and President Yudhoyono's spokesperson defended the actions, citing security concerns.

During the year there were a number of large demonstrations throughout Papua. The majority were conducted in accordance with the law and remained peaceful. However, on October 19, police and military units violently dispersed participants in the Third Papua People's Congress, a gathering held in Jayapura October 16-19. Activists displayed banned separatist symbols and read out a Declaration of Independence for the "Republic of West Papua" on the final day of the gathering. Police fired into the air and detained hundreds of persons, all but six of whom were released the following day. Three persons were found shot and killed in the area. Police spokesmen claimed that the police were equipped only with rubber bullets and other non-lethal ammunition. Police beat many of those detained, and dozens were injured. At year's end, six of the leaders of the Third Papua People's Congress faced charges of treason and weapons possession.

Freedom of Association.—The law provides for freedom of association, and the government generally respected it in practice.

Members of the Ahmadiyya religious group have not held any national conferences since 2008, when the Bali police refused to issue them a permit. In addition, some local governments continue to restrict their right of assembly.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country and generally allows for travel outside of the country. However, 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 U.N. 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.

In-country Movement.—During the year the government continued to restrict freedom of movement for foreigners to Papua and West Papua provinces through a system of "travel letters," but enforcement was inconsistent.

Foreign Travel.—The government prevented arrivals and departures at the request of police, the AGO, the Anticorruption Commission (KPK), and the Ministry of Finance. Some of those barred from entering and leaving were delinquent taxpayers, convicted or indicted persons, individuals implicated in corruption cases, and persons otherwise involved in legal disputes. In other cases the reasons were less clear. For example, a British representative of the NGO Greenpeace was prevented from entering the country on October 13.

Internally Displaced Persons (IDPs).—The international NGO Internal Displacement Monitoring Center (IDMC) estimated in a December 22 report that the combined number of those still displaced and those who have returned or resettled, but who continue to face barriers that prevent them from enjoying the full range of their rights, may reach as high as 180,000. A lack of systematic monitoring of return and resettlement conditions as well as difficulties in defining who is still an IDP make this a rough estimate. Many were displaced due to natural disasters. Others, such as those in Ambon, Maluku Province, were displaced due to communal violence during the month of September. In addition, there were also persons in Papua and West Papua displaced by clashes between the security forces and OPM. The inability

ity for international monitors to evaluate events in Papua made it difficult to verify specific allegations. According to IDMC, IDPs generally struggled with poor housing, food insecurity, poor access to land, and limited access to education and other basic services. While the central and local governments made some efforts to promote the safe return or resettlement of IDPs, these efforts remain incomplete. The 2007 Law on Disaster Management stipulates that the government ensure “the fulfillment of the rights of the people and displaced persons affected by disaster in a manner that is fair and in line with the minimum service standards.”

Protection of Refugees.—Access to Asylum.—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. There were varying estimates of the number of refugees and asylum seekers in the country. At year's end, there were 3,233 asylum seekers and 1,006 refugees registered with UNHCR. At year's end, the International Organization for Migration (IOM) assisted immigration authorities in caring for approximately 2,200 refugees or asylum seekers in the country. The government reported 3,980 refugees or asylum seekers. Some were applicants, and others were dependents. Most refugees or asylum seekers come from Afghanistan, Sri Lanka, Iran, Iraq, and Burma. More than 1,100 Afghan refugees and asylum seekers were under the care of IOM.

Nonrefoulement.—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.

Access to Basic Services.—The government prohibited refugees from working and accessing public elementary education.

Durable Solutions.—According to the Ministry of Housing, approximately 100,000 former East Timorese refugees resided in West Timor. The government provided 10,400 houses for former refugees in Kupang, Timor Tengah Selatan, Timor Tengah Utara, and Belu regencies. Nearly 25,000 people continue to live in refugee camps. Conflicts, mostly involving land disputes, between local people and former refugees sometimes occurred. An April 18 International Crisis Group paper stated that many refugees were not well integrated into host communities, and that former refugees continued to return to Timor Leste in small but increasing numbers.

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

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

Elections and Political Participation.—The 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).

Recent Elections.—In 2009 President Yudhoyono was reelected overwhelmingly. Also in 2009 the country conducted its third democratic legislative elections. In general, domestic and foreign observers found the elections free and fair. The elections were a 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 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.

Political parties were required to win a minimum of 2.5 percent of the national vote to qualify for a seat in the DPR. In 2009 nine parties met this threshold and won seats in parliament. 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.

According to the Elections Commission (KPU) 63 regional elections were scheduled during the year. This number includes 49 new elections scheduled for 2011,

eight elections originally scheduled for 2010, four elections carried over from 2010, and two repeat elections from 2010; there were also elections scheduled for four governors and 59 mayors/regents. At year's end, gubernatorial elections in Papua and Aceh remained delayed.

During the year the Constitutional Court received 132 requests to adjudicate election disputes, and carried over six pending cases from 2010. Of these, 131 were decided, with 15 rulings in favor of complainants. As a result of the decisions, there were election reruns in several cases, including the West Papua gubernatorial election. At year's end seven cases were pending.

The General Elections Monitoring Body, which handles reports of electoral violations, received 1,718 reports of violations in 92 local elections in 2011. Of these, 565 were considered administrative and handed over to the KPU for follow-up. There were 372 considered to be poll violations that involved criminal acts and which the police were investigating.

In a few isolated cases, local elections led to civil disturbances. For example, in Puncak, Papua, various reports indicated that on July 30-31, 19 people were killed in conflict stemming from clashes between rival politicians. In another case, individuals blockaded roads, damaged public facilities, and burned down the recently re-elected West Papua Governor Abraham Ataruri's residence on December 19. At year's end, police had arrested 13 people and named 11 other suspects.

Participation of Women and Minorities.—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, encouraged parties to include more women candidates. The Constitutional Court invalidated this clause when it struck down the law and ruled voters could directly elect their representatives, regardless of their position on party lists. The number of women in parliament increased significantly, from 11 percent to 18 percent of the DPR seats in the 2009 elections. During the year women held four 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.

With the exception of Aceh Province, where non-Muslims effectively were blocked from political office by a requirement that all candidates must demonstrate their ability to read the Qur'an 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 tried to implement the law. Despite the arrest and conviction of many high-profile and high-powered officials, there was a widespread domestic and international perception that corruption remained a part of daily life. Both the KPK and the AGO under the deputy attorney general for special crimes have jurisdiction over investigation and prosecution of corruption cases. During the year the KPK conducted 76 inquiries, 65 investigations, and 45 prosecutions. As a result of the KPK's prevention and prosecutorial activities, it recovered a total of approximately 134 billion rupiah (approximately \$14.7 million) in state assets. In addition, it recovered and prevented the loss of more than 150 trillion rupiah (\$16.6 billion) in state assets, according to the KPK's annual report.

Widespread corruption throughout the legal system continued. Bribes and extortion influenced prosecution, conviction, and sentencing in civil and criminal cases. During the year the National Ombudsman Commission reported receiving 85 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 cases often moved very slowly unless a bribe was paid.

As a result of an independent fact-finding team's investigation, President Yudhoyono formed a Task Force to Eradicate Judicial Mafia to investigate the network of case brokers and influence peddlers who act as intermediaries in judicial cases. As of November the task force had received 4,850 complaints, including 1,066 cases related to land rights issues; 709 cases related to corruption, collusion, and nepotism; 458 cases of fraud and embezzlement; and 268 cases of extortion, bribery, abuse of authority, and document forgery.

Police commonly extracted bribes ranging from minor payoffs in traffic cases to large bribes in criminal investigations. Corrupt officials sometimes subjected migrants returning from abroad, particularly women, to arbitrary strip searches, theft, and extortion.

Anticorruption reform continued to be exploited in political power struggles between legislators and others. During the year corruption allegations against Muhammad Nazaruddin, the former treasurer of President Yudhoyono's Democrat Party, and his counter accusations against a number of prominent figures transfixed the public. On May 24, Nazaruddin fled the country after he was accused of extorting kickbacks and engineering contracts during construction of the athletes' village for the Southeast Asia Games. On August 13, Nazaruddin was repatriated from Colombia. Government investigation continued into the breadth of Nazaruddin's corruption, with some NGOs stating that he was involved in as many as 50 separate projects.

On January 19, the South Jakarta District Court sentenced former tax directorate official Gayus Tambunan to seven years in prison and a fine of rupiah 300 million (approximately \$33,000). Gayus was found guilty of bribery in his March 2010 acquittal; he also was convicted of misusing his authority, and of lying about his wealth.

By law, senior government officials, as well as other officials working in certain agencies, are required to file financial disclosure reports.

In April 2010 the 2008 Freedom of Information Act, which grants citizens access to governmental information and provides mechanisms through which citizens can obtain such information, came into effect. The law allows for a protected class of "secret" information, including information on state defense and security; law enforcement investigation and activities; public officials; and business interests of state-owned enterprises. At year's end many government entities were unwilling or unprepared to implement the law. A September study by the NGO KontraS reported that implementation of the law remains slow within the Indonesian National Police.

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

A number of domestic human rights organizations generally operated without government restriction throughout the country, investigating and publishing their findings on human rights cases as well as advocating for improvements to the government's human rights performance. The government met with local NGOs, responded to their inquiries, and took some actions in response to NGO concerns. However, some government officials, particularly in Papua and Aceh, subjected the organizations to monitoring, harassment, and interference as well as threats and intimidation. Activists said intelligence officers followed them, took their pictures surreptitiously, and sometimes questioned their friends and family members regarding their whereabouts and activities.

Human rights and anticorruption activists reported receiving threatening messages and other intimidation from unknown sources.

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, and restricted their movement in these areas. Government monitoring of foreigners occurred in conflict areas. Some domestic human rights organizations expressed concern about the possible negative consequences of contacting foreigners. In one case, the government subjected a foreign researcher for an international human rights organization to "forced repatriation." She was conducting research into religious intolerance in Madura when local authorities detained her.

Government Human Rights Bodies.—A number of independent government-affiliated bodies addressed human rights problems, including the National Ombudsman, the National Commission on Violence Against Women (Komnas Perempuan), and the National Commission on Human Rights (Komnas HAM). The public generally trusted Komnas HAM, Komnas Perempuan, and the Ombudsman, but government cooperation with their recommendations was not mandatory and not usual.

In 2009 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; 10 later resurfaced, accusing the military of kidnapping and torture. One body was found, and 13 activists remained missing. Despite this authorization, by year's end the government had not established this tribunal.

Although the 2006 Law on the Government of Aceh states a human rights court would be established in Aceh, establishment of the court remained stalled due to complications stemming from other national-level legislation.

In 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 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 emphasizing that the military remain neutral in political controversies and elections and enhanced authority for institutions charged with investigation and prosecution for human rights violations. On October 6, President Yudhoyono issued a decree establishing an action plan for implementation of the CTF recommendations and assigning responsibility within the government for particular subjects.

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 the UN-Timor-Leste Serious Crimes Unit remained in the country.

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 sometimes failed to defend these rights, particularly for minority communities.

Women.—Rape and Domestic Violence.—The law criminalizes rape, although the legal definition of rape is narrow and excludes marital rape. Reliable nationwide statistics on the incidence of rape continued to be unavailable. Rape is punishable by four to 14 years in prison, and the government imprisoned perpetrators for rape and attempted rape; however, light sentences continued to be a problem and many convicted rapists were given the minimum sentence.

The law prohibits domestic abuse and other forms of violence against women. However, domestic violence was a problem. Violence against women remained poorly documented and significantly underreported by the government. Nationwide figures were unavailable. Most NGOs working on women and children's issues believed the real figure was far higher than the available government statistics, noting the tendency of many victims to keep silent. Komnas Perempuan reported domestic violence was the most common form of violence against women.

Social pressure deterred many women from reporting domestic violence. During the year the Women's Legal Aid Foundation received 417 complaints of domestic violence, including physical and sexual harassment. They also received 61 criminal complaints, of which 36 were related to sexual violence.

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.

Female Genital Mutilation: According to NGOs, some female genital mutilation (FGM) of women over the age of 18 occurred. A 2010 Ministry of Health decree provides specific instructions prohibiting certain more drastic types of FGM but explicitly permitting others. This Ministry of Health decree states that doctors, midwives, and licensed nurses may perform FGM with the request and consent of the woman on whom it is performed (see section 6, children).

Sexual Harassment.—Although not explicitly mentioned, sexual harassment is against the law and is actionable under the criminal code.

Sex Tourism.—International sex tourism and child sex tourism continued, especially on the islands of Batam and Karimun and in major urban centers across the country.

Reproductive Rights.—The government recognized the right of individuals and couples to choose the number, spacing, and timing of children. Although the government subsidized and provided access to contraception throughout the country, in November 2010 an international NGO reported that women sometimes were denied the opportunity to select the contraceptive methods best suited to their needs or preferences. This may have more to do with costs and availability of different methods, as a significant proportion of those who use family planning access services from private providers. The report indicated that unmarried women in particular

were not provided adequate access to contraceptives and this continued to be an issue. According to the 2007 Demographic and Health Survey (DHS), 61.4 percent of married women used contraception. The DHS also found that 93 percent of women received medical prenatal care. The official maternal mortality ratio per the 2007 DHS was 228 per 100,000 live births. The primary causes of maternal mortality were post partum hemorrhage, pre-eclampsia, and sepsis. According to a 2010 World Bank review, there were several key factors in the high rates of maternal mortality. While 79 percent of women had skilled birth attendants at delivery, the uneven deployment of midwives at the community level and the substandard training for many midwives and high use of traditional birth attendants were contributing factors. Hospitals and health centers were not performing at optimal levels in management of complications and there were issues with referrals for complications including financial barriers or limited availability of qualified health personnel. Close to 50 percent of births occurred at home. A woman's economic status, level of education and age at first marriage also affected maternal mortality. Government policy provides that women and men have equal access to diagnosis and treatment for sexually transmitted infections.

Discrimination.—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 Sharia 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 Sharia police. The most visible impact on women's rights appeared to be the enforcement of dress codes. It was not uncommon for Sharia police to briefly stop and lecture women whose dress did not conform to local Sharia requirements on appropriate attire.

Local governments and groups in areas outside Aceh also undertook campaigns to promote conformity by women with the precepts of Sharia. Local regulations in some areas mandated the wearing of Islamic dress by government employees. Vigilance in enforcing separation of sexes, fasting, and dress codes increased during Ramadan. The Ministry of Home Affairs is responsible for "harmonizing" local regulations that are not in line with national legislation. During the year, the ministry evaluated 9,000 local regulations and cancelled 351 deemed in conflict with national law.

Women faced discrimination in the workplace, both in hiring and in gaining fair compensation; however, there has been progress in that area. According to International Labor Organization (ILO) reports, women's hourly wages as a percentage of men's wages continued to increase. Women in administrative and managerial jobs reportedly earned more than their male counterparts in 2008. However, women were still underrepresented at the managerial level. According to the government, women constituted 45 percent of all civil servants as of June 2009 but less than 9 percent of senior civil servants. Some activists said that in manufacturing, employers relegated women to lower-paying, lower-level jobs. Like their male counterparts, 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 workers received 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.

Children.—Birth Registration.—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, this registration requirement was not enforced, and approximately 30 percent of citizen births were not registered. Without birth registration, families may face difficulties in accessing government-spon-

sored 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.

Education.—Although the law provides for free education, in practice most schools were not free, 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 universally enforce these requirements. Although girls and boys received equal educational opportunities, boys continued to be 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.

Out of 26 million elementary school students the national government provided educational assistance to 2.025 million whose families were below the poverty line. The government categorized as poor a person earning 233,000 rupiah (\$26.60) or less per month.

Child Abuse.—Child labor and sexual abuse were serious problems. Child abuse is prohibited by law, but government efforts to combat it generally continued to be slow and ineffective. 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. Komnas Perlindungan Anak reported that during the year, it received 2,508 reports of cases of violence against children.

According to Komnas Perlindungan Anak, approximately 8.5 million children under the age of 18 were working because of poverty.

Substantial numbers of street children were apparent in Jakarta and the provinces of East Java, West Java, North Sumatra, and South Sulawesi. According to media reports, as of August there were 8,000 street children in Jakarta. Of these, 5,420 participated in a social welfare program run by the Ministry of Social Affairs and the ILO. This media report estimated that there were 230,000 street children in the country. The government continued to fund shelters administered by local NGOs and paid for the education of some street children.

Child Marriage.—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 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 and impoverished areas.

Harmful Traditional Practices.—FGM of children was practiced in many parts of the country, and there are no laws specifically banning the practice. 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. A November 2010 Ministry of Health decree prohibits certain more drastic types of FGM but explicitly permits doctors, midwives, and licensed nurses to conduct FGM. The decree requires the consent of the subject, a parent, or guardian before undergoing the procedure. The practice remains prevalent in the country. NGO activists said that FGM was seen by some as a religious duty.

Sexual Exploitation of Children.—While there is no offense by the name of statutory rape under the law, the penal code forbids consensual sex outside of marriage with women under the age of 15. The 2008 Pornography Law prohibits child pornography and establishes penalties. Nationally, UNICEF estimated 40,000 to 70,000 children were the victims of sexual exploitation, and estimated that 30 percent of all female commercial sex workers were underage. Many teenage girls were forced into prostitution, often through debt bondage. NGOs and government officials believed the number was rising.

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.

In a February survey of 736 street children in Jakarta and Depok by the Ministry of Social Affairs, 14 children admitted they have been victims of sexual abuse, 31

had been raped, and 175 suffered physical abuse. The ministry believed that at least in some areas, the percentage of girls among street children seemed to be growing.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish population was extremely small. In contrast to previous years, there were no reported protests at the Beth Hashem synagogue in Surabaya, East Java. Although the government promoted tolerance education in primary schools, there was no specific curriculum devoted exclusively to anti-Semitism education.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or 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 classifies persons with disabilities into three categories: physically disabled, intellectually disabled, and physically and intellectually disabled. These categories are further divided for schooling. The government estimated that approximately 3.7 percent of the population had a disability. However, one NGO found 16.8 percent of the population in West Java had a significant hearing deficiency.

The government restricts the rights of persons to vote or participate in civil affairs by not enforcing accessibility laws.

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.

Access to information and communications technology for persons with disabilities is limited. The government taxes hearing aids as electronics, rather than medical equipment, making them prohibitively expensive.

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 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 2008-09 government statistics, there were 1,686 schools dedicated to educating children with disabilities, 1,274 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. Children with disabilities were sent to separate schools, and mainstream education was extremely rare. The country's universities did not offer a degree in special education.

During the year NGOs reported that people with disabilities were housed in care facilities in unsafe, dirty conditions throughout Riau Province. The government has taken no action.

The Ministry of Social Affairs is responsible for protecting the rights of persons with disabilities. To date, they have taken no actions to improve respect for the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The government officially promotes racial and ethnic tolerance. Ethnic Chinese, which 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 servants still discriminated against them when issuing marriage licenses and in other services. Some activists assert that most cases of discrimination against ethnic Chinese persons go unreported. Some public officials made public statements that government officials of Chinese ethnicity made decisions based on their heritage and not based on national interest. Discussions of corruption on local blogs at times degenerated into racial diatribes.

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 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.

Some human rights activists asserted a 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. However, the number of transmigrants as compared with spontaneous economic migrants was relatively small. During the year, 7,274 families participated in government-sponsored transmigration programs. 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 consensual same-sex sexual activity. In addition, local regulations across the country criminalize same-sex sexual activity. According to NGOs, many persons characterized lesbian, gay, bisexual, and transgender (LGBT) issues as socially taboo. The government took almost no action to prevent discrimination against LGBT persons, and in some cases failed to protect LGBT individuals from societal abuse. Police corruption, bias, and violence caused LGBT individuals to avoid interaction with police. Sharia police in Aceh reportedly harassed transgender individuals. NGOs reported LGBT individuals sometimes were ostracized by religious groups, family members, and the general public.

LGBT organizations and NGOs operated openly. However, certain religious groups sporadically disrupted LGBT gatherings, and individuals occasionally were victims of police abuse.

LGBT groups maintained a lower profile throughout the year compared to previous years, in part due to concerns over physical security. In September the Q! Film Festival, subject of protests in 2010, took place in five cities but with strict limitations on publicity.

NGOs documented instances of government officials not issuing identity cards to LGBT individuals. Transgender individuals faced discrimination in obtaining services, including health and other public services.

Other Societal Violence or Discrimination.—Stigma and discrimination against persons with HIV/AIDS were pervasive. However, government policy 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. Freedom of Association and the Right to Collective Bargaining.—The law provides broad rights of association for workers in the private sector but places restrictions on organizing among public sector workers. Workers in the private sector formed and joined unions of their choice without previous authorization or excessive requirements. 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. 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.

To remain registered, unions must keep the government informed about changes in their governing bodies. The law allows the government to petition the courts to dissolve a union if it conflicts with the state ideology (Pancasila) or the constitution. A union also may be dissolved if its 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.

Although the law recognizes civil servants' freedom of association and right to organize, employees of several ministries may only form employee associations, with more limited rights. Union organizations sought to organize government employees, as well as 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 prohibits employment discrimination against union organizers and members and provides penalties for violations. The law also requires employers to reinstate workers fired for union activity.

The right to strike is recognized but substantially restricted under the law. 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. The law does not extend the right to strike to most civil servants or to workers in SOEs.

A 2003 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." Although this wording recalls the definition of an "essential industry," the regulation does not specify the types of enterprises affected, leaving this determination to the government's discretion. The same regulation also classifies strikes as illegal if they are "not as a result of failed negotiations."

Before workers can strike, they must engage in lengthy mediation with the employer and proceed to mediation facilitated by a government mediator or risk having the strike declared illegal. In the case of an illegal strike, an employer may 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.

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. External observers note that this excessive requirement adds additional barriers to enjoying the right to collective bargaining. The Manpower Act, which regulates collective bargaining, and general employment conditions, does not apply to workers in SOEs.

On November 17, The Ministry of Manpower and Transmigration issued implementing regulations on the right to organize and bargain collectively. According to the Manpower and Transmigration Ministry, approximately 25 percent of companies with more than 10 employees had CLAs. Although most of these agreements went beyond the legal minimum provisions set by the government, more than a third of employers reportedly violated the terms of the CLA with relative impunity. Enforcement of CLAs varied based on the capacity and interest of individual regional governments.

In practice, the government did not effectively enforce laws protecting freedom of association and prohibiting antiunion discrimination. Some unions reported local ministry offices prejudicially recommended denial of registration.

Antiunion discrimination cases moved excessively slowly through the court system, sometimes taking up to six years. Bribery and judicial corruption in workers' disputes continued, and courts rarely decided cases in the workers' favor. While dismissed workers sometimes received severance pay or other compensation, they were rarely reinstated. Companies sometimes transferred union leaders to jobs where they could not continue their union activities. Managers in some locations reportedly 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.

Labor activists continued to claim that companies orchestrate the formation of multiple unions, including "yellow" unions, to weaken legitimate unions.

Activists reported that there were stronger antiunion sentiments and actions by employers in special economic zones (SEZs). For example, employers in the Batam SEZ tended to hire labor on two-year contracts and favored workers under 24 years of age, in part to inhibit union formation.

Employees at the Surabaya Zoo established a labor union in June 2010. However, the zoo management attempted to stop the union from operating. Police and forest rangers threatened the labor union members and tore down the labor union's sign-

boards. Labor activists received threats if they continued to assist with unionization. One employee was fired for her role in the establishment of the union. Management reduced the salary and benefits of those who joined the union. The union was informally disbanded when the zoo's managing body refused to extend the contract of the labor union's activists, arguing that members participated in an illegal strike in 2010. While the union was legally intact at year's end, none of the members were active. The City of Surabaya Industrial Court asked zoo management to reemploy the 30 fired union activists; zoo management has appealed this to the Constitutional Court. At year's end, the appeal was still pending and the union activists had not been reemployed.

In practice, the cumbersome process required for a legal strike, as well as the government regulations included in the Manpower Act provided employers a clear means to obstruct a union's move to legally strike. Therefore, strikes tended to be unsanctioned or "wildcat" strikes that broke out after a failure to settle long-term grievances or when an employer refused to recognize a union. The primary reasons for strikes during the year were 1) demand for an increase in salary, 2) suspension of overtime payment and/or regular salary, 3) unjust dismissal of workers, and 4) the illegal use of contract workers.

Employer retribution against union organizers, including dismissals and violence, was not prevented effectively or remedied in practice. Employers commonly used intimidation tactics against strikers, including administrative dismissal of employees through use of the appeals process described above. Some employers threatened employees who made contact with union organizers. Management singled out strike leaders for layoffs when companies downsized.

A notable series of strikes occurred at Freeport's copper and gold mine in Papua Province. Between July and December there were a series of negotiations and mediations punctuated by strike actions. Workers initially demanded a significant increase in minimum wages across the pay scale, reported to be in the range of 600 to 1,200 percent. Freeport responded with an 11 percent annual increase over two years. Freeport workers established roadblocks blocking access to Freeport's main road on October 11. Freeport and the union reached a labor agreement on December 23, and workers removed the roadblocks on December 25.

Union leaders reported that they faced intimidation from mine operators, including withholding of wages of striking workers. Management at Freeport Indonesia also reported cases of intimidation, including pressure on contract workers by union members to join the strike. During the strike, an increased police presence near Timika aimed to prevent unrest. On October 10, one miner died during a clash between police and protesters. During the clash, police fired live ammunition at protesters.

During the year workers staged protests in major cities demanding companies pay into the national social security system, put an end to corrupt business practices, and that the government pass the social-safety-net bill. Parliament passed the demanded legislation on October 28.

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. There were credible reports of the police investigating or interrogating union organizers.

The increasing trend of using contract labor directly affected unions' right to organize and bargain collectively. Under the Manpower Act, contract labor is to be used only for work that is "temporary in nature." However, according to an International Trade Union Confederation report, many employers violated these provisions, sometimes with the assistance of local offices of the Manpower Ministry. In these cases, 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. Labor courts have ruled in favor of workers who filed either for compensation or to be rehired. In most cases, however, the company has appealed to the Supreme Court where the labor court's decisions have been overturned.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were credible reports that such practices occurred, including forced and compulsory labor by children (see section 7.c.). Forms of forced labor included domestic servitude, commercial sexual exploitation, and forced labor in the mining, fishing, and agricultural sectors.

On May 30, the government signed a protocol amending the 2006 memorandum of understanding (MOU) on the recruitment and placement of Indonesian domestic workers with the government of Malaysia. The amended MOU allows domestic workers to keep their passports instead of surrendering them to their employers, and guarantees them a weekly day off. The amended MOU does not set a minimum wage, nor does it prevent recruitment firms from charging high fees that, some observers argue, can result in instances of debt bondage.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The Manpower Act establishes 15 as the minimum age for work and prohibits children under the age of 18 from working in hazardous sectors. Children 13 to 15 years of age may work in light work for 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. Entrepreneurs hiring children must also meet their occupational safety and health requirements. 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. The law and regulations explicitly prohibit forced labor by children.

The government did not enforce minimum age laws effectively, and furthermore did not act effectively to eliminate forced child labor. Despite legislative and regulatory measures, most children who worked, including as domestic workers, did so in unregulated environments. Anecdotal evidence suggested that local labor officials did not investigate the workplaces of child domestic workers and carried out few child labor investigations in factories.

An estimated six to eight million children exceeded the legal three-hour-daily work limit, working in agriculture, street vending, mining, clothing manufacture, and other areas. A 2009 survey from by the International Labor Organization and the National Statistics Agency reported that about four million working children age 10 to 17 are considered employed in wage work by the standard definition.

Children worked in agriculture primarily on palm oil, tobacco, rubber, and tea plantations. Children also worked in fisheries, manufacturing (such as cottage factory footwear production, textiles, and 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.

A significant number of children worked against their will in prostitution; pornography; begging; drug sale, production, and trafficking; domestic service; and other exploitive situations, including a small number on fishing platforms.

A domestic worker advocacy group estimated that there were four million domestic workers in the country, of whom at least 1.3 million were under age 18. Many domestic workers were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights. Child domestic work is considered one of the worst forms of child labor, as it often renders children vulnerable to sexual, physical, or psychological abuse.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—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 West Papua Province offered the highest minimum wage at 1.41 million rupiah (approximately \$160) per month, while the Manpower Ministry reported official minimum wages as low as 705,000 rupiah (\$80) per month in East Java. Jakarta's minimum wage was 1.29 million rupiah (\$145) per month. As of March, the official poverty line was 233,740 rupiah (approximately \$26) per capita per month.

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. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency.

Both the law and regulations provide for minimum standards of industrial health and safety. Workers are obligated to report hazardous working conditions, and em-

ployers are forbidden by law from retaliating against those who do report hazardous working conditions. By law, workers have the right to remove themselves from hazardous conditions without jeopardizing employment.

Local officials from the Manpower Ministry are responsible for enforcing regulations on minimum wage and hours of work, as well as health and safety standards. The Manpower Ministry continued to urge employers to comply with the law; however, government enforcement remained inadequate, particularly at smaller companies, and supervision of labor standards continued to be weak. There is no enforcement of the minimum wage in the informal sector.

The practical observance of laws regulating benefits and labor standards, including wage and hours, varied by sector and region. Unions complained that companies relied upon excessive overtime in some garment and electronics assembly plants, to the detriment of workers' health and safety. Employer violations of legal requirements were fairly common, sometimes resulting in strikes and protests. The American Center for International Labor Solidarity reported 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.

On October 28, the DPR passed the Social Security Providers Bill after more than a year of debate. The new law merges four state-owned insurance companies into two not-for-profit entities under the supervision of the president. The new entities, one covering health and one covering employment-related insurance, will ultimately cover all workers regardless of employment sector. Analysts and labor observers described the new bill as a significant improvement over the previous system.

Although labor law and ministerial regulations provide workers with a variety of benefits, it was estimated that, aside from government officials, only 10 percent of workers received social security benefits. Persons who worked at formal sector companies often received health benefits, meal privileges, and transportation, which was rarely provided for workers in the informal sector. The Manpower Act also requires employers to provide a safe and healthy workplace and to treat workers with dignity. Enforcement of health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent.

The country's worker safety record was poor. The state-owned insurance agency reported approximately 99,000 workplace accidents during the year, an average of 271 incidents per day. Additionally, workers who sought to leave an unsafe workplace could not avail themselves of this right.

JAPAN

EXECUTIVE SUMMARY

Japan is a constitutional monarchy with a parliamentary government. Prime Minister Yoshihiko Noda, leader of the Democratic Party of Japan, derives his authority to govern from the constitution. July 2010 upper-house elections were considered free and fair. Security forces reported to civilian authorities.

The leading human rights problems included the lack of due process for pretrial detainees; the exploitation of children; and societal discrimination against women in employment, children born out of wedlock, ethnic minority group members, persons with disabilities, and foreigners, including permanent residents.

Other human rights problems included prison and detention center conditions, prosecutorial misconduct, journalistic self-censorship, domestic violence and sexual harassment against women, corruption, trafficking in persons, and the exploitation of foreign trainee workers.

The government enforced laws prohibiting human rights abuses and prosecuted officials who committed them.

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.

On December 27, an Okazaki Medical Prison official resigned after being sanctioned for physically abusing a patient. According to press reports, he grabbed,

kicked, and beat the prisoner with a slipper when the prisoner refused to take oral medication.

On August 5, the widow and the mother of a Ghanaian man, who died in March 2010 while being forcibly restrained during a deportation attempt, sued the government. Although an official autopsy did not determine the cause of death and noted no sign of physical harm, his widow stated she saw bruises when identifying the body, and immigration officials testified in the Diet (parliament) that he was gagged by a towel and forced into his seat by 10 officers. Police sent an investigation report to Chiba Prefecture prosecutors in 2010, but no charges were filed by the end of the year.

The government continued to deny death-row inmates advance information about the date of execution and notified family members of executions after the fact. The government stated this policy was designed to spare prisoners the anguish of knowing when they were going to die. Some respected psychologists agreed; others demurred.

Following the 2010 conviction of four instructors for abusing residents at a reform facility for juvenile offenders and subsequent allegations of abuse at other facilities, the government reported that it implemented human rights training for mid-level supervisors at the country's 52 juvenile training schools.

Hazing, bullying, and sexual harassment continued to be reported as problems in the Japanese Self-Defense Forces (JSDF) during the year; the JSDF leadership penalized offenders, according to information received.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, except that several facilities were overcrowded, did not provide prisoners in solitary confinement with adequate access to potable water, or lacked sufficient heating in the winter or air conditioning in the summer. In some institutions, clothing and blankets were insufficient to protect inmates against cold weather. Most prisons did not provide heating during nighttime hours in winter despite freezing temperatures, subjecting inmates to a range of preventable cold injuries. Foreign prisoners in the Tokyo area presented to visiting diplomats during the year chilblains-affected fingers and toes of varying severity, the direct result of long-term exposure to cold. On September 8, Kobe District Court ordered the government to pay 43 million yen (approximately \$558,000) to the family of a man who died in 2006 while a prisoner in the Kobe Detention House, finding the facility at fault for failing to seek medical assistance for the man, who family members claimed froze to death.

Credible nongovernmental organizations (NGOs) continued to report that prison management regularly abused solitary confinement rules, which set a maximum of three months, but with the possibility of extension every month thereafter if deemed necessary. Prison officials stated that solitary confinement is important in maintaining order in prisons at or above capacity. An NGO noted that during the year officials became more sensitive to the needs of ill detainees held in isolation in the wake of two deaths in 2010.

Authorities reportedly held prisoners condemned to death in solitary for an average of almost eight years until their execution—and according to Amnesty International (AI) in March, some of these prisoners were kept in solitary for decades—although authorities allowed them to receive visits by their families, lawyers, and others. AI also concluded that a number of death-row inmates had become mentally ill as a result of the isolation, although authorities summarily denied requests for their mental health records so no independent determination could be made. The law states that a prisoner's insanity is grounds for suspending an execution, but the government reported that there has never been such a case.

Reliable NGOs and foreign diplomats also reported that some facilities continued to provide inadequate food and medical care. Foreign diplomats confirmed numerous cases in which the prison diet was inadequate to prevent significant weight loss, including loss of muscle mass. Cases of slow and inadequate medical treatment were documented, including in detainees and prisoners with preexisting medical conditions. Police and prison authorities were particularly slow in providing treatment of mental illness and continued to have no protocol for offering psychiatric therapy. NGOs, lawyers, and doctors also criticized medical care in police-operated pre-indictment detention centers and immigration detention centers. Poor sanitary and health conditions in the latter continued to result in complaints of common fungal infections among detainees. In the July 4 report of her July 2010 visit, the U.N. special rapporteur on the human right to safe drinking water and sanitation raised concern about prisoner sanitation in protection cells.

As of October there were 70,624 prisoners, a slight decrease from 2010. This figure, which counts detained defendants and suspects as well as sentenced prisoners and convicts, included 5,330 female prisoners and 29 minors. Men and women pris-

oners were held in separate facilities in prisons and detention centers. Although the national prison population was significantly less than the country's facility capacity of 90,182 (in 2010), 13 prison facilities experienced overcrowding. Sentenced female prisoners, more than 120 percent of capacity nationwide, experienced the most constrained conditions. 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. Having acknowledged that overcrowding was a problem, the government expanded prison capacity by approximately 7,400 persons between 2007 and 2010.

Reliable NGOs and foreign diplomats reported throughout the year that pretrial detainees routinely were held incommunicado for up to 23 days before being allowed access to persons other than their attorneys or, in the case of foreign arrestees, consular personnel. Authorities often limited prisoners' access to visitors to immediate family members. The law allows for broad religious observance within prisons, as long as these activities do not interfere with prison management. Prisons are also required to allow for consultations with prison chaplains, but the frequency of visits and the range of religions represented varied widely by prison. As a result, routine access to religious observance was not guaranteed, and foreign diplomats stated that prison officials repeatedly rejected some prisoners' requests to join religious meetings by citing limits on group size.

While authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, they provided the results of such investigations to prisoners in a letter offering little detail beyond a final determination. Alternative and suspended sentences were commonly used for first-time and nonviolent offenders.

There were no ombudsmen serving on behalf of prisoners and detainees, although prison management regulations stipulate that independent committees inspect prisons and detention centers operated by the Ministry of Justice and detention facilities operated by police. The committees—which included physicians, lawyers, local municipal officials, representatives of local communities, and other local citizens—conducted visits and interviews and made recommendations during the year.

By law there is also an inspection process for immigration detention facilities, but it was not completely independent. Domestic and international NGOs and international organizations noted throughout the year that this process failed to meet international prison inspection standards, citing the Ministry of Justice's provision of all logistical support for the inspection committee, the use of ministry interpreters during interviews with detainees, the lack of repeat visits to the same facilities, the ability of prison officials to screen lists of detainees to be interviewed, and the ability of ministry officials to access a locked mailbox where detainees may submit complaints to the committee.

There is no inspection procedure for observing the country's 52 juvenile reform 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, but credible NGOs and journalists continued to allege that police in large cities employed racial profiling to harass and sometimes arrest “foreign-looking” persons, particularly dark-skinned Asians and persons of African descent, without cause.

Role of the Police and Security Apparatus.—The National Public Safety Commission, a cabinet-level entity, oversees the National Police Agency (NPA) and prefectural public safety commissions have responsibility for local police forces. 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.—Authorities apprehended persons openly with warrants based on sufficient evidence and issued by a duly authorized official and brought detainees before an independent judiciary. Credible NGOs claimed that warrants were granted at high rates and that detention sometimes occurred even though the evidentiary grounds were weak.

The use of police-operated detention centers placed suspects in the custody of their interrogators, although the law separates investigation from detention even when the same agency is responsible for both functions. The vast majority of arrested suspects were sent to police detention facilities, with a much smaller proportion sent to Justice Ministry-operated preindictment detention centers.

The law provides detainees the right to a prompt judicial determination of the legality of their detention and requires authorities to inform detainees immediately of the charges against them. In practice, however, detained persons were often held for up to 23 days with no charges filed.

The law 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 Justice Ministry detention facilities. Reliable NGOs also stated that, although the practice is illegal, interrogators sometimes offered bail to a detainee in exchange for a confession.

Suspects in pretrial detention are legally required to face interrogation, although NPA guidelines limit interrogations to a maximum of eight hours and prohibit overnight interrogations. Pre-indictment detainees had access to counsel, including at least one consultation with a court-appointed attorney. Prisoner advocates stated that in practice this access continued to improve during the year in terms of duration and frequency. However, counsel may not be present during interrogations.

Family members usually were allowed to meet with detainees, but only in the presence of a detention officer. The law allows police to prohibit detainees from having interviews with persons other than their counsel if there is probable cause that the suspect may flee or may conceal or destroy evidence. Many detainees, including most of those charged with drug offenses, were held incommunicado until indictment and were allowed only consular and legal access.

Prosecutors at their discretion may partially record suspects' confessions, but respected NGOs pointed out that partial and discretionary recording could be misleading. While internal police supervisors increasingly are present during interrogations, there is no independent oversight. In response to the U.N. Committee against Torture's (UN CAT) 2007 recommendation that defense counsel be present during interrogations, in July the government rejoined that such a presence would inhibit the ability of an interrogator expeditiously to obtain true statements from a suspect.

National Public Safety Commission regulations prohibit 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. According to credible NGOs, however, the rules were not adequately enforced, and authorities continued to subject detainees to eight- to 12-hour interrogation sessions during which authorities handcuffed them to a chair for the entire period and used aggressive questioning techniques.

The NPA announced on March 24 that it had referred 30 cases of possible violations of interrogation guidelines for review (but it does not release review results). The NPA also stated that it had received 474 complaints regarding interrogations during the same period. In April a court convicted Osaka police officer Kazuya Takahashi of illegal intimidation and fined him 300,000 yen (approximately \$3,900), after a man in his custody surreptitiously recorded his September 2010 interrogation and subsequently filed a complaint with prosecutors. All prefectures have trial programs to record limited sections of some interrogations; some prefectural governments began pilot programs to record entire interrogations.

Pretrial Detention.—Authorities usually held suspects in police-operated detention centers for an initial 72 hours. By law, this preindictment detention is allowed only where there is probable cause to suspect that a person has committed a crime and is likely to conceal or destroy evidence or flee, but it is used routinely in practice. After interviewing a suspect at the end of the initial 72-hour period, a 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 cases such as insurrection, foreign aggression, and disturbance. Because judges customarily granted prosecutorial requests for extensions, the system of pretrial detention, known as *daiyou kangoku* (substitute prison), usually continued for 23 days. Nearly all persons detained during the year were held in *daiyou kangoku*.

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 the right to a fair trial for all citizens and 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. There is a lay judge (jury) system for serious criminal cases. A defendant is presumed innocent until proven guilty in a court of law, and defendants cannot be compelled to testify against themselves.

Respected NGOs and lawyers continued to question whether defendants were presumed innocent in practice. According to NGOs, the majority of indicted detainees confessed while in police custody, although the government asserted in its July reply

to the U.N. CAT that convictions were not based primarily on confessions and that interrogation guidelines ensure that suspects cannot be compelled to confess to a crime.

In 2010 more than 99 percent of cases that reached trial resulted in conviction. Independent legal scholars alleged that the judiciary gives too much weight to confessions, although the government disagreed.

Persons convicted on the basis of police-obtained confessions were later proved innocent. For example, on May 24, in a retrial ordered by the Supreme Court in light of new evidence, including revelations that police tampered with interrogation tapes, a court found two men not guilty who had confessed to and were convicted of murder in Ibaraki Prefecture in 1967. Paroled in 1996, they had insisted the confessions were coerced and sought exoneration.

According to some independent legal scholars, trial procedures favor the prosecution, although the government demurred. 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 difficult 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. Police responses in those cases were that all evidence was destroyed after the initial trial. On April 12, a court convicted and sentenced senior Osaka prosecutor Tsunehiko Maeda to 18 months in prison for falsifying evidence and then concealing that criminal act in the case of a public servant on trial for alleged postal fraud. Chief Prosecutor Hiromichi Otsubo and Deputy Chief Prosecutor Motoaki Saga, who oversaw the investigation, were charged with knowingly concealing a crime, and their trial was ongoing at year's end.

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 both administrative and 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.—*Status of Freedom of Speech and Press.*—The law provides for freedom of speech and press, and the government generally respected these rights in practice. A vocal and independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Censorship or Content Restrictions.—As reported by Freedom House and other NGOs during the year, press clubs continued to encourage noncritical and similar news coverage by fostering close relationships among media personnel, officials, and politicians that in turn led journalists to practice self-censorship in exchange for access. On April 25, a group of freelancers launched the privately funded Free Press Association of Japan to seek broader journalistic access to press conferences and information.

Internet Freedom.—There were no government restrictions on access to the Internet or credible 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.

Academic Freedom and 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 20th century subjects. Some textbook authors accused the ministry of editing their writing in ways that distorted the intended meaning.

The national anthem and flag continued to be controversial symbols. Teachers continued to be disciplined for refusing to sing the national anthem in front of the flag. On May 30, the Supreme Court ruled that requiring teachers to stand and sing the national anthem is constitutional. The Federation of Bar Associations and human rights organizations protested the ruling.

There were no government restrictions on 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.—See the International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, and other persons of concern.

Internally Displaced Persons.—On March 11, one of the strongest earthquakes ever measured—followed by a devastating tsunami and a nuclear power plant disaster in Fukushima Prefecture—displaced more than 470,000 persons from their homes for varying lengths of time. The government generally provided adequate shelter and other protective services and sought to provide permanent relocation or reconstruction options, but there were public complaints regarding tardy evacuation orders and temporary resettlement subsidies. Although only 678 persons remained in evacuation centers as of December 15, approximately 334,000 persons were in nonpermanent housing.

Protection of Refugees.—Access to Asylum.—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 continued a small-scale, pilot resettlement program; in the second year of this three-year program, 18 Burmese refugees arrived in Japan from Thailand during the year.

Refugee and asylum applicants may ask lawyers to participate in their appeal hearings before refugee examiners. Although government-funded legal support was not available for most refugee and asylum seekers requesting it, the Federation of Bar Associations funded a program that provided free legal assistance to those applicants who lacked financial means.

In his March 21 report on a 2010 visit, the U.N. special rapporteur on the human rights of migrants expressed concern about the policy of detaining asylum seekers and other irregular migrants for prolonged periods. A Justice Ministry policy begun in 2010 to streamline the asylum petition process and reduce time spent in detention led to significant improvement during the year: The number of immigrants detained for more than one year fell from 115 in 2009 to 47 during 2011. The policy stipulates that the cases of all detained asylum seekers must be reviewed quarterly and first-instance decisions must be completed within six months of application. Authorities completed first-instance decisions within approximately five months on average, more than 60 percent faster than in 2010.

NGOs believed that inadequate explanation of the cause for rejecting an asylum application made appealing the decision difficult. Refugee groups reported that some asylum seekers received preferential consideration. Of the 402 individuals whom authorities in 2010 granted some form of humanitarian protection, 356—more than 88 percent—were from Burma; Burmese made up fewer than 30 percent of all asylum seekers.

Nonrefoulement.—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. However, refugee groups expressed concern during the year that, due to the government's high threshold for proof in adjudicating asylum applications, some asylum seekers may have been forcibly returned to situations of risk.

Employment.—Applicants for refugee status normally are not allowed to work unless they meet certain conditions. To obtain the right to work, they must be in need and dependent on government shelters or NGO support. In the interim the Refugee Assistance Headquarters, a government-funded foundation, provides small stipends. However, budget limitations prevented many applicants from accessing this aid during the year.

Access to Basic Services.—Refugees faced the same discrimination patterns that other foreigners did: reduced access to housing, education, and employment. Except for those who met the right-to-work conditions stated above, individuals whose refugee status was pending or on appeal also did not have the right to receive social welfare, rendering them completely dependent on overcrowded government shelters, illegal employment not subject to labor-law oversight, or NGO assistance. In his March 21 report, the U.N. special rapporteur on migrants expressed concern about

the difficulties for migrant children to access education either in Japanese or foreign schools.

Temporary Protection.—The government also provided temporary protection to individuals who may not qualify as refugees and provided it to 363 persons in 2010.

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.—*Recent Elections.*—In July 2010 the country held national elections for the House of Councillors, the upper house of the Diet, which were considered free and fair.

Participation of Women and Minorities.—Women held 52 of 480 seats in the House of Representatives, the lower house of the Diet, and 44 of 242 seats in the upper house. At year's end there were three female governors and one woman 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. Three Diet members 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. Independent academic experts stated that ties between politicians, bureaucrats, and businessmen were close and that corruption remained a concern. NGOs criticized the frequent practice of retired senior public servants who took high-paying jobs with private firms that rely on government contracts. During the first half of the year, the NPA reported arrests in eight cases of bribery and one case of bid rigging. There were regular media reports of investigations into financial and accounting irregularities involving high-profile politicians and government officials, and the trial of a former senior party leader continued at year's end.

Laws requiring financial disclosure for public officials were laxly enforced.

The public has the legal right to access government information. There were no reports that the government denied such requests.

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 usually were cooperative and responsive to their views.

Government Human Rights Bodies.—The national Human Rights Commission reports to the Justice Ministry. Human rights groups did not believe it was independent or effective and reported that it lacked public trust.

There was no ombudsman office per se at the national level, although the Administrative Counseling System, a department of the Ministry of Internal Affairs and Communications, provided many of the same functions as a national ombudsman office and its director general represented Japan on international ombudsman bodies. Nevertheless, it lacked independence from the government and had weak investigative powers.

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 enforced these provisions, discrimination against women, ethnic minority group members, and foreigners remained problems.

Women.—*Rape and Domestic Violence.*—The law criminalizes all forms of rape involving force against women, including spousal rape, and the government generally enforced the law effectively. Evidence of force and physical resistance by the victim are necessary, however, for a sexual encounter to be considered rape. For example, Yamagata Prefecture prosecutors dropped gang-rape charges against three men in October 2010, citing a lack of objective evidence of force strong enough to overcome resistance, such as ripped clothing or bruises on the victim. According to NPA statistics, 1,289 rapes against women and girls were reported in 2010, and 542 were reported during the first half of the year. According to records maintained by the Supreme Court, 222 persons were convicted on rape charges during the year, with

punishments ranging from suspended sentences to 20 years in prison. Many police stations had female officers to provide confidential assistance to female victims.

Although prohibited by law, domestic violence against women remained a problem. According to NPA statistics, in 2010 there were 33,852 reported cases of domestic violence, with women constituting more than 98 percent of the victims. Statistics maintained by the Supreme Court showed that 15 persons were convicted of violating spousal violence protection orders, with punishments ranging from suspended prison sentences to two years in prison.

Faced with continued calls for apology and compensation for “comfort women” (foreign and citizen victims of forced prostitution during World War II), government officials continued to express remorse and pointed to previously provided compensation payments.

Sexual Harassment.—The law includes measures to identify companies that fail to prevent sexual harassment, and prefectural labor offices and the Ministry of Health, Labor, and Welfare provide these companies with advice, guidance, and recommendations. The ministry reported 51 such cases identified and addressed from April 2010 to March of the current year. Companies that fail to comply with government guidance may be publicly identified, but officials reported that this has never been necessary. Sexual harassment in the workplace remained widespread, however, and from April 2010 to March 2011, the ministry reported receiving 11,749 consultations, 62.6 percent of which were from female workers. The ministry received consultations from employees in more than 10 percent of all the companies in Japan, with complaints per sector registered as high as 30 percent of the companies in the financial sector. On May 29, the Japanese Trade Union Confederation released survey results indicating that approximately 17 percent of female employees have suffered sexual harassment in the workplace, although most did not file a complaint or seek consultation. Government hotlines in prefectural labor bureau equal employment departments handle consultations concerning sexual harassment and mediate disputes when possible.

Reproductive Rights.—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 maternal health services, including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. Men and women received equal access to diagnosis and treatment for sexually transmitted infections.

Discrimination.—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 Equality 2011 concluded that the participation of women in society remained inadequate and called for a quota system to boost the number of women in senior positions in business, government, and elected office.

Inequality in employment remained a societywide problem. Women constituted 42 percent of the labor force in 2010, and their average monthly wage was 227,600 yen (approximately \$2,950), approximately two-thirds of the monthly wage earned by men (328,300 yen, or approximately \$4,260). Women held just 11 percent of managerial positions, and 70 percent of employed women resigned after the birth of their first child.

NGOs alleged that the country’s efforts to implement antidiscrimination measures was insufficient, pointing to discriminatory provisions in the law, unequal treatment of women in the labor market, and low representation of women in high-level elected bodies. NGOs urged the country to abolish a six-month waiting period stipulated in the law for women but not men before remarriage, eliminate different age minimums for marriage depending on sex, adopt a system allowing for the choice of surnames for married couples, and repeal legal provisions that discriminate against children born out of wedlock.

Children.—Birth Registration.—The nationality law grants citizenship at birth to the child of the following: a Japanese father who is either married to the child’s mother or recognizes his paternity, a Japanese mother, or a child born in the country to parents who are both unknown or do not have nationality.

Child Abuse.—Reports of child abuse continued to increase. From April 2010 through March 2011, local Child Guidance Centers acted on 55,152 reports of child abuse by parents or guardians, an increase of more than 12,000 from the previous year, despite the latest statistics not including two prefectures that failed to report data because they were affected by the tsunami. The Ministry of Health, Labor, and Welfare commented that the jump in mistreatment reports reflected broadening

public awareness of child abuse. According to the NPA, during the year 384 child abuse cases resulted in the arrest of 409 people while 39 children were killed as a result of abuse by parents or guardians.

To ameliorate the situation, municipal governments require that suspected abusive parents or guardians be interviewed by child welfare officials and provided with assistance as required. When necessary, suspect homes must also be inspected with 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 or municipal welfare center. On May 27, authorities revised the law to allow for suspending parental rights for two years; previously, parental rights could be suspended only indefinitely or not at all. Children's rights activists welcomed the more flexible rules.

Sexual Exploitation of Children.—Child prostitution is illegal, with a penalty of imprisonment with labor for up to five years or a fine of up to three million yen (approximately \$39,000) for adult offenders and penalties of up to seven years imprisonment and fines of up to 10 million yen (\$130,000) for intermediaries. Nonetheless, the continued practice of enjo kosai (compensated dating) and the existence of Web sites for online dating, social networking, and “delivery health” (call-girl or escort services) facilitated child prostitution.

There are statutory rape laws. The minimum age for consensual sex varies by jurisdiction and ranges from 13 to 18 years. The penalty for statutory rape is no less than two years' imprisonment with mandatory labor.

The country continued to be an international hub for the production and trafficking of child pornography. The commercialization of child pornography is illegal, and the penalty is imprisonment with labor for not more than three years or a fine not exceeding three million yen (approximately \$39,000); police continued to crack down on this crime during the year. Although the distribution of child pornography, which often depicted the brutal sexual abuse of small children, is also illegal, the law does not criminalize its simple possession—a situation that continued to hamper police efforts to enforce the law effectively and participate fully in international law enforcement. Police reported 1,455 child pornography investigations involving 638 child victims during the year, a more than 55-percent increase of both statistics compared with those in 2009.

No national law addresses the unfettered availability of sexually explicit cartoons, comics, and video games, some of which depict scenes of violent sexual abuse and the rape of children. While the NPA maintained that no link has been established between these animated images and child victimization, other experts suggested children are harmed by a culture that appears to accept child sexual abuse. During the year the Tokyo Municipal Government implemented an ordinance to restrict the sale of such material to minors.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish population is approximately 2,000 persons. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other state services, and the government in the main enforced these provisions. However, in practice such persons faced limited access to these services, and the Federation of Bar Associations complained that discrimination was undefined and thus not enforceable through judicial remedies. The 2009 government-established advisory committee to help develop laws to enable Japan to ratify the U.N. Convention on the Rights of Persons with Disabilities did not attain its objective by year's end.

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 \$650) per vacant position per month. Public employment of persons with disabilities exceeded minimum proportions, but according to Ministry of Health, Labor, and Welfare statistics, the private sector lagged despite increases over previous years.

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. In the July 4 report of her July 2010 visit, the U.N. special rapporteur on the human right to safe drinking water and sanitation raised concern about housing discrimination that negatively affected the accessibility of persons with disabilities to water and sanitation.

According to NGOs an estimated 20,000 homeless persons could not receive disability pensions and livelihood protection allowances, because they were considered to be without residence. As a result, due to inadequate protection by the social safety net and the social stigma against homelessness, a significant number of homeless individuals committed petty crimes to obtain the food and shelter provided by living in prison.

Mental health professionals criticized as insufficient government efforts to reduce the stigma of mental illness and inform the public that depression and other mental illnesses are treatable and biologically based. Police and prison authorities were particularly slow in providing treatment of mental illness and have no protocol for offering psychiatric therapy.

National/Racial/Ethnic Minorities.—Ethnic minorities experienced varying degrees of societal discrimination.

Although not subject to governmental discrimination, Buraku (the descendants of feudal era “outcasts”) frequently were victims of entrenched societal discrimination. Buraku advocacy groups reported that despite the socioeconomic improvements achieved by many Buraku, widespread discrimination persisted in employment, marriage, housing, and property assessments. While the Buraku label is no longer officially used to identify people, the family registry system can be used to identify them and facilitate discriminatory practices. Buraku advocates expressed concern that employers, including many government agencies, which require family registry information from job applicants for background checks, may use this information to identify and discriminate against Buraku applicants.

Despite legal safeguards against discrimination, the country’s populations of Korean, Chinese, Brazilian, and Filipino permanent residents—many of whom were born, raised, and educated in Japan—were subjected to various forms of entrenched societal discrimination, including restricted access to housing, education, health care, and employment opportunities. Other foreign nationals resident in Japan as well as “foreign-looking” Japanese citizens reported similar discrimination and also said they were prohibited entry, sometimes by signs reading “Japanese Only,” to privately owned facilities serving the public, including hotels and restaurants. Noting that the discrimination is usually open and direct, respected NGOs complained of government inaction in prohibiting it. In addition, the March 21 report on the March 2010 visit by the U.N. special rapporteur on the human rights of migrants criticized Japan for lacking legislation to protect migrant rights and prohibit discrimination on the basis of ethnicity or nationality and for inadequately addressing the persistence of racial discrimination and xenophobia regarding migrants.

In general, societal acceptance of ethnic Koreans who were permanent residents or citizens continued to improve steadily. In 2010, 6,668 ethnic Koreans naturalized as Japanese citizens. Although authorities approved most naturalization applications, advocacy groups complained of excessive bureaucratic loopholes that complicated the naturalization process and a lack of transparent criteria for approval. Ethnic Koreans who chose not to naturalize faced difficulties in terms of civil and political rights, and according to Japan’s periodic submissions to the U.N. Committee on the Elimination of Racial Discrimination, regularly encountered discrimination in access to housing, education, government pensions, and other benefits.

A Japanese Social Insurance Agency enforcement directive explicitly makes it easier for employers to avoid paying pension and insurance contributions on behalf of their foreign employees who teach languages as compared with Japanese employees in similar positions. A labor union representing the teachers stated during the year that the directive provides impunity to employers who illegally fail to enroll foreign teachers in the system.

Many foreign university professors, especially women, were hired on short-term contracts without the possibility of tenure.

There was a widespread perception among citizens that “foreigners,” including members of Japan-born ethnic minorities, were responsible for most crimes committed in the country. The media fostered this perception by heavily reporting crimes committed by non-Japanese citizens, although Justice Ministry statistics showed that the crime rate for foreigners, excepting immigration violations, was lower than that for citizens.

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.

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 by international school associations as being equivalent to a 12-year program could take the entrance exam.

Marches by nativist groups declined in frequency and intensity during the year compared with 2010, and there were fewer significant incidents.

Indigenous People.—Although the Ainu enjoyed the same rights as all other citizens, when clearly identifiable as Ainu they faced discrimination. The law emphasizes preservation of Ainu culture, but it lacks some provisions that a few Ainu groups have demanded, such as recognition for land claims, reserved seats in the Diet and local assemblies, and a government apology.

Although the government does not recognize “the Ryukyu” (a term that includes residents of Okinawa and portions of Kagoshima Prefecture) as indigenous people, it officially acknowledges their unique culture and history and has made efforts to preserve and show respect for these traditions.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Laws governing rape, sexual commerce, and other actions involving sexual intercourse do not apply to same-sex sexual activity, since sex is defined in Japanese law exclusively as male-to-female vaginal intercourse. This definition leads to lower penalties for perpetrators of male rape and greater legal ambiguity surrounding same-sex prostitution.

NGOs that advocate for gay, lesbian, bisexual, and transgender persons reported some instances during the year of bullying, harassment, and violence.

There is no national law that protects individuals against discrimination on the basis of sexual orientation and gender identity, although some local governments have enacted laws prohibiting employment discrimination based on sexual orientation.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows private sector workers to form and join unions of their choice without previous authorization or excessive requirements, provides the right to strike, and protects collective bargaining rights.

The law places some limitations on public sector workers and employees of state-owned enterprises. Workers in sectors providing essential services, including electric power generation and transmission, transportation and railways, telecommunications, medical care and public health, and the postal service must give 10 days' advance notice to authorities prior to organizing a strike. Public sector employees do not have the right to strike but are permitted to participate in public employee organizations, which may negotiate collectively with their employers on wages, hours, and other conditions of employment. Employees involved in providing essential services are not afforded the right to collective bargaining. The law prohibits antiunion discrimination and provides for the reinstatement of workers fired for union activities.

The government effectively enforced the law on forming and joining unions. Unions were free of government control and influence, although public service employees' basic union rights are governed by a separate law and restricted in ways that effectively require prior authorization to form unions. The government protected the right of unions to conduct activities. However, the continued increased use of short-term contracts, at times in violation of the law, undermined regular employment and frustrated organizing efforts.

Collective bargaining was freely practiced, although some businesses changed their form of incorporation to a holding-company structure, not legally considered employers, to circumvent employee protections under the law. Similarly, Japanese employers increasingly hired part-time, short-term contract, or nonregular workers rather than permanent employees. Such workers made up more than one-third of the labor force. They worked for lower wages and often with less job security and benefits or in more precarious working conditions than career workers did. Many of these workers, who lost their jobs during the year, sought damages from their

employers, alleging that the repeated renewals of their short-term contracts obligated their employers to convert them to career employees. To qualify for parity in wages and training with full-time workers, part-time workers must have parity with full-time workers in terms of tasks, overtime, and transfers, and in practice only 4 to 5 percent of part-time workers qualified.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, but there were reports that such practices occurred. Workers who entered the country illegally or who overstayed their visas risked non-payment or underpayment of wages. Some companies illegally restricted the movement, communications, and travel documents of foreign laborers in the Industrial Trainee and Technical Internship Program and forced them to deposit paychecks into company-controlled accounts. The U.N. special rapporteur on the human rights of migrants stated in his March 21 report that the program's structure fails to protect its participants from exploitation. Some Chinese trainees were illegally required to pay fees and deposits valued at the equivalent of more than \$5,000 before leaving for Japan. According to worker advocates, if victims reported mistreatment or exited the program early, brokers seized these assets.

The law and Justice Ministry guidelines prohibit these practices, and Labor Standards Offices monitored workplace compliance with the law. The normal governmental response was to issue warnings and advisories and ban companies from future participation in the trainee program.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—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. These laws were effectively enforced in practice.

Child labor was concentrated in the areas of trafficking in persons and child pornography (see section 6, Children).

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—Minimum wages ranged from 645 yen (approximately \$8.40) to 837 yen (\$10.85) per hour, depending on the industry and prefecture. The law imposes a fine of up to 500,000 yen (\$6,500) for employers who fail to pay a minimum wage. In 2009, 16 percent of the population earned an annual income below the poverty line of 1.12 million yen (approximately \$14,500).

The law provides for a 40-hour workweek for most industries, mandates premium pay for hours worked above 40 in a week or eight in a day, sets limits on the number of overtime hours permitted in a fixed period, and prohibits excessive compulsory overtime. The law mandates paid leave on national holidays as well as at least 10 days of paid leave accrued per year following six months of full-time employment. The government sets occupational safety and health (OSH) standards.

The Ministry of Health, Labor, and Welfare is responsible for the enforcement of laws and regulations governing wages, hours, and OSH in most industries. The National Personnel Authority covers government officials. The Ministry of Economy, Trade, and Industry covers OSH for the mining industry, and the Ministry of Land, Infrastructure, Transport, and Tourism is responsible for OSH in the maritime industry. A total of 3,970 Labor Standards Inspectors enforced these laws and regulations. Labor unions frequently criticized the government for failing to enforce the law regarding maximum working hours, and it was widely accepted that workers, including those in government jobs, routinely exceeded the hours outlined in the law. From April 2010 to March 2011, surviving family members filed 802 applications with the Ministry of Health, Labor, and Welfare seeking recognition of a deceased individual as a *karoshi* (death-from-overwork) victim. The ministry officially recognized 285 *karoshi* victims during the year, but worker rights NGOs claimed that the number of victims was in reality much higher and overwork and other work conditions contributed to many of the 30,513 suicides during the year.

The government effectively administered applicable OSH law and regulations in all sectors. Inspectors have the authority to suspend unsafe operations immediately. According to one-time data compiled for the Diet, they responded in 2009 to 48,448 complaints, inspected 146,860 workplaces, ordered 4,553 places of business to suspend operations and correct OSH problems, and referred 1,110 cases to prosecutors.

The number of workplace fatalities nearly doubled during year, largely resulting from the March 11 earthquake and tsunami which caused 1,057 on-the-job deaths. From January 1 through November 30, there were 845 workplace fatalities unrelated to the March 11 disasters, primarily in the construction and manufacturing

sectors. Falls, automotive accidents, and injuries caused by heavy machinery were the most common causes of workplace fatalities during the year.

Inspectors noted that foreign nationals participating in the Industrial Trainee and Technical Internship Program were frequently forced to work unpaid overtime and receive less than the minimum wage, among other labor violations. In August a press report stated that the Fukui Prefecture Labor Standards Office found all 54 companies participating in the program within the prefecture to be in violation of the law. NGOs and labor unions working with foreign workers reported noticeable improvement during the year in how companies treated foreign workers, in response to new rules governing the program and increased scrutiny of the labor standards of participating companies, but also stated that problems remained.

KIRIBATI

EXECUTIVE SUMMARY

Kiribati is a constitutional multiparty republic. 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 elections held in October were considered generally free and fair. Anote Tong of the Boutokaan Te Koaua party remained president at year's end pending a presidential election scheduled for January 2012. Security forces reported to civilian authorities.

Violence and discrimination against women, child abuse, and commercial sexual exploitation of children were the main human rights problems during the year.

There were no reports that government officials committed human rights abuses.

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.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and inmates had access to potable water. The government permitted monitoring visits by independent human rights observers, but there were no such visits during the year.

As of August the prison system held 124 inmates. There were 112 convicted prisoners, of whom 105 were men and seven were women, and 12 pretrial detainees, all men. There were no juveniles (defined as those 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.

Prisoners and detainees had access to visitors and were permitted religious observance. Although authorities permit complaints by inmates about inhumane conditions, the complaints are subject to censorship. There were no such complaints received, nor investigations undertaken, during the year. The government monitors prison conditions. The country does not have any ombudsman who can serve on behalf of prisoners and detainees. There were no specific steps taken during the year to improve record keeping or use alternatives to incarceration for nonviolent offenders.

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 police force, under the Office of the President, maintains internal security. The country has no military force. Civilian authorities maintained effective control over the police, 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.—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 generally were respected in practice. Many individuals were released on their own recognizance pending trial, and bail was granted routinely for many offenses. The law requires that arrested individuals be informed of their rights, which include the right to legal counsel during questioning and the right not to incriminate oneself. 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.

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. Procedural safeguards include the presumption of innocence until proven guilty. An accused person must be informed of the charges and provided adequate time and facilities to prepare a defense. The law also provides for the right to confront witnesses, present evidence, access government-held evidence, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation.

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 continued to decline 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, and individuals and organizations may seek civil remedies for 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.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech and press, and the government generally respected these rights in practice.

Freedom of Press.—Although there were no government restrictions, there were some concerns about the lack of local independent media. Most locally based news media were owned and operated either by the government’s Broadcasting and Publications Authority or a media company owned by a member of parliament.

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

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.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

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 the law prohibits government restrictions on citizens’ freedom of movement, it does not restrict such actions by traditional village councils.

Exile.—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.” However, the government did not use forced exile.

Protection of Refugees.—*Access to Asylum.*—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. During the year there were no applications for asylum or refugee status.

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.—Recent Elections.—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. Parliamentary elections held in October were considered generally free and fair.

Participation of Women and Minorities.—There were four women in the legislature, two of whom were also cabinet ministers. Several permanent secretaries and deputy secretaries were women.

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.

Together with Nauru and Tuvalu, the country participated in a subregional audit support program, an 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 law specifically 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.

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.

Women.—Rape and Domestic Violence.—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 typically were much shorter.

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. While cultural taboos on reporting such crimes and police attitudes encouraging reconciliation over prosecution still exist, prosecutions for rape and domestic assault made up the majority of cases processed by the public prosecutor's office during the year.

Following the 2009 publication of a study on the prevalence of domestic violence in the country, the government took additional steps to address violence against women. In 2009 Parliament passed a motion to support legal reform to eliminate domestic violence, and in 2011 the cabinet endorsed a policy and national action plan (2010-20) for the elimination of gender-based violence. The police force has a Domestic Violence and Sexual Offenses Unit, and unit officers participated in a capacity-building program, funded by a foreign government, that provided training in handling such cases. The police also ran a 24-hour hotline for victims of sexual violence and domestic abuse. The Catholic Church operated a shelter for women and children in Tarawa.

Sexual Harassment.—The law does not prohibit sexual harassment. Information presented in workshops conducted in 2010 in connection with efforts to develop a national policy on gender equality indicated that sexual harassment was more widespread than previously regarded.

Sex Tourism.—The law does not specifically prohibit sex tourism. Obscene or indecent behavior is banned. There were reports of foreign fishermen engaging in commercial sexual acts with minors (see section 6, Children).

Reproductive Rights.—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 prenatal, obstetric, and postnatal care, was available from public health hospitals and centers. According to the World Health Organization, approximately 90 percent of births were attended by skilled health personnel, and maternal mortality was estimated to be 158 deaths per 100,000 live births based on data from the 2005 census. According to indicators published by the Population Reference Bureau, an estimated 36 percent of married women ages 15-49 used some form of contraception, and an estimated 31 percent used modern contraceptive methods.

Discrimination.—The 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. According to the most recent census in 2005, 56 percent of professionals were women (primarily teachers and nurses). 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 daughters.

The Citizenship Act contains some discriminatory provisions. For example, the foreign wife of a male citizen acquires citizenship automatically through the marriage; however, the foreign husband of a female citizen does not.

Children.—Birth Registration.—Citizenship is derived by birth in the country, unless the child acquires the citizenship of another country at birth through a noncitizen parent. Citizenship also is derived through one's father. The law requires registration of births within 10 days, but this time frame was not always observed in practice. During the year the government worked with support from UNICEF to improve timely registration of births.

Child Abuse.—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.

Sexual Exploitation of Children.—Crewmembers of foreign fishing vessels that stopped in the country engaged in commercial sexual exploitation of women, some of whom were underage. Some girls worked as prostitutes in bars frequented by crewmembers. Local I-Kiribati, sometimes including family members, reportedly acted as facilitators, delivering girls to the boats. The girls generally received cash, food, or goods in exchange for sexual services.

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 age 13-14 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. While this provision applies only to female children, male-on-male sexual exploitation of children could be prosecuted under provisions against "unnatural" offenses (which cover both male and female persons) and acts of "gross indecency between males," with maximum penalties of 14 and five years' imprisonment, respectively.

The penal code has no specific provision concerning child pornography.

See also the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip/>.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The country's Jewish community was limited to a few foreign nationals, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip/>.

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 physical, sensory, intellectual, or mental disabilities. Accessibility of

buildings, communications, and information for persons with disabilities is not mandated, and there were no special accommodations for persons with disabilities. There were two main nongovernmental organizations that supported and advocated for persons with disabilities: Te Toa Matao (Disabled Persons' Organization) and the School for the Disabled. The school offered special elementary education classes and programs for children with disabilities from age six to age 14. The central hospital on Tarawa had a wing for persons with mental disabilities, and there was a psychiatrist working on Tarawa. Physiotherapy services also were offered at the hospital for persons with physical disabilities.

There was no government agency specifically responsible 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 five years’ imprisonment, respectively, but there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender persons under these provisions. There were no reports of societal discrimination or violence based on sexual orientation or gender identity.

Other Societal Violence or Discrimination.—There were no reports of societal discrimination or violence against persons with HIV/AIDS. A government-run HIV/AIDS taskforce coordinated outreach and educational activities concerning HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law protects the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively. The law prohibits employment discrimination on a number of grounds, including political opinion, but does not specifically include union membership or activity as a prohibited ground of discrimination or provide for reinstatement of workers fired for union activity. The government did not control or restrict union activities; however, unions must register with the government.

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.

The government’s Public Service Office sets wages in the large public sector (53 percent of workers in the cash economy, according to the 2005 census). 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 collective bargaining agreements during the year and no instances reported in which the right to strike was denied. There were no reports of antiunion discrimination, and there were mechanisms to resolve any complaints that might arise.

b. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under age 14. Children through age 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. Some girls worked as prostitutes in bars frequented by crews of foreign fishing vessels (see section 6, Children).

Also see the Department of Labor’s Findings on the Worst Form of Child Labor at <http://dol.gov/llab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—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 \$1.63 and \$1.73) 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, but most of the working population worked within a subsistence economy.

There is no legislatively prescribed workweek. Workers in the public sector worked 36.25 hours per week, with overtime pay for additional hours. There is no law or regulation governing the amount of overtime an employee may work, but there were no known reports of excessive compulsory overtime.

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. The ministry's labor officers are responsible for performing labor inspections, but 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.

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

EXECUTIVE SUMMARY

The Democratic People's Republic of Korea (DPRK or North Korea)¹ is an authoritarian state led by the Kim family for more than 60 years. On December 30, Kim Jong Un was named supreme commander of the Korean People's Army following the December 17 death of his father Kim Jong Il. Kim Jong Un's grandfather, the late Kim Il Sung, remains "eternal president." The most recent national elections, held in March 2009, were neither free nor fair. Security forces report to the supreme leader of North Korea, Kim Jong Un, and to the civilians and military officers that form the National Defense Commission, the supreme ruling body of the state.

Citizens did not have the right to change their government. The government subjected citizens to rigid controls over many aspects of their lives, including denial of the freedoms of speech, press, assembly, association, religion, and movement and worker rights. There continued to be reports of a vast network of political prison camps in which conditions were often harsh and life threatening.

Defectors continued to report extrajudicial killings, disappearances, arbitrary detention, arrests of political prisoners, and torture. The judiciary was not independent and did not provide fair trials. There continued to be reports of severe punishment of some repatriated refugees and their family members. There were reports of trafficked women among refugees and workers crossing the border into China.

The government made no known attempts to prosecute officials who committed human rights abuses.

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 committed arbitrary and unlawful killings. Defector and refugee reports indicated that in some instances the government executed political prisoners, opponents of the government, 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; and "treacherous destruction." In addition a 2007 penal code addendum extends executions to include less serious crimes such as theft, destruction of military facilities and national assets, fraud, kidnapping, smuggling, and trafficking.

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. In November the press reported that border guards shot and killed an unidentified man as he attempted to cross the border near Hyesan.

During the year nongovernmental organizations (NGOs) reported that public executions continued, but no official statistics were available. The Republic of Korea (ROK or South Korea) think tank the Korean Institute for National Unification (KINU) 2011 White Paper on Human Rights in North Korea cited 53 public executions since 2009.

b. Disappearance.—NGO, think tank, and press reports indicated that the government was responsible for disappearances.

There was no progress in the investigation into the cases of suspected abductions of Japanese nationals by DPRK government entities. The DPRK had agreed to reopen the investigation after discussions with the Japanese government in 2008.

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

¹The United States does not have diplomatic relations with the Democratic People's Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited guests the freedom of movement that would enable them to assess fully human rights conditions or confirm reported abuses. Some reports that rely on defector testimony can be dated because of the time lapse between departure from North Korea and contact with NGOs or officials able to document human rights conditions.

ROK Ministry of Unification reported that approximately 517 of its civilians, abducted or detained by DPRK authorities since the end of the Korean War, remained in the DPRK. ROK NGOs estimated 20,000 civilians were abducted by the DPRK during the Korean War.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The penal code prohibits torture or inhuman treatment, but many sources continued to report these practices. Numerous defector accounts and NGO reports released during the year described the use of torture by authorities in kwan-li-so political prisons. 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 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. The 2010 study, *Witness to Transformation: Refugee Insights into North Korea* (Witness to Transformation), published by the Peterson Institute for International Economics and based on a survey conducted in 2008, found that approximately half of the respondents who were detained in lower-level institutions (jip-kyul-so collection centers and ro-dong-dan-ryeon-dae labor training centers) reported seeing executions, an estimated three-quarters reported forced starvation, and nearly a third reported witnessing deaths from beatings and torture.

The KINU 2011 White Paper on North Korean Human Rights indicated that officials had in some cases prohibited live births in prison and ordered forced abortions. In some cases of live birth, the white paper reported that prison guards killed the infant or left it to die. The white paper reported that guards also sexually abused female prisoners.

Defectors reported that reeducation through labor, primarily through sentences at forced labor camps, was a common punishment and consisted of difficult physical labor, such as logging, mining, and 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. Witness to Transformation described four main types of prison and detention facilities: kwan-li-so, political penal-labor camps; kyo-hwa-so, correctional or reeducation centers; jip-kyul-so, collection centers for low-level criminals; and ro-dong-dan-ryeon-dae, labor training centers. Based on satellite imagery and defector testimony, one kwan-li-so camp, Camp 22, was estimated to be 31 miles long and 25 miles wide and hold 50,000 inmates. Defectors claimed the kwan-li-so camps contained unmarked graves, barracks, work sites, and other prison facilities. Kwan-li-so penal-labor camps are administered by the Ministry of State Security (MSS); kyo-hwa-so reeducation centers are administered by the Ministry of People's Security (MPS). During the year an NGO reported that five kwan-li-so facilities remained under the command of the MSS, including Kaechon (Camp 14) in South Pyongan Province, Yoduk (Camp 15) in South Hamkyung Province, Hwasung (Camp 16), Chongjin (Camp 25), and Hoiryeong (Camp 22) in North Hamkyung Province. The same NGO reported the police began to dismantle the sixth facility, Bukchang (Camp 18) in South Pyongan Province, in 2006 and it was unclear if the camp remained in operation in 2011.

Reports indicated that those sentenced to prison for nonpolitical crimes were typically sent to reeducation prisons where prisoners were subjected to intense forced labor. Those who were considered hostile to the government or who committed political crimes reportedly were sent to political prison camps indefinitely. In many cases family members were also detained if one member was accused or arrested. The government continued to deny the existence of political prison camps.

Reports indicated that conditions in the prison camp and detention system were harsh and life threatening and that systematic and severe human rights abuses occurred. Many prisoners in political prison camps and the detention system were not expected to survive. Detainees and prisoners consistently reported violence and torture. Press reports and Witness to Transformation included defector accounts of public executions in political prison camps. 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 re-

ported that guards at a labor camp stole food brought for inmates by their family members. Based on interviews with 15 former detainees at the Yoduk political prison, an Amnesty International report estimated that 40-percent of inmates died of malnutrition.

The South Korean and international press reported that kyo-hwa-so, or labor rehabilitation camps, hold populations of up to 10,000 political prisoners, economic criminals, and ordinary criminals.

Estimates of the total number of prisoners and detainees in the kwan-li-so camps ranged between 130,000-200,000. In July the ROK think tank Database Center on North Korean Human Rights reported that 138,000 people were being held in DPRK detention centers, with between 130,500 and 131,000 held in five active political prison camps, possibly 200-300 in the Bukchang facility, and the rest dispersed in more than 182 other locations. NGO and press reports estimated that there were between 182 and 490 detention facilities in the country.

Information on the number of women and juvenile prisoners was not available. Anecdotal reports from the Database Center on North Korean Human Rights indicated that in some prisons women were held in separate units from men, but no information was available on whether conditions varied for women. One NGO reported that political prisoners sent to punishment facilities were subject to torture without consideration of their gender.

One NGO reported that women make up the majority of prisoners in ro-dong dan-ryeon-dae, or labor-training centers; the majority of prisoners in these facilities were repatriated from China.

Under the criminal procedure law, a criminal case is dismissed in the case of a crime committed by a person under 14 years of age, and under Article 62 public education is applied in case of a crime committed by a person above 14 and under 17 years of age.

No information was available indicating whether prisoners and detainees had reasonable access to visitors. In past years defectors reported that Christian inmates were subjected to harsher punishment if their faith was made public. No information was available on whether prisoners or detainees could submit complaints to judicial authorities without censorship or request investigation of credible allegations of inhumane conditions. It is also not known whether results of investigations were made public. There was no information on whether the government investigated or monitored prison and detention conditions. Neither the U.N. special rapporteur on the human rights situation in the DPRK nor the U.N. special rapporteur on torture have been allowed to independently access conditions inside the country.

The government did not permit human rights monitors to inspect prisons and detention facilities. There was no information on whether there were ombudsmen to act on behalf of prisoners and detainees, consider such matters as alternatives to incarceration for nonviolent offenders, alleviate inhumane overcrowding, address the status and circumstances of confinement of juvenile offenders, improve the administration of pretrial detention, bail, and recordkeeping procedures, or ensure that prisoners did not serve beyond the maximum sentence for the charged offense.

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. Witness to Transformation reported that authorities had a high level of discretion in detaining, arresting, prosecuting, and releasing people.

Role of the Police and Security Apparatus.—The internal security apparatus includes the Ministry of People's Security (MPS) and the Ministry of State Security (MSS). The security forces do not have adequate mechanisms to investigate possible security force abuses. There was no information that the government took action to reform the security forces.

The MPS, responsible for internal security, social control, and basic police functions, is one of the most powerful organizations in the country. It controlled an estimated 144,000 public security personnel. The MPS maintains law and order, investigates common criminal cases, manages the prison system, controls traffic, monitors citizens' political attitudes, conducts background investigations, has responsibility for the census and civil registration, 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.

The formal public security structure was augmented by a pervasive system of informers throughout the society. Surveillance of citizens, both physical and electronic, was routine.

Arrest Procedures and Treatment While in Detention.—Revisions to the criminal code and the criminal procedure code in 2004 and 2005 added shortened periods of detention during prosecution and trial, arrest by warrant, and prohibition of collecting evidence by forced confessions. There was no confirmation of whether these changes were incorporated in practice.

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 PSA was authorized to handle criminal cases directly without the approval of prosecutors. The change was reportedly made because of corruption among prosecutors. One NGO reported that investigators could detain an individual for the purpose of investigation up to two months.

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. There was no known bail system and no information on whether a lawyer was provided to detainees.

During the year ROK NGOs reported the case of Shin Suk-ja, who was allegedly detained at the Yodok labor camp because her husband, Oh Kil-nam, defected to the ROK.

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. There was no information on whether authorities respected court orders. 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." Witness to Transformation reported that only 13 percent of the 102 respondents who had been incarcerated in the country received a trial.

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 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 article and the ROK National Human Rights Commission report, most inmates in prison camps were sent there without a trial and without knowing the charges against them. There were no indications that the right to the presumption of innocence was respected in practice.

Political Prisoners and Detainees.—While the total number of political prisoners and detainees remained unknown, a 2011 report by the North Korea Database estimated that 138,000 people were held in detention centers, of whom 130,500 were held in five political prisons. Political prisoners are held separately from other detainees. NGOs and the press reported that political prisoners were subject to harsher punishments and fewer protections than other prisoners and detainees. The government considered critics of the regime to be political criminals. The government did not permit access to persons by international humanitarian organizations. Reports from past years described political offenses as including burning old currency or criticizing the government's currency revaluation, 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 encroached rights and interests. Reports indicated these rights were 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 trouble-

makers. Entire communities sometimes were subjected to security checks. An ROK NGO reported that authorities entered homes without judicial authorization. Possessing “antistate” material and listening to foreign broadcasts were crimes that could subject the transgressor to harsh punishment, including up to five years of labor reeducation.

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.

During the year press reports indicated the number of persons with access to an internal mobile phone network increased to an estimated one million. DailyNK reported that approximately 60 percent of the population of Pyongyang between the ages of 20 and 50 regularly used mobile phones. Mobile phone use was strictly monitored. The system was segregated from systems used by foreigners and could not be used for international calls. In the border regions adjacent to China, unauthorized Chinese mobile phones were reported to be used for making international calls. Those caught using such cell phones were reportedly arrested and required to pay a fine or face charges of espionage, or harsher punishments. In May CNN reported that the government initiated an intensive crackdown on illegal mobile phone use to prevent uprisings such as those in the Middle East.

The Korean Worker’s Party (KWP) is the key governing body in the country; party membership is dictated by social and family background and is the key determinant of social mobility. The government divided citizens into strict loyalty-based classes known as “songbun,” which determined access to employment, higher education, place of residence, medical facilities, certain stores, and marriage prospects.

DPRK authorities practice collective punishment. Entire families, including children, have been imprisoned when one member of the family was accused of a crime. Collective punishment reportedly can extend to three generations.

ROK NGOs reported that most of the 38 family members and other relatives of Park Nam-ki, who was allegedly executed in 2010 for his role in the 2009 currency revaluation, were sent to labor detention centers where they reportedly died of illness, severe malnutrition, and suicide.

NGOs reported the eviction of families from their places of residence without due process. In April the press reported that 300 families of defectors who had resettled in the ROK were relocated from Hoeryoung to a controlled area in South Hamkyoung province. In August ROK NGOs reported that the DPRK Central Party had established a policy of relocating the entire family of people found to be receiving help from relatives overseas.

Section 2. Respect for Civil Liberties, Including:

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

Freedom of Speech.—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 MSS and MPS sought to identify the authors, who could be subjected to investigation and punishment.

Freedom of Press.—The government sought to control virtually all information.

Print media, broadcast media, and book publishing were all tightly controlled by the government. There were no independent media. The government carefully managed visits by foreigners, especially journalists. In September the Associated Press (AP) reached an agreement to expand its television service to an all-format news bureau in Pyongyang. International AP reporters were not resident in the country.

Violence and Harassment.—Domestic journalists had little freedom to investigate stories or report freely. In 2010 an NGO reported the alleged execution of someone making an illegal international call to report on rice prices.

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.

Censorship or Content Restrictions.—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 polit-

ical elite, and violators were subject to severe punishment. Radios and television sets, unless altered, are set to receive only domestic programming; radios obtained from abroad had to be altered to operate in a similar manner. Elite citizens and facilities for foreigners, such as hotels, reportedly had access to international television broadcasts via satellite. The government continued to attempt to jam all foreign radio broadcasts.

Internet Freedom.—Internet access for citizens was limited to high-ranking officials and other designated elites, including select university students. An “intranet” was reportedly available to a slightly larger group of users, including an elite grade school, select research institutions, universities, and factories, and a few individuals. The Korea Computer Center 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.

Academic Freedom and Cultural Events.—The government restricted academic freedom and controlled artistic works. Curriculum was highly controlled by the state. Academic travel was severely restricted. A primary function of plays, movies, operas, children’s performances, and books was to buttress the cult of personality surrounding the Kim family.

According to North Korean media, Kim Jong-il frequently told officials that ideological education must take precedence over academic education in the 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 influence on its citizens. Listening to foreign radio and watching foreign films is illegal; however, numerous NGOs reported that foreign 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 enforcing restrictions on foreign films, police were authorized to search people’s homes to search for contraband DVDs. One NGO reported the majority of people incarcerated in low-level detention facilities were detained for watching illegal foreign films.

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, but 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.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 control carefully internal travel. The government did not cooperate with the Office of the U.N. High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons.

In-country Movement.—The government continued to restrict 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; 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.

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.

Foreign Travel.—The government also restricted foreign travel. The government limited issuance of exit visas for foreign travel to officials and trusted businessmen, artists, athletes, and academics. 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.

Exile.—It was not known whether the law prohibits forced exile; the government reportedly forced the internal exile of some citizens. In the past it forcibly resettled 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.

Emigration and Repatriation.—The government did not allow emigration, and reports indicated that it tightened security on 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 in return for bribes.

Substantial numbers of citizens have crossed the border into China over the years. Reports suggested that the number of North Koreans living in northeastern China declined during the year.

The South Korean press reported that the government issued orders for guards to shoot-to-kill attempted border crossers. NGOs reported that Kim Jong Un called for stricter punishments for those suspected of illegal border crossing. 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." 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 particularly harsh treatment was reserved for those who had extensive contact with foreigners, including those with family members resettled in the ROK.

In the past, reports from defectors indicated that the government 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, including death). The law stipulates a sentence of up to two years of "labor correction" for the crime of illegally crossing the border.

Repatriated refugees were subject to harsh punishments, including imprisonment. During the year the government reportedly continued to enforce the policy that all border crossers be sent to prison or reeducation centers. An NGO reported that families of resettled defectors in South Korea were treated harshly and were forcibly relocated to areas away from the border.

Witness to Transformation reported that approximately one-quarter of defectors surveyed in 2004 who had successfully escaped North Korea reported having been arrested in China and repatriated to North Korea at least once before their successful departure.

In October the press reported that more than 20 defectors were caught in China and likely repatriated.

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. Following the death of Kim Jong Il on December 17, his son, Kim Jong Un, was given the title of Supreme Commander of the KPA. There was no effort to carry out this transition by democratic means.

Elections and Political Participation.—Recent Elections.—Elections of local representatives to the SPA were held in July. The elections were neither free nor fair, and the outcome was virtually identical to prior elections. One NGO reported that travel certificates were reportedly not issued during the election period. The government openly monitored voting, resulting in nearly 100 percent participation and 100 percent approval. An NGO reported that citizens were ordered to participate in the July elections.

Political Parties.—The government has created several "minority parties." Lacking grassroots organizations, they existed only as rosters of officials with token rep-

representation in the SPA. The government regularly criticized the concept of free elections and competition among political parties as an “artifact” of “capitalist decay.”

Participation of Women and Minorities.—Women made up 20 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. Corruption in the security forces was endemic.

Reports of diversion of food to the military and government officials and bribery were indicative of corruption in the government and security forces.

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 allowed the U.S. special envoy for North Korean human rights issues to enter to the country and held brief conversations about human rights issues with him, it but did not allow access to assess human rights conditions outside of Pyongyang. The international 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.

U.N. and Other International Bodies.—The government emphasized that it had ratified a number of U.N. human rights instruments but continued to refuse to cooperate with U.N. representatives. The government prevented the U.N. special rapporteur on the situation of human rights in the DPRK, Marzuki Darusman, from visiting the country to carry out his mandate, which it continued to refuse to recognize. It rejected the offer of the Office of the High Commissioner on Human Rights to work with the government on human rights treaty implementation. The government did not grant entry to any thematic special rapporteurs, such as those on torture or violence against women.

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.—Rape and Domestic Violence.—The government appeared to criminalize rape, but no information was available on details of the law or how effectively it was enforced. Women in prison camps reportedly were subject to rape by prison guards and to forced abortions.

Violence against women has been reported as a significant problem both inside and outside the home. No information was available on government efforts to combat rape, domestic violence, and other societal violence directed against women.

Sexual Harassment.—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.

Reproductive Rights.—It was difficult to obtain accurate information regarding reproductive rights. The country’s initial report to the Convention on the Elimination of All Forms of Discrimination Against Women, submitted in 2002, claimed that

“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 U.N. Population Fund estimated that the maternal mortality ratio in 2008 was 250 per 100,000 live births. In 2000 the country reported in UNICEF’s multiple indicator cluster survey that a doctor, nurse, or skilled midwife delivered 96.7 percent of babies.

Discrimination.—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.

The press and think tanks have reported that while women were less likely than men to be assigned full-time jobs, they had more opportunity to work outside the socialist economy.

Children.—Birth Registration.—Citizenship is derived from one’s parents and in some cases birth within the country’s territory.

Education.—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. NGO reports also indicated some children were unable to attend school regularly because of hidden fees or insufficient food.

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.

Medical Care: 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.

Child Abuse.—Information about societal or familial abuse of children remained unavailable. 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.”

Sexual Exploitation of Children.—There were reports of trafficking in young girls among persons who had crossed into China.

Displaced Children.—According to NGO reports, there was a large population of street children, many of them orphans, who were denied entrance to public schools.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no known Jewish population, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—A 2003 law mandates equal access for persons with disabilities to public services; however, implementing legislation had 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. It was not known whether the government restricted the right of persons with disabilities to vote or participate in civic affairs.

The Korean Federation for the Protection of the Disabled (KFDP) was founded in 1999 to coordinate the work with the disabled population country-wide.

The U.N. 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. UNICEF has noted that very high levels of malnutrition indicate serious problems for both the physical growth and psychosocial development of young children. The U.N. Food and Agriculture Organization (FAO) estimated that 7.8 million people, 33 percent of the population, were undernourished. The FAO estimated 32 percent of children suffered from stunted growth.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws against homosexuality, but 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. Freedom of Association and the Right to Collective Bargaining.—The constitution provides for freedom of association, but workers do not have the right to organize, strike, or bargain collectively. 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 (GFTUK). Operating under this umbrella, unions functioned according to a classic Stalinist model, with responsibility for mobilizing workers to support production goals and for providing health, education, cultural, and welfare facilities. By law unlawful assembly can result in five years of correctional labor. The government controls all aspects of employment, including assigning jobs and determining wages. Joint ventures and foreign-owned companies are required to hire their employees from government-vetted lists. Factory and farm workers were organized into councils, which had an impact on management decisions. Although the law stipulates that employees working for foreign companies can form trade unions and that foreign enterprises must guarantee conditions for union activities, the law does not protect workers who might attempt to engage in union activities from employer retaliation, nor does it impose penalties for employers who interfere in union activities.

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. 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 the ROK and the DPRK, special regulations covering labor issues negotiated with the ROK 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.

b. 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.c.). “Reformatory labor” and “reeducation through labor,” sometimes of entire families, have traditionally been common punishments for political offenses. Forced and compulsory labor in such activities as logging, mining, tending crops, and manufacturing continued to be the common fate of political prisoners. According to HRW, one defector reported that he was forced to work 16 hours a day in a mine.

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.”

Forced labor continued to take place in brick making, cement manufacturing, coal mining, gold mining, iron production, and textile industries. Foreign media and NGOs reported that authorities ordered university students to abandon their studies to work on construction projects related to centennial celebrations of the birth of Kim Il-sung planned for April 2012. They included completing 100,000 housing units and a hotel in Pyongyang.

Also see the Department of State’s annual Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—According to the law, the state prohibits work by children under the age of 16.

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. Thousands of children were reportedly held and forced to work in labor camps alongside their parents.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—No reliable data was available on the minimum wage in state-owned industries. After the 2002 economic reforms, compensation underwent significant change, as citizens sought to earn hard currency to support themselves and their families.

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.

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.” Workers themselves do not have an enumerated right to remove themselves from hazardous working conditions.

Leave or rest from work were sometimes compromised as mandatory participation in mass events on holidays, which might also require 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. Citizens were required to participate in mourning activities following the death of Kim Jong-Il.

In practice many worksites were hazardous, and the industrial accident rate was high.

Citizens 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 had little 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.

According to the ROK Ministry of Unification (MOU), 144 South Korean firms were operational at the KIC and approximately 50,000 North Korean workers were employed at KIC as of December. The MOU 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 \$60.77 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 \$88 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 in cash to the workers, their wages were in fact deposited into accounts controlled by the North Korean government, which withheld a portion for social insurance and other benefits and then remitted the balance (reportedly approximately 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. The KIC remained a highly sought-after place of employment.

REPUBLIC OF KOREA

EXECUTIVE SUMMARY

The Republic of Korea (South Korea or ROK) is a constitutional democracy governed by President Lee Myung-bak and a unicameral legislature. In 2008 the Grand National Party obtained a majority of National Assembly seats in a free and fair election. Security forces reported to civilian authorities.

The primary human rights problems reported were the government’s interpretation of national security and other laws to limit freedom of expression and restrict access to the Internet as well as incidents of hazing in the military.

Other human rights problems included some official corruption; sexual and domestic violence; children engaged in prostitution; trafficking in persons; societal discrimination against foreigners, defectors from the Democratic People’s Republic of Korea (DPRK or North Korea), and persons with HIV/AIDS; and limitations on worker rights.

The government took steps to prosecute officials who committed abuses, and impunity was not evident.

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 there were 40 suicides among military personnel, 10 of which were attributed to hazing, mistreatment, or an inability to adjust to military life. The Ministry of National Defense (MND) conducted independent investigations of these incidents and made no arrests. The ministry maintained a suicide prevention program.

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.

During the year the MND reported 14 hazing incidents resulting in physical injuries.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards, including access to potable water, and the government permitted monitoring visits by independent human rights observers.

The Ministry of Justice reported that the total number of prisoners as of December was 45,038, of whom 2,429 were women, 456 were juveniles, and 14,405 were pretrial detainees. According to the nongovernmental organization (NGO) International Center for Prison Studies, the correctional facilities were designed to hold 44,430 prisoners. Authorities confined male and female prisoners in similar quarters, but each was specifically designed to meet particular population needs. For example, women's prisons contained special examination areas for women's health concerns and annual checkups.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government monitored prison and detention center conditions.

Although there were no prison ombudsmen, prisoners could petition the Ministry of Justice's Human Rights Violations Center or the National Human Rights Commission to make prison abuse claims. As of December, 212 petitions were submitted to the justice minister, all of which the Ministry of Justice investigated. One case was granted relief; the others were dismissed, refused, or transferred to other agencies. Of the 74 cases filed with the Human Rights Violations Center, one resulted in findings of relief for the petitioner, 17 cases were dismissed, 51 cases were refused, and five were transferred. The International Committee of the Red Cross, which maintains an office in Seoul, did not request prison visits during the year.

Authorities managed prison records according to law, maintained them for various periods at relevant institutions, and systematically transferred them to the national records center after 30 years.

There are no legal steps requiring alternative sentences for nonviolent offenders, but penalty fees, social services, and suspended sentences were determined on a case-by-case basis and used regularly.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The National Security Law grants authorities the power to detain, arrest, and imprison persons believed to have committed acts intended to endanger the "security of the state." NGOs continued to call for reform or repeal of the law, contending that its provisions do not define prohibited activity clearly. The Ministry of Justice maintained that the courts had established legal precedents for strict interpretation of the law that preclude arbitrary application.

In February the Supreme Court upheld a lower court ruling that prosecutors did not release false information about four NGO members who had been convicted in 2010 of illegal contact with agents of the DPRK and distribution of North Korean press material for the purpose of exalting DPRK leader Kim Jong-il in 2008. Two defendants had been sentenced to prison, and two defendants were placed on probation with sentences suspended.

Role of the Police and Security Apparatus.—The Korean National Police Agency is responsible for internal security, under the supervision of the Ministry of Public Administration and Security. Civilian authorities maintained effective control over police, and the government had 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.—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 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 a person who voluntarily submits to questioning at a police station. Authorities must release an arrested suspect within 20 days, unless an indictment is issued. Ten additional days of detention are allowed in exceptional circumstances.

There is a bail system. Human rights lawyers stated that authorities generally did not grant bail 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 discloses information that impedes an investigation. The courts respected a defendant's right to a lawyer. During the trial stage and, under certain circumstances, during the pretrial stage, 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 denial of access to legal counsel.

Arbitrary Arrest.—As of the end of July, authorities arrested 10 persons for violating the National Security Law, indicted six, and placed four others under investigation. Of those indicted, courts convicted two, and trial proceedings continued for four.

In January police arrested a man for posting Internet messages that praised the North Korean government and its officials. He received a two-year suspended sentence.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government 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 its 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 defense. Defendants have the right to be present and consult with an attorney. They may confront or question witnesses against them, and they may present witnesses and evidence on their behalf. Defendants have access to relevant government-held evidence.

Political Prisoners and Detainees.—The Ministry of Justice stated that no persons were incarcerated solely because of their political beliefs.

The law requires military service by all male citizens and does not distinguish conscientious objectors from others who do not report for it; the penalty is up to three years in prison. Watchtower International, a Jehovah's Witnesses organization, reported that in December there were 761 Jehovah's Witnesses serving an average of 18 months in prison for conscientious objection. As of December Watchtower reported it was monitoring 155 cases on appeal to the Supreme Court and 15 cases before the Constitutional Court, two of which involved reservists. Constitutional Court rulings on the matter, most recently in 2011, upheld the law's constitutionality.

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 court access to bring lawsuits seeking damages for, or cessation of, a human rights violation. Administrative and judicial remedies are available 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. 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 court-approved wiretappings significantly decreased, from 589 in the first half of 2010 to 58 in the first half of 2011.

The government continued to require some released prisoners to report regularly to the police in accordance with the Security Surveillance Act.

The National Security Law forbids citizens from listening to DPRK radio programs 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. These prohibitions were rarely enforced, however, and viewing DPRK satellite telecasts in private homes is legal.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The law provides for freedom of speech and 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.

Censorship or Content Restrictions.—The independent media were active and expressed a wide variety of views generally without restriction. Under the National Security Law, the government may limit the expression of ideas that praise or incite the activities of antistate individuals or groups.

On March 21, the U.N. special rapporteur on the promotion and protection of the right to freedom of opinion and expression issued a report on his May 2010 visit. While laudatory of progress made, the report also expressed concern about increased restrictions on freedom of expression and specifically cited as concerns laws broadly making defamation a crime (which the rapporteur labeled as “inherently harsh and [having a] disproportionate chilling effect.”) and providing the potential for controlling the dissemination of election or candidate information and banning books.

In September the Supreme Court rejected a prosecution appeal and reaffirmed district and appeals court verdicts of not guilty in the case of four producers and one writer from the Munwha Broadcasting Corporation’s PD Notebook program who had been charged in 2009 with spreading false rumors about the alleged health risks of eating U.S. beef.

Internet Freedom.—There were some government restrictions on access to the Internet and reports that the government monitored e-mail and Internet chat rooms.

Under the National Security Law, anyone who knowingly supports or encourages antistate entities faces punishment of up to seven years in prison. According to an October press report, the online activities of as many as 40 citizens were under investigation for such an offense.

The government blocked violent, sexually explicit, gambling-oriented, and other Web sites found to violate law and order, including, but not limited to, the illegal trade of internal organs, food, or medical supplies; violation of intellectual property rights; and the encouragement or planning of suicide. The government also continued to block DPRK Web sites and direct access to the DPRK’s YouTube channel and Twitter account. Although viewing Web sites praising the DPRK regime remains lawful, disseminating information about those Web sites, including posting links to the sites, remains unlawful under the National Security Law. For example, authorities compelled Web site operators in September 2010 to remove more than 80,000 pro-DPRK comments, according to a media report.

In December the Korea Broadcasting and Communication Commission established a new “Media Information Review/Investigation Team” to monitor social networking services, applications, and online advertisements. According to media reports, the team is charged with reviewing pornography, the distribution of false information, defamation, cyber stalking, violations of laws on national security and the protection of juveniles, and any other criminal acts. If prohibited materials are found, the commission is empowered to issue the user a warning; prohibited material not thereupon removed would result in the blocking of the user’s account.

The March 21 U.N. special rapporteur on freedom of expression, reporting on his May 2010 visit, also stated concern about the law assigning the responsibility for controlling information on the Internet to intermediaries or private companies rather than to an independent body.

At year’s end the Constitutional Court had not determined the constitutionality of the government’s expansion of the Network Act to require identity verification in order to permit messages to be posted on all Web sites operating a domestic server with more than 100,000 visitors per day. A civic organization had requested the determination and alleged the expansion was an effort to limit freedom of expression since the law had previously set the threshold at 300,000 visitors per day.

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 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. Police must notify organizers if they consider an event impermissible under this law. Police routinely approved demonstrations, although they reportedly banned some protests by groups that had not properly registered or that were responsible for violent protests in the past.

From August to November, after repeated warnings, police used water cannons to disperse demonstrators at labor and political protests that police stated were illegal; organizers claimed the protests were registered and legal. There were no reported injuries or subsequent legal actions.

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.—See the International Religious Freedom Report at <http://state.gov/jdrl/irf/rpt/>.

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 U.N. 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.

Foreign Travel.—In many cases travelers from the ROK to the DPRK must receive a Ministry of Unification briefing before 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.

Government officials restricted the movement of certain DPRK defectors by denying them passports.

Citizens convicted of a crime for which the potential sentence is two years' imprisonment or longer may have their passport privileges revoked by the Ministry of Foreign Affairs and Trade.

Protection of Refugees.—Access to Asylum.—The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. However, the government did not routinely grant refugee status or asylum.

The Ministry of Justice's increase in the number of staff reviewing refugee applications and the movement of adjudication authority to the Seoul Immigration Office streamlined bureaucratic procedures and provided better access to translators—actions that resulted in quicker application processing. During the year the government approved 42 applications and denied 277, compared with 47 approvals and 168 rejections during 2010.

In July the Seoul Administrative Court—in an unprecedented reversal of a Ministry of Justice denial—granted refugee status to three Iranian Muslims who had converted to Christianity while living in the country.

Nonrefoulement.—On September 6, police and immigration officials arrested Jin Jingzhe, a self-proclaimed Chinese practitioner of Falun Gong who arrived in South Korea in 2008, and his wife. As of year's end authorities had released her, but his asylum request had been denied, and he remained in detention in Suwon under the threat of deportation to China. Since 2009, authorities have reportedly returned to China 10 individuals who claimed to be Falun Gong practitioners, after courts refused their refugee/asylum requests.

Employment.—Those granted refugee status are given resident status with employment authorization.

Access to Basic Services.—Refugees are provided with basic living expenses and medical expenses if their income falls below the poverty line.

The government continued its longstanding policy of accepting refugees from the DPRK who are entitled to citizenship in the ROK. The government resettled 2,737 such refugees during the year, and there were at year's end approximately 23,000 North Korean refugees living in South Korea. The DPRK Refugee Support Foundation provided services to assist refugees as they adjust to life in South Korea, including rental assistance, exemption of education fees, medical service assistance, business loans, and employment assistance. The government also operated 30 Cen-

ters to Adjust to Regions, which educated refugees on adaptation to specific geographic areas, provided counseling services, and supported social adjustment.

Temporary Protection.—Government guidelines provide for offering both temporary refugee status in the case of a mass influx of asylum seekers and an alternate form of protection—a renewable, short-term permit—to those who meet a broader definition of “refugee.” During the year the government provided temporary humanitarian protection to 32 persons who may not qualify as refugees.

As of January the Office of the U.N. High Commissioner for Refugees reported 179 stateless persons in the country. It was unclear how many of them were children of refugees or migrants unable to obtain South Korean citizenship under the country’s laws; authorities, however, gave them the same status as their parents.

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 age 19 or older.

Elections and Political Participation.—Recent Elections.—National Assembly elections in April 2008 were free and fair.

During an October 26 by-election, National Election Commission Web sites suffered denial of service attacks. Police in December arrested a staffer of a Grand National Party member and four others, and the lawmaker resigned his position.

Participation of Women and Minorities.—In general elections, 50 percent of each party’s candidates for the 54 seats decided by proportional ballot must be women, and 30 percent of each party’s candidates for the 245 single-member constituencies are recommended to be women. At year’s end there were 45 women in the 299-seat National Assembly, with two of 16 National Assembly standing committees chaired by women. One of 14 Supreme Court justices and three of 15 cabinet ministers were women.

There were no members of minority groups in the National Assembly.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government implemented the law effectively. There were reports of officials receiving bribes and violating election laws. As of July, according to the Ministry of Justice, 243 government officials had been prosecuted for abuse of authority, bribery, corruption, embezzlement, misappropriation, or falsification of official documents. As of December, courts convicted 10 National Assembly members of accepting illegal political funds and fined four, suspended four, and stayed the sentences of two. Four lost their National Assembly memberships.

By law public servants above a specific rank must register their assets, including how they were accumulated, thereby making their holdings public. Several government agencies are responsible for combating government corruption, including the Board of Audit and Inspection, which monitors government expenditures, and the Public Service Ethics Committee, which monitors civil-servant financial disclosures and activities. The Anticorruption and Civil Rights Commission, operating on an annual budget of more than 63 billion won (approximately \$54 million), manages public complaints and administrative appeals regarding corrupt government practices. During the year the commission logged approximately 32,000 civil petitions and reported investigating all of them and dismissing 35 percent as noncomplaints. The commission acted on 3,014 claims and used alternate dispute resolution to resolve the majority of them. The commission also evaluates the “good governance and cleanliness” of public organizations and during the year decreased the number of organizations under its purview from 712 in 2010 to 705.

The country has a freedom of information act, and in practice the government granted public access to 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 were cooperative and responsive to their views.

Government Human Rights Bodies.—The National Human Rights Commission (NHRC), an independent government body established to protect and promote human rights, has no enforcement power, and its decisions are nonbinding. The NHRC investigates complaints, issues policy recommendations, and conducts education campaigns. In 2009 the U.N. Committee on Economic, Social, and Cultural

Rights expressed concerns about NHRC independence as well as its downsizing by 21 percent when ministries were downsized significantly less. On the NHRC's 10th anniversary in November, local media outlets also questioned the commission's independence.

Ombudsman activities are the responsibility of the independent Anticorruption and Civil Rights Commission, which interacted with various government institutions, including the Office of the President, National Assembly, and ministries. The commission addressed complaints and concerns from both citizens and foreign residents and was trusted by the public (see also section 4).

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

The law forbids discrimination on the basis of race, gender, disability, and social status, and the government effectively enforced it.

Women.—Rape and Domestic Violence.—The law criminalizes rape. Although there is no specific statute that defines spousal rape as illegal, the courts have established a precedent by convicting spouses in such cases. 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' imprisonment to life. If the perpetrator is a relative of the victim, the minimum prison sentence for rape or sexual assault increases from five years to seven and from three years to five, respectively.

During the year the Ministry of Justice stated that there were 9,144 reports of rape; 19,830 total reports of sexual violence, including rape; 20,159 offenders arrested; and 3,947 rape cases and 8,883 sexual violence cases, including rape, prosecuted. No information was available on convictions or sentences. In 2010 there were 18,985 reports and 8,385 prosecutions.

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. This order may be extended up to two years. Offenders may be sentenced to a maximum of five years in prison and fined up to seven million won (approximately \$6,000) for domestic violence offenses and sentenced to a maximum of two years in prison and fined up to 20 million won (\$17,000) for violating domestic violence restraining orders. Offenders also may be placed on probation or ordered to see court-designated counselors. The law requires police to respond immediately to reports of domestic violence, and they were for the most part responsive.

On June 29, the National Assembly passed the Special Act on the Punishment of Domestic Violence, which became effective on October 26. When there is a danger of domestic violence recurring and there is an immediate need for protection, the act allows a provisional order to be issued ex-officio or at the request of the victim. The provisional order may restrict the defendant from living in the same home or approaching within 109 yards of the victim and includes contacting the victim through the use of telecommunication devices. The Ministry of Justice reported the number of domestic violence cases decreased from 7,359 in 2010 to 2,511 in 2011. No information was available on prosecutions, convictions, or sentences.

Sexual Harassment.—The law obligates companies and organizations to take preventive measures against sexual harassment, and the government enforced the law effectively. Civil remedies are generally available for sexual harassment claims. At public institutions, administrative remedies are also available. The Ministry of Gender Equality and Family, which reports annually to the Cabinet Council and National Assembly, provided sexual harassment prevention training to approximately 15,000 public institutions.

Reproductive Rights.—The law allows couples and individuals to decide freely the number, spacing, and timing of their children and to have the information and means to do so free from discrimination. Access to contraception and maternal health services, including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care, were widely available. Women were equally diagnosed and treated for sexually transmitted infections.

Discrimination.—Women enjoy the same legal rights under the constitution as men. 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 a remarried woman to change her children's family name to her new husband's name.

The law penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination may be fined up to five million won (approximately \$4,300).

The Ministry of Employment and Labor reported that the labor force participation of women between the ages of 15 and 64 increased from 53.6 percent in July 2010

to 54 percent as of July 2011. To increase the participation of women, the ministry maintained employment-training centers for women at 72 locations to provide job assistance to women, especially those with gaps in their employment history. The ministry also maintained an affirmative action program for public institutions with 50 or more employees and private institutions with 500 or more employees. The program requires these institutions to comply with a hiring plan devised by the ministry if they do not maintain a female workforce greater or equal to 60 percent of the average of relevant occupations.

The number of women in entry-level civil service positions and new diplomatic positions continued to increase. However, women continued to experience a pay gap, since a higher percentage of working women tended to fill lower-paying, low-skilled, contract jobs.

Children.—Birth Registration.—Citizenship requires that one parent be a citizen of the country at the time of birth. Citizenship is also given in circumstances where parentage is unclear or if a person would otherwise be stateless. Domestic NGOs estimated that there were as many as 20,000 unregistered children in the country at the end of 2010.

Child Abuse.—In 2010 a total of 9,199 child-abuse cases were reported to the Ministry for Health and Welfare. The ministry's Child Protection Center intervened in 5,657 of the cases, 75 of which involved abuses in orphanages and childcare facilities. The ministry maintained shelters that provided protection, counseling, and treatment services to child abuse victims.

Sexual Exploitation of Children.—The minimum sentence for rape of a minor is 10 years' imprisonment, and the minimum sentence for other sexual assaults involving a minor 13 years of age or younger is seven years. Other penalties include electronic monitoring of offenders and the public release of their personal information. The age of consent is 13 years; moreover, it is illegal to deceive or pressure anyone under age 19 into having sexual intercourse. In August the National Assembly revised the Act on the Protection of Children and Juveniles from Sexual Abuse to give sexual-violence victims the right to a court-appointed attorney.

As of July the Act on Pharmacologic Treatment of Sexual Offenders' Sexual Impulse authorized courts to order a person convicted of a sexual crime against a child (under age 16) and diagnosed as a sexual deviant to undergo reversible hormonal treatment to curb the level of sexual impulse.

The law prohibits child pornography. Offenders who produce or possess it for the purpose of selling, renting, or distributing it for profit are subject to a maximum of seven years' imprisonment and may be fined up to 20 million won (approximately \$17,000). According to the National Police Agency, children were engaged in prostitution. As of July authorities caught 1,184 adolescents between the ages of 13 and 19 buying or selling sex, which accounted for an estimated 9.7 percent of total offenders.

The Ministry of Gender Equality and Family maintained 10 centers that provided counseling, treatment, and legal assistance to child victims of sexual violence.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There is a small Jewish population consisting almost entirely of expatriates. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services or other areas, and the government effectively enforced the law. The government effectively implemented laws and programs to ensure that persons with disabilities had access to buildings, information, and communications. The law establishes penalties for deliberate discrimination of up to three years in prison and 30 million won (approximately \$26,000). The government, through the Ministry of Health and Welfare, continued to implement a comprehensive set of policies that included encouraging public and private buildings and facilities to provide barrier-free access, providing part-time employment, and employing a task force to introduce a long-term care system. The government operated rehabilitation hospitals in six regions, plus a national rehabilitation research center to increase opportunities and access for persons with disabilities.

Any business with 50 full-time employees or more is required to meet an employment quota for persons with disabilities (3 percent for government agencies, 2.3 percent to 3 percent for public organizations, and 2.3 percent for private companies).

Foreign companies operating in the export processing zones (EPZs) are exempt from these requirements. Any private company or public organization with 100 full-time workers or more is subject to a monthly penalty amounting to 530,000 won (approximately \$460) for each person with a disability whom it fails to hire and, if the employment rate of workers with disabilities does not reach 50 percent of the required quota, an additional charge is imposed. During the year authorities charged establishments that failed to employ any persons with disabilities based on the minimum wage (approximately 940,000 won per month or \$800). The government enforced this new requirement in phases, beginning with employers of 300 or more full-time workers and expanding gradually to include employers with 100 or more full-time workers.

Another part of enforcement involved disclosing in the media and the official gazette the names of businesses that fail to meet the quotas. In July the Ministry of Employment and Labor published the names of 39 government ministries and local governments, 64 public institutions, 749 private companies with 300 employees or more, and 1,357 private companies with between 100 and 300 employees that failed to meet the quotas.

On October 4, the Support for the Activities of Persons with Disabilities Act that the National Assembly passed in January became effective. Under it the government provided assistance to persons with disabilities, including bathing, home nursing care, and mobility assistance. The government also provided financial assistance to low-income persons with severe disabilities.

On August 4, the National Assembly passed the Support for Children with Disabilities Welfare Act (scheduled to become effective in August 2012). It would provide support for the health and welfare of children with disabilities, including a support center, nursing service, and medical aid. The government also expanded services for children with disabilities by providing monthly financial aid to those with brain damage, furnishing up to 320 hours per year of in-home services to the families of children with disabilities, and operating a cultural program and family camp.

In July for the first time in the company's history, the Korean Broadcasting System hired a visually impaired anchor. The anchor competed with 522 other candidates to obtain the highly sought-after position. Broadcasting companies continued to provide closed captions and signing interpreters for their hearing-impaired audiences.

National/Racial/Ethnic Minorities.—Essentially racially homogeneous, the country's growing ethnic minority population passed the 1.2 million mark in 2010. To meet the projected growth in ethnic minorities due to the increasing number of migrant workers and foreign brides, the Ministries of Gender Equality and Family and of Employment and Labor continued programs to increase public awareness of cultural diversity and to assist foreign workers, wives, and multicultural families to adjust to life in the country.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The Ministry of Justice reported that the constitution's equality principles apply to lesbian, gay, bisexual, and transgender (LGBT) persons. The law that installed the NHRC prohibits discrimination on the basis of sexual orientation and gives the NHRC the authority to review cases of such discrimination. From January 1 to July 31, the NHRC received one case of alleged discrimination against LGBT persons but did not find merit in the case.

There are no specific laws punishing offenders or providing remedy to victims of discrimination or violence against LGBT persons. However, the government did punish perpetrators of violence against LGBT persons according to the law.

Military and societal discrimination against LGBT persons persisted. In March the Constitutional Court found the military code of conduct provision that criminalizes consensual same-sex sexual activity between military personnel to be constitutional.

Other Societal Violence or Discrimination.—Some observers claimed that persons with HIV/AIDS continued to suffer from societal discrimination and social stigma. The law protects the confidentiality of persons with HIV/AIDS and protects them from discrimination.

During the year the NHRC reported there were 287 employment-discrimination cases filed. Seven complaints alleged age discrimination, and the NHRC recommended remedies in two of the cases.

The media reported some violence against foreigners. For example, in May a man killed his foreign wife. The government continued to crack down on illegal match-making agencies and increased monitoring of legal ones. Additionally, the government opened premarriage education centers for those who plan to marry foreigners and provided language training and counseling to foreign spouses. Local NGOs and

the media also reported that North Korean resettlers, although supported through government-funded resettlement programming, continued to face discrimination.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides workers with the right to associate freely in accordance with regulations. In July new amendments took effect that authorize union pluralism; they allow multiple unions to form at a single enterprise but permit only a single negotiation channel with management. The law constrains the right to organize freely for some workers, including public sector employees.

The law permits workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. The law prohibits antiunion discrimination and allows for reinstatement of workers terminated for union activity.

The constitution and law provide for the right to strike but limit it in certain circumstances. Among the workers employed at major defense corporations subject to the Defense Acquisition Program Act, those working in the areas of electricity generation, water supply, or production of defense products are not allowed to strike. This list of “essential services” prohibited from striking is more broadly defined than international standards specify. Strikes are also prohibited for national and local government officials.

By law unions must submit a request for mediation to the National Labor Relations Commission before a strike; otherwise, the strike is 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 also is prohibited when a dispute has been referred to binding arbitration. Additionally, if striking employees resort to violence, unlawfully occupy premises, or damage facilities, their actions are deemed illegal. Strikes not specifically pertaining to labor conditions, including wages, benefits, and working hours, are also illegal.

Striking workers may be removed by police from the premises and, along with union leaders, prosecuted and sentenced. The law prohibits retribution against workers who conduct a legal strike. The National Labor Relations Commission may require and has required employers found guilty of unfair practices to reinstate workers fired for union activities.

The law permits some public servants to bargain collectively, although it restricts public service unions from collective bargaining on topics such as budgetary and policy-making matters. The law further prevents special public servants from joining unions unless they are equivalent to a general public official of grade six or below and are not engaging in foreign affairs and managing diplomatic information.

As a result of new regulations allowing for union plurality, workers had more options for selecting a union and saw an overall improvement in union services. As of August 23, according to the Korea Employers Federation, 398 new trade unions had been established. 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. All labor federations generally operated without government interference.

In practice laws banning education workers from engaging in certain political activities, such as joining a political party or openly endorsing a political party or candidate, have constrained unions’ abilities to advocate for their positions. In January the Seoul District Court dismissed cases against 159 members of the Korean Teachers and Education Workers Union or found them not guilty of charges that they joined a political party when they launched antigovernment petitions in 2009. Many teachers, however, were assessed fines for contributing to a political party.

On September 15, the Seoul Administrative Court ruled against the Immigration Service’s effort to deny Migrants Trade Union President Michael Catuira a work visa and deport him. At year’s end the Immigration Service’s appeal was pending.

Although the constitution and law provide workers the right to strike and exempt them from legal responsibility in the case of a legal strike, in practice workers may still be penalized for striking if they engage in other illegal activities. For example, workers who use violence or participate in illegal activities may be prosecuted for “obstruction of business.” This charge was often used to detain labor leaders and strikers in labor demonstrations, as in the case of Kim Jin-seok, who illegally occupied a crane from January until November during the Hanjin labor dispute. Once the strike ended, authorities issued a warrant for her arrest.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor. The government generally enforced the law effectively; however, there were reports that some men and women from foreign countries were

subjected to forced labor. Migrant workers who traveled to the ROK for employment sometimes incurred thousands of dollars in debts, contributing to their vulnerability to debt bondage. Observers noted that migrant workers commonly faced conditions indicative of forced labor, including deceptive recruiting practices, nonpayment of wages, and restrictions on workers' freedom of movement by withholding of passports (see section 7.d.).

During the year there were some media reports that alleged that migrant workers were subjected to forced labor on ROK-flagged fishing vessels operating in the New Zealand exclusive economic zone. The ROK government initiated an investigation into the allegations, which continued at year's end.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law protects children from exploitation in the workplace and prohibits the employment of persons under age 15 without an authorization certificate from the Ministry of Employment and Labor. Authorities issued few such certificates for full-time employment, because education is compulsory through middle school (approximately age 15). 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 ministry. The government effectively enforced this law through regular inspections, and child labor was not considered a problem.

d. Acceptable Conditions of Work.—Authorities set the annual national minimum wage at 4,320 won (approximately \$3.73) per hour, a 5.1 percent increase over 2010 and equal to the increase in the minimum cost of living. The minimum cost of living for a family of two was 942,197 won (\$800) per month, and the 2011 Poverty Statistics Yearbook reported that one-fourth of household incomes failed to meet the minimum.

The law requires employers to allow 30 minutes' rest in a four-hour work period and one hour's rest in an eight-hour work period, to be taken within the work period. However, foreign companies operating in the EPZs are exempt from some labor regulations, including provisions that mandate paid leave, also referred to as "weekly rest."

Persons working in the financial/insurance industry, publicly invested companies, state corporations, and companies with more than 20 employees are required to receive premium pay for work in excess of 40 hours per week at a 50 percent higher rate. The law also allows a flexible workhours system under which employers may require laborers to work up to 48 hours during certain weeks without paying overtime, so long as average weekly work hours for any given two-week period do not exceed 40 hours (and 52 hours during certain weeks without paying overtime, so long as average weekly work hours for any given three-month period do not exceed 40 hours). Management may ask employees to work up to 56 regular hours in a given week, during which workers may work more than 12 hours per day, if both the employer and the employee agree.

The government sets health and safety standards and is responsible for monitoring industry adherence to these standards.

A set of regulations, including the Employee Permit System (EPS), outlines legal protections for migrant and foreign workers. Permit holders may work only in certain industries and have limited job mobility, but they generally enjoy the same rights and privileges as citizens.

The government conducts labor inspections both proactively according to regulations and reactively in response to complaints. As of December there were 311 labor inspectors for industrial safety and welfare countrywide. According to the Korea Occupational Safety and Health Agency (KOSHA), inspectors at times faced difficulties in conducting inspections due to opposition from business owners or managers. The government provided technical assistance via KOSHA to resolve deficiencies discovered during inspections.

Foreign workers legally employed in Korea are registered in the EPS. Workers registered with the EPS and legally employed in the country have more rights than workers who are illegally employed. According to the Ministry of Employment and Labor, as of November there were approximately 547,000 foreign workers residing in the country, approximately 497,000 of whom were admitted under the EPS.

Contract and other "nonregular" (part-time) workers accounted for a substantial portion of the workforce. The ministry reported that as of March there were approximately 5.77 million nonregular workers, comprising approximately 34 percent of the total workforce. In 2010 nonregular workers, as reported by the ministry, performed

work similar to regular workers but received approximately 87 percent of the wages of regular workers.

The government continued to use the EPS to increase protections for and controls on foreign workers, while addressing the labor shortage in the manufacturing, construction, and agricultural sectors. In order to assist both employers and workers to understand better the applicable laws and regulations, the government provided pre-employment training to newly arrived foreign workers, workplace-adaptation training to those who changed workplaces, and training to employers who hired foreign workers.

On September 29, the Constitutional Court rejected a challenge to the EPS law's three-workplace-changes limit as violating employment freedoms. Unless the Ministry of Justice grants an extension on humanitarian grounds, workers lose their legal status if they lose their job and do not find a new employer within three months. As of August 1, a revision to the Enforcement Regulations of the Act on Foreign Workers' Employment allows employers to apply to rehire foreign workers within seven days of the expiration date of the permit, easing the earlier deadline of at least 45 days.

The government implemented social services and legal precedents to address complaints about the working conditions of foreigners. During the year the Ministry of Employment and Labor provided training on the EPS to employers hiring foreign workers and continued programs previously implemented for foreign workers to ease the difficulties of living and working in the country, including free legal advice, counseling, translation services, health checkups in their native language, and the establishment of several "human rights protection centers for foreigners." In an effort to reach more foreign workers, telephone services were available in 10 languages.

NGOs and local media reported that nonregular workers were at greater risk for discrimination because of their status and that foreign laborers sometimes faced physical abuse and exploitation from employers in the form of longer working hours and lower wages than their Korean counterparts. The NGO Korea Migrant Center received reports of abuse of female entertainment visa holders. The ministry reported that foreign workers filed 5,227 complaints related to unpaid wages during 2011.

The government reports descriptions of and statistics on work-related injuries and fatalities on a quarterly basis on its Web sites. As of September there were 69,066 industrial, work-related accidents, a decrease of 3,005 compared with the same period in 2010. There were also 1,582 fatalities reported, a decrease of 10 compared with the same period in 2010. KOSHA provided training and subsidies to improve work safety and reduce work-related accidents. Since extending its services to migrant workers, KOSHA made training modules and materials available in 10 languages at worksites.

LAOS

EXECUTIVE SUMMARY

The Lao People's Democratic Republic is an authoritarian state ruled by the only party that the constitution legitimizes, the Lao People's Revolutionary Party (LPRP). The most recent National Assembly election was held on April 30, and almost all candidates were LPRP members vetted by the party. Security forces reported to civilian authorities.

The most significant human rights problems were that the government continued to deny citizens the right to change their government, prison conditions were harsh and at times life-threatening, and corruption in the police and judiciary persisted.

Other human rights problems included some police and security force abuse of prisoners and detainees; arbitrary arrest and detention; government infringements on freedom of speech, the press, assembly, and association, as well as the right to privacy; government restrictions on academic freedom; local restrictions on religious freedom; trafficking in persons; societal discrimination on the basis of sexual orientation and against persons with HIV/AIDS; and government restrictions on worker rights.

The government did not take steps to prosecute and punish officials who committed abuses, and members of the police acted with impunity.

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no credible reports that the government or its agents committed arbitrary or unlawful killings, including against insurgent groups.

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 police and security force members sometimes abused prisoners.

Detainees occasionally 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. 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.

In October an international human rights organization reported that police and local militia forcibly detained without due process and physically abused individuals at the Somsanga Drug Treatment and Rehabilitation Center in Vientiane and called for an investigation. However, foreign diplomats and international organization representatives based in Vientiane regularly visited the center throughout the year and found no evidence to support the report.

Prison and Detention Center Conditions.—Prison conditions varied widely but in general were harsh and occasionally life-threatening. Authorities did not make prison population statistics available. Prisons were overcrowded with poor ventilation, minimal sanitation facilities, inadequate access to food and potable water, and substandard medical care. 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. Generally family members could access prisoners and detainees, although sometimes the family did not live close to the jail; in some facilities families could make frequent visits, but in others, visits were severely restricted.

Unlike 2010 there were no credible reports during the year from international organizations that authorities treated ethnic minority prisoners particularly harshly. Authorities used incommunicado detention as an interrogation technique and against perceived problem prisoners, although there were no specific 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.

Male and female prisoners were held in the same prisons but were placed in separate cells. Conditions for women generally were similar to or better than those for men. 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.

Prisoners and detainees could follow some religious observances, but no facilities were provided.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, although there were no reports that prisoners, detainees, or their family members made such requests for fear of exacerbating poor detention conditions. There were also no known investigations of complaints and no records of government investigation or monitoring of prison and detention center conditions.

The government did not permit regular independent monitoring of prison conditions. At times it provided foreign diplomats access to some prisons, but such access was strictly limited. There were no ombudsmen to serve on behalf of prisoners and detainees.

In certain cases the government allowed offenders convicted of nonviolent crimes to be released, without formally sentencing them to prison.

The government made improvements to Phongtong Prison facilities for foreigners during the year. No information was available about improvements to any of the other 18 prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, but in practice some government officials did not respect these provisions, and arbitrary arrest and detention persisted.

Role of the Police and Security Apparatus.—The Ministry of Public Security 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 Ministry of Public Security includes local, traffic, immigration, and security (including border) police plus other armed police units. Additionally, communications 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, although there were no statistics available. The Ministry of Public Security's Inspection Department maintained complaint boxes throughout most of the country for citizens to deposit written complaints.

The government cooperated with international organizations to implement a national strategy to strengthen law enforcement and deal with increased drug trafficking and abuse as well as related crime and police corruption.

Arrest Procedures and Treatment While in Detention.—Police and military forces have arrest powers, although normally only police carried them out. The law provides detainees the right to a prompt judicial determination of the legality of detention. The law also requires that, within 24 hours of arrest, authorities notify detainees of the charges brought against them and inform next of kin, and generally this occurred. Prisoner access to family members and a lawyer was not assured but was generally allowed. There is a bail system, but it was nonfunctioning and arbitrarily implemented. There were no reports of detainees held incommunicado during the year, but authorities did place them under house arrest, particularly for health reasons.

Arbitrary Arrest.—Police continued to exercise 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.

Pretrial Detention.—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 reportedly made efforts to ensure that all prisoners were brought to trial within the one-year limit, but the limit occasionally was ignored. The Prosecutor General's Office 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. Authorities at times 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 later.

Amnesty.—On December 30, the government issued a presidential decree granting amnesty to 665 prisoners, of whom 109 were women and 25 were foreigners.

e. Denial of Fair Public Trial.—The law provides for the independence of the judiciary. The judiciary was weak, but 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 National Assembly may remove judges from office for "impropriety," although no judges were removed during the year.

Trial Procedures.—By law defendants enjoy a presumption of innocence, but 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 reviews of the evidence. Juries are not used. Trials that involve certain criminal laws relating to national security, state secrets, children under age 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. Nevertheless, 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. Defendants have the right of appeal.

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. 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 Champasak and Oudomsay provinces provided legal services to citizens in need.

All of the country's judges were LPRP members. Most had only basic legal training, and some zonal courts had few or no reference materials available for guidance. The National Assembly Legal Affairs Committee occasionally reviewed People's Supreme Court decisions for "accuracy" and returned cases to it or the Prosecutor General's Office for review when the committee believed decisions were reached improperly.

Political Prisoners and Detainees.—There were no available government statistics or reliable estimates of the number of political prisoners, but the following three were well known:

Colonel Sing Chanthakoumane, an official of the pre-1975 government, continued to serve a life sentence for antigovernment activities after a 1990 trial that was not conducted according to international standards. The government continued to ignore requests to release him on humanitarian grounds.

Thongpaseuth Keuakoun and Seng-aloun Phengboun, arrested in 1999 for attempting to organize a prodemocracy demonstration, continued to serve 15-year sentences for antigovernment activities.

Authorities allowed families to visit them, but no humanitarian organization had regular access to them.

There were no credible reports during the year of persons arrested, tried, and convicted under national security laws that prevent public court trials.

Civil Judicial Procedures and Remedies.—The law provides for independence of the judiciary in civil matters, but 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 National Assembly. Regarding 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 Ministry of Public Security 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 and reported "undesirable elements" to police. Members of the LPRP's front organizations, including the Lao Women's Union (LWU), the Youth Union, and the Lao Front for National Construction also played a role in monitoring citizens at all societal levels.

The government continued to relocate 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. While there were no reports of the government forcibly relocating villagers, there were reports of individuals displaced by government projects. 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, and disease. 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 arrests and fines.

Premarital cohabitation with foreigners 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.—Status of Freedom of Speech and Press.—The law provides for freedom of speech and press, but in practice the government severely restricted political speech and writing and prohibited most public criticism that it deemed harmful to its reputation.

Freedom of Speech.—The law provides citizens with the right to criticize the government but also forbids slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the state.

Freedom of Press.—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.

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.

Violence and Harassment.—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 permitted their travel without official escorts. When escorts were required, they reportedly were at journalists' expense.

Censorship or Content Restrictions.—Officials reviewed privately owned periodicals after publication and could penalize those whose articles did not meet government approval. The Ministry of Information and Culture's Mass Media Department confirmed that no publications during the year failed to obtain government approval. Publishers reportedly were aware of what the government would approve for publishing and therefore tended to practice self-censorship.

Authorities prohibited the dissemination of materials deemed by the ministry 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 of one to three times the value of the item or imprisonment for up to one year.

Publishing Restrictions.—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 those 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.

Internet Freedom.—The government controlled all domestic Internet servers and retained the ability to block access to Internet Web 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 capability appeared limited.

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. Although 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, the government 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 attempted to limit the influence of Thai culture on Lao music and entertainment, but these attempts had 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 decree allows for the registration of nonprofit civil society 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. Only 10 organizations completed the application process and were registered formally; another 70 awaited approval by year’s end.

c. Freedom of Religion.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 cooperated in some cases with the Office of the U.N. 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.—Citizens seeking to travel to contiguous areas of neighboring countries generally obtained the required permits easily from district offices. Those wishing to travel farther abroad were required to apply for passports.

Emigration and Repatriation.—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 Hmong returnees from Thailand. The government continued to maintain that the UNHCR’s mandate expired in 2001 and all former refugees had successfully reintegrated. During the year foreign diplomats, international organizations representatives (including senior UNHCR officials), and the press visited the villages of Phonekham in Borikhamxay Province and Phalak and Nongsan in Vientiane Province, where Lao Hmong who returned from Thailand in 2007-09 were resettled, including those involuntarily returned in 2009. The government in 2010 provided land, housing, and electricity plus a one-year supply of food. During the year the government worked on an irrigation system for Phonekham Village that was scheduled for completion in 2012, and it continued to make a concerted effort to provide the international community access, albeit controlled, to these resettlement villages.

The government’s policy—both for Hmong surrendering internally and for those returned from Thailand—was to return them to communities of origin whenever possible. On September 28, Lao authorities received 34 Lao Hmong whom Thai authorities repatriated across the Mekong River near Nong Khai, Thailand. The returnees claimed that one Lao Hmong male drowned while being ferried across the river by boat, and unsubstantiated reports from elements of the Hmong diaspora alleged that Thai authorities beat him. The government reportedly sent these returnees back to their villages by year’s end.

The government maintained its policy of denying the right of return to persons who fled the country during the 1975 change of regime and were tried in absentia for antigovernment activities; there were no cases of such denial during the year.

Internally Displaced Persons (IDPs).—In the absence of comprehensive and timely monitoring by international organizations and independent observers, it was not possible to clarify the number and condition of IDPs in the country or the situation concerning their protection and reintegration, government restrictions on them, and their access to basic services and assistance. Nevertheless, the NGO Internal Displacement Monitoring Center’s 2010 report identified three groups of IDPs that could total “between several hundreds and several thousands,” as follows: (1) Hmong who fled to Thailand and were forcibly returned; (2) individuals who should be considered as civilians but were living with Hmong insurgents (see section 6, National/Racial/Ethnic Minorities); and (3) individuals, small in number, of non-Buddhist minority religious group members who reportedly were forced from their villages due to local restrictions on religious practices (see the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>).

Protection of Refugees.—Access to Asylum.—The law provides for asylum and the protection of stateless persons. The government did not routinely grant refugee or asylum status, but it showed some flexibility in dealing pragmatically with individual asylum cases.

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 universal, adult-suffrage voting by secret ballot. Election committees appointed by the National Assembly must approve all candidates for local and national elections. Candidates do not need to be LPRP members, but in practice almost all were.

The National Assembly chooses members of the Standing Committee, generally based on the previous Standing Committee's recommendations. Upon such recommendations, the National Assembly 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 National Assembly, upon the president's recommendation, formally elects the prime minister and other government ministers.

Recent Elections.—The most recent National Assembly election was on April 30. Independent observers were not allowed to monitor the election process.

Political Parties.—The constitution legitimizes only the LPRP; all other political parties are outlawed.

Participation of Women and Minorities.—There were 33 women in the 132-seat National Assembly, including two on the ten-member Standing Committee, and three women were members of the 13-member People's Supreme Court. The 61-seat LPRP Central Committee included five women, one of whom was also a member of the 11-member Politburo and president of the National Assembly. Of six ministers in the Prime Minister's Office, two were women. The minister of labor and social welfare also was a woman.

While 80 percent of the population lived in rural areas and the village chief and village council handled most everyday matters, fewer than 1 percent of the village chiefs were women. The LWU—the LPRP mass organization focused on women's issues with a presence in every village and at every government level—is the only organization that has representation in every village, and only one member of the LWU represented women in each village council.

There were seven members of ethnic minorities in the LPRP Central Committee, including two in the Politburo. The National Assembly included 50 members of ethnic minorities, while two of the 28 cabinet ministers were members of ethnic minority groups. The new president of the National Assembly was also a member of an ethnic minority. One of the People's Supreme Court justices was a member of an ethnic minority.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, but the government did not implement the law effectively, and corruption continued to be a serious problem. 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.

Many police officers used their authority to extract bribes from citizens. Some judges reportedly could be bribed. Corrupt officials reportedly were seldom punished. Police were trained at the National Police Academy, but the extent to which the academy's curriculum covered corruption was unknown.

In theory the Government Inspection and Anticorruption Committee, which was established in June, carries authority equal to a government ministry and has responsibility for uncovering corruption in all government ministries, including the Ministry of Public Security. Authorities arrested and administratively punished lower-level officials on occasion for corruption. There were no reports of criminal cases brought to trial. 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 adequate funding, equipment, and legal support from the government.

Prior to taking their designated positions, senior officials were 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.

No laws provide 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 U.N. human rights conventions from several international donors.

U.N. and Other International Bodies.—The government maintained contacts and cooperated with the International Committee of the Red Cross in various activities for the implementation of international humanitarian law. The government also continued to work on implementing the 2010 U.N. Universal Periodic Review recommendations that it had accepted.

Government Human Rights Bodies.—There is no ombudsman. A human rights division in the Ministry of Foreign Affairs has responsibility for investigating allegations of human rights violations, although in practice it apparently had no authority to perform investigations or direct other ministries to undertake them.

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

The constitution provides for equal treatment under the law for all citizens without regard to ethnicity, gender, social status, education, or faith. The government at times took action when well-documented, 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.—Rape and Domestic Violence.—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 tried in court, defendants generally were convicted with sentences ranging from three years' imprisonment to execution. Rape was reportedly rare, although it was likely underreported, as was most crime. The country does not have a central crime database, nor does it provide crime statistics.

Domestic violence is illegal, but there is no law against marital rape, and domestic violence often went unreported due to social stigma. Penalties for domestic violence, including battery, torture, and the detention of persons against their will, may include both fines and imprisonment. The law grants exemption from penal liabilities in cases of physical violence without serious injury or physical damage.

LWU centers and the Ministry of Labor and Social Welfare, in cooperation with NGOs, assisted victims of domestic violence. On November 25, the Counseling and Protection Center for Women and Children in Vientiane, operated by the LWU, launched a new nationwide hotline for individuals to report incidents of domestic violence and receive counseling over the telephone. An international NGO operating a shelter for homeless children noted that domestic violence was one of the main reasons why children leave homes to live on the streets of Vientiane. Overall statistics were unavailable on the number of abusers prosecuted, convicted, or punished, but the LWU estimated that the centers have assisted approximately 500 domestic violence victims since October 2010.

Sexual Harassment.—Although sexual harassment is not illegal, "indecent sexual behavior" toward another person is illegal and punishable by six months to three years in prison. Sexual harassment rarely was reported, with its extent difficult to assess.

Reproductive Rights.—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 generally available, although the means of contraception were not widely available in rural areas and were often financially out of reach. A 2011 U.N. Population Fund report estimated the contraceptive prevalence rate for women of reproductive age (15-49 years) in 2010 for all methods to be 38 percent and the maternal mortality ratio in 2008

to be 580 deaths per 100,000 live births. Deaths related to pregnancy and childbirth were the primary cause of death for women of reproductive age. Very few women had access to skilled birth attendants and very few medical centers were equipped to deal with complicated births, especially in small, nomadic, and ethnic villages. According to the U.N. Development Program, the major factors influencing maternal mortality in the country were the low contraceptive prevalence rate, the high unmet need for family planning among women of reproductive age (27 percent), the low percentage of deliveries assisted by trained health practitioners (23 percent), and the lack of access to emergency obstetric care. Antenatal care remained poor. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections.

Discrimination.—The law provides equal rights for women, but traditional attitudes and gender-role stereotyping kept women and girls in subordinate positions, preventing them from equally accessing education and business opportunities, and there was little government effort to redress this. The law also prohibits legal discrimination in marriage and inheritance, although varying degrees of culturally based discrimination against women persisted, with greater discrimination practiced by some hill tribes.

The LWU operated nationally to promote the position of women in society, including conducting several programs to strengthen the role of women that were most effective in urban areas. Many women occupied decision-making positions in the civil service and private business, and in urban areas their incomes were often higher than those of men. Poverty continued to affect women disproportionately, especially in rural and ethnic minority communities. While rural women carried out more than half of total agricultural production in every field, the additional workloads of housework and child rearing also fell primarily on women.

Children.—Birth Registration.—Regardless of where they are born, children acquire citizenship if both parents are citizens. 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.—Education was compulsory, free, and universal through the fifth grade, although 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. Although school enrollment rates for girls remained lower than for boys, gender parity continued to increase.

Child Abuse.—The law prohibits violence against children, and violators are subject to stiff punishments. Reports of the physical abuse of children were rare.

Child Marriage.—The law allows marriage under age 18 in "special and necessary cases," often cases of underage pregnancy, and a considerable percentage of women married before reaching that age.

Sexual Exploitation of Children.—The law does not contain penalties specifically for child prostitution, but the penalty for sex with a child (defined as under age 15, 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 (\$6 to \$24).

A general increase in tourism in the country and a concomitant 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 the cities of Vientiane and Luang Prabang displayed posters created by international NGOs warning against child sex tourism.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

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

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://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 Ministry of Labor and Social Welfare and the Lao National Commission for the Disabled protect such persons against discrimination, although the regulations lack the force of law.

The Ministry of Health has primary responsibility for protecting the rights of persons with disabilities. Because of the large number of disabilities resulting from unexploded ordnance accidents, the ministry worked extensively on this issue, especially in coordination with international NGOs, to operate the Cooperative Orthotic and Prosthetic Enterprise that supplied prosthetic limbs, corrected clubfeet, and provided education to deaf and blind persons.

According to the Ministry of Public Works and Transport, the law requires that construction projects begun after 2009 provide facilities to persons with disabilities and elderly individuals, particularly in the construction of buildings, roads, and public places. The law does not mandate accessibility to buildings built before its enactment or government services for persons with disabilities, but during the year the Ministry of Labor and Social Welfare established regulations regarding building access and built some sidewalk ramps in Vientiane. While there was some progress on accessibility, the lack of resources for infrastructure slowed the retrofitting of most buildings. There were no reports of discrimination in the workplace.

National/Racial/Ethnic Minorities.—The law provides for equal rights for all minority citizens and bars discrimination against them. Nonetheless, some societal discrimination persisted. Moreover, some 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, notably those in remote locations, believed they had little voice in government decisions affecting their lands and the allocation of natural resources from their areas.

Of the 49 official ethnic groups in the country, the Hmong are one of the largest and most prominent. 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, 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. Residual, small, scattered pockets of insurgents and their families remained in remote jungle areas. The government continued to reduce its efforts to combat them actively and continued to offer “amnesty” to insurgents who surrender, but because of their past activities, amnestied insurgents continued to be the focus of official suspicion and scrutiny. The government continued to refuse most international community offers to assist surrendered insurgents directly but allowed some aid from the U.N. and international agencies as part of larger assistance programs.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There was no law prohibiting discrimination based on sexual orientation or gender identity, but there was also no official discrimination based on either factor reported during the year. Within lowland Lao society, despite wide and growing tolerance of lesbian, gay, bisexual, and transgender persons, societal discrimination in employment and housing persisted, and there were no governmental efforts to address it. Reports indicated that lesbians faced greater societal stigma and discrimination than gay men.

Other Societal Violence or Discrimination.—There was no societal violence or 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. Freedom of Association and the Right to Collective Bargaining.—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, which in turn is controlled by the LPRP. In addition, the law does not permit unions to conduct their activities without government interference and prohibits union membership for foreign workers. The law does not prohibit strikes.

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 federation representatives, with final authority residing in the Ministry of Labor and Social Welfare.

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.

The government's bans on subversive activities or destabilizing demonstrations and its failure to provide the means to call a strike made strikes extremely unlikely, and no strike was reported during the year.

The ministry generally did not enforce the dispute-resolution law, especially in dealings with joint ventures in the private sector. Labor disputes reportedly were infrequent. According to labor activists, the federation needed government permission to enter factories and had to provide advance notice of such visits, thereby rendering it powerless to protect workers who filed complaints. Workplace committees were used for resolving complaints, but there was no information on how effective these committees were in practice.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, except in time of war or national disaster. However, due to a limited number of inspectors and resources, the government did not effectively enforce these laws. Forced labor, including forced child labor (see section 7.c.), reportedly occurred in the agriculture industry, particularly on rubber plantations.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law allows for children between the ages of 14 and 18 to work up to eight hours per day, provided such work is not dangerous or difficult. There were no known reports of children working in hazardous environments. The ministries of public security and justice, and labor and social welfare, 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. Forced labor of Lao boys allegedly occurred in the agricultural sector, for example, on rubber plantations.

On June 10, the Ministry of Labor and Social Welfare cooperated with the International Labor Organization to mark the World Day Against Child Labor by holding a seminar to raise awareness of child labor issues among government officials and workers' and employers' organizations.

d. Acceptable Conditions of Work.—The government sets wages and salaries for government employees; management sets wages and salaries for private business employees. The Ministry of Labor and Social Welfare determines the minimum wage but has no regular schedule or transparent process for doing so. On November 23, the government passed a decree increasing the monthly minimum wage for private sector workers from 348,000 to 626,000 kip (approximately \$42 to \$75). Additionally, employers were required to pay an 8,500-kip (\$1) meal allowance per day. The National Assembly, in consultation with the Ministry of Finance, last increased the minimum wage for civil servants and state enterprise employees to 405,000 kip (\$49) per month in 2008. The government set the national poverty line at an average income of 192,000 kip (\$23) per person per month. 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. By law the government determines public holidays. Workers employed under an employment contract for an indefinite period or for a period of more than one year and who have worked for one full year are entitled

to 15 days' annual leave. Workers in sectors involving heavy work or work that is hazardous to health, as specified in the law, are entitled to 18 days' annual leave with full pay at the normal rate.

The law provides for safe working conditions and higher compensation for dangerous work. The law has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment. 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 Ministry of Labor and Social Welfare is responsible for workplace inspections, and its Labor Inspection Division estimated that there were approximately 40 inspectors in the country, but a lack of personnel and budgetary resources precluded effective law enforcement. Officials undertook unannounced inspections when notified of a violation of safe working standards, and employers were given three to six months to address violations before being fined. The Inspection Division confirmed that 142 workplace accidents and seven fatalities occurred in 2010.

There were a number of undocumented immigrants in Laos, particularly from Vietnam, China, and Burma, and they were vulnerable to exploitation by employers. These immigrants primarily worked in construction, plantations, casinos, and service industries. The law sets the percentage of foreign laborers allowed to be hired by a company operating in the country and requires approval of foreign workers, but it does not provide specific work-condition protections for them. The Ministry of Labor and Social Welfare estimated in October 2010 that approximately 250,000 foreigners were working in the country.

MALAYSIA

EXECUTIVE SUMMARY

Malaysia is a federal constitutional monarchy. 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 2008, were conducted in a generally transparent manner and witnessed significant opposition gains. In 2009 Najib Tun Razak was sworn in as prime minister. Security forces reported to civilian authorities.

The most significant human rights problems were restrictions on freedom of speech, assembly, and association; restrictions on the rights of migrants, including migrant workers and refugees; and the persistence of laws that allow detention without trial.

Other human rights problems included some deaths during police apprehensions and while in police custody; caning as a form of punishment imposed by criminal and sharia courts; restrictions on freedom of press and religion; obstacles preventing opposition parties from competing on equal terms with the ruling coalition; and violence and discrimination against women. Longstanding government policies gave preferences to ethnic Malays in many areas. There were restrictions on union and collective-bargaining activity, and various practices continued to create vulnerabilities to child labor and forced labor, especially for migrant workers. The government continued to pursue the prosecution of the leader of the parliamentary opposition on sodomy charges.

The government took steps to prosecute officials engaged in corruption and human rights abuses, although some degree of impunity existed.

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. One nongovernmental organization (NGO) asserted that 20 individuals had been killed in police shootings between February and November. This reflects a downward trend from previous years; local media reported that police killed 35 and 108 persons while apprehending them in 2010 and 2009, respectively. State-influenced print media used a consistent narrative to describe these encounters: the suspect was stopped by police, then tried to attack police; the police killed suspect in self-defense, and evidence of criminal activity was found on the suspect's body. Local human rights groups suggested this pattern was used to justify deaths, usually of ethnic minorities, in police custody.

On April 29, police shot and killed three persons, believed to be foreigners, at a palm oil estate in Maran Jengka. According to the police account, they spotted and pursued a stolen car. The car skidded and hit a tree; rather than surrendering when ordered by the police, the suspects ran towards the policemen wielding machetes, and the police shot them.

On April 6, Selangor Customs Officer Ahmad Sarbaini Mohamed was found dead on the first-floor badminton court of the Malaysia Anticorruption Commission (MACC) office. Sarbaini had been called in by MACC in connection with investigations into corruption cases involving customs officers. On September 26, the coroner's court ruled that the death was accidental and the result of a "misadventure." The coroner speculated that Sarbaini was worried that he would be arrested, tried to exit via the window, lost his footing on the ledge, and fell to his death.

On September 15, police officer Jenain Subi was found guilty of culpable homicide not amounting to murder and was sentenced to five years in jail for the April 2010 fatal shooting of 14-year-old Aminulrasyid Amzah, an ethnic Malay boy. Police had alleged that after a high-speed chase, Amzah placed his car into reverse and was attempting to run over the officers when they drew their weapons and fired.

On June 9, a lawyer for the families of three youths whom the police shot dead in November 2010 presented a report of the postmortem examinations on two of the youths. The report indicated that they were shot at close range and that at least one of them was shot in the forehead at a 45-degree angle, suggesting that he was kneeling when he was shot.

On January 28, the Petaling Jaya Selangor Sessions Court acquitted police constable Navindran Vivekanandan of the charge of causing grievous hurt in the January 2009 death of Kugan Ananthan, an ethnic Indian in police detention, on the basis that the prosecution had failed to establish a prima facie case against the accused.

On July 21, the Royal Commission of Inquiry (RCI), established to investigate the 2009 death of Teoh Beng Hock from a fall in the MACC building, issued its conclusion that Teoh was driven to commit suicide following intense interrogation by three MACC officers. A coalition of more than 100 NGOs issued a statement criticizing the report for not addressing the interrogation methods used by MACC. On August 24, Teoh Beng Hock's brother filed a judicial review application to nullify the RCI's findings. At year's end the attorney general had not taken action against the implicated MACC officers.

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. In contrast to prior years, there were no reports of beatings and mistreatment by the nonprofessional People's Volunteer Corps (RELA) and immigration officials in immigration detention centers (IDCs). IDCs continued to be administered by the Immigration Department with RELA providing perimeter security.

On September 21, lorry driver B. Prabakar and crane operator C. Soloman Raj filed suit against the police and the government, alleging that following their 2008 arrest they were tortured during interrogation. They claimed policemen beat them with a rubber hose, splashed hot water onto their bodies, and kicked and stepped on them. B. Prabakar also said he was "hung" on a ceiling fan with a rope and forced to admit to various criminal offenses.

At year's end, the criminal case against former air force sergeant N. Tharmedran for allegedly conspiring to steal two jet engines, and his police report alleging that in 2010 he was tortured into confessing to the crime while in military detention, remained pending.

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. More than 60 offenses are subject to caning, and 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 between the ages of 10 and 18 may be given up to 10 strokes of a "light cane." Statistics on caning were published only sporadically, but in a March statement in Parliament the government revealed that between 2005 and 2010 it had caned 29,759 foreigners for various immigration offenses. In its 2010 publication, *A Blow to Humanity—Torture by Caning in Malaysia*, Amnesty International estimated that the government canes as many as 10,000 prisoners a year.

Some states' Sharia—laws that exist under Islam with respect to certain family law matters and crimes under Islam but apply only to Muslims—also prescribe caning. Although federal law exempts all women from caning, there are no exemptions for women under Sharia, and the national courts have not resolved issues involving conflicts between the constitution, the penal code, and Sharia. In Sharia caning a smaller cane is used, and the caning official cannot lift the cane above the 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.

Prison and Detention Center Conditions.—Prison overcrowding, particularly in facilities near major cities, remained a serious problem. In mid-2010 the national prison administration reported that the country's 31 prisons held 38,387 prisoners in locations designed to hold 32,600. According to the International Centre for Prison Studies, in mid 2010 women made up 6.6 percent and juveniles 2.2 percent of the total prison population. Generally, men were held separate from women, juveniles separate from adults, and pretrial detainees separate from convicted prisoners. Conditions for women in prison were not significantly different than for men. Individuals detained for reasons of national security did not face significantly different conditions from those of the general population.

Local and international 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 overcrowding, inadequate food, lack of regular access to clean water, poor medical care, poor sanitation, and lack of bedding in IDCs. An NGO with access to the IDCs claimed that these conditions and lack of medical screening and treatment facilitated the spread of disease. The government allowed local NGOs to visit IDCs from time to time; during the year local NGOs with mobile medical clinics were able to visit the IDCs at the Kuala Lumpur International Airport and at Lenggeng, Negeri Sembilan, once every two weeks. One prominent NGO that visited IDCs during the year noted that although there had been some improvement in physical facilities, it did not see any improvement in the treatment of detainees. The NGO further observed that the IDCs could get quite crowded at certain times, such as immediately following a raid. An international NGO that advocates for refugees reported that unsanitary, overcrowded detention facilities with no air conditioning, inadequate clothing and food, and little access to medical care all contributed to continued deaths in IDCs.

In August 2010 the Ministry of Home Affairs' secretary general publicly acknowledged that security measures and living conditions at all the IDCs were seriously deficient and that none met international standards. He added that a five agency committee had been set up to address the problem at IDCs and upgrade IDC standard operating procedures. Although the Ministry of Home Affairs occasionally asks a third party such as the Human Rights Commission of Malaysia (SUHAKAM) to conduct checks on conditions in IDCs, there were no reports on any activities of the five-agency committee.

On August 11, a former pretrial detainee, Ahmad Syauey Abdul Ghani, lodged a report with SUHAKAM alleging human rights abuses during his two-week detention at Pengkala Chepa Prison, Kelantan. Ahmad claimed that between June 23 and July 5, he and 113 other prisoners were forced to strip naked in stages, with 10 to 20 prisoners being forced to strip at a time, in front of the other prisoners. Ahmad alleged that prisoners were told to defecate in front of other prisoners while they were caned on their feet as punishment for "wrongdoing." Ahmad was arrested on June 20 under the penal code for obstructing a public officer and behaving indecently in a police station. His trial was pending.

Death of prisoners while in prison or detention occurred. Based on statistics disclosed by the Home Ministry in March, a total of 156 persons died in police custody between 2000 and February 2011. A local NGO reported nine deaths in custody during the year, an increase from four in 2010. Home Minister Hishammuddin Hussein, in a written reply to a member of Parliament (MP), stated that a total of 10 deaths in police custody were recorded in the first half of the year but asserted that most deaths were caused by disease.

On January 7, M. Krishnan, 37, was found dead in the Bukit Jalil police lock-up. Police said the death was due to an ulcer. His wife claimed he had been tortured to death and had bruises on his back and his right eye, and an open cut on his right abdomen. She lodged a report at Sentul district police headquarters, asking that a second autopsy be conducted. The police ultimately agreed, and the autopsy confirmed the police's claim that the death was due to an ulcer.

On September 27, the High Court ordered the government and the Penor prison director to pay RM590,900 (approximately \$186,000) in damages to the family of an 18-year-old youth who died at the prison six years ago following an assault by 10 prison employees.

On April 5, 109 irregular immigrants, dissatisfied with cramped living conditions, the food, and long detention periods, fled a detention camp in Negeri Sembilan after they burned down a dormitory block. Police recaptured 39 of them.

Prisoners and detainees are allowed visitors during specified visiting hours, and, provided the religious practices were not derived from one of the sects of Islam that the government considers “deviant,” there were no problems with religious observance. The Prisons Act does not provide a process for prisoners to submit complaints to judicial authorities. It allows judges to visit prisons to examine conditions and ask prisoners and prison officials about prison conditions. According to local NGOs, because prison authorities reportedly monitor all incoming and outgoing materials, complaints normally would not be sent through prison authorities. Communications between an attorney and his or her client are generally treated as private and confidential under the attorney-client privilege.

The authorities generally did not permit NGOs and the media to monitor prison conditions. The government approved visits by the International Committee of the Red Cross and SUHAKAM officials on a case-by-case basis. Prisons provided potable water. Although there is no prison ombudsman, SUHAKAM serves as the government’s de facto ombudsman, investigating human rights abuses, including those alleged to have taken place within the prison system. Prison and other officials did not take any noteworthy steps to improve recordkeeping, implement alternatives to sentencing for nonviolent offenders, or make significant improvements to prison conditions or administration during the year.

The U.N. High Commission for Refugees (UNHCR) had 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 2009 IDCs scheduled UNHCR visits to interview some unregistered potential refugees. Through these interviews, the UNHCR secured the release of 1,351 refugees from IDCs from January to August.

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 Internal Security Act (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. In September Prime Minister Najib announced that the ISA and related emergency ordinances would be abolished and replaced by new legislation that would take into consideration the rights and freedoms in the constitution. A vigorous public debate on matters of arbitrary arrest and detention took place through the rest of the year. On November 24, Parliament passed a motion to revoke three 40-year-old emergency proclamations; Prime Minister Najib had said that the emergency situations that had threatened security, economic life, or public order no longer existed. The constitution provides that all laws passed pursuant to the proclamations of emergency expire six months after the emergency proclamations are lifted. Foremost among these is the Emergency Ordinance, which is one of several laws that allow for indefinite detention without trial.

Role of the Police and Security Apparatus.—The approximately 102,000-member Royal Malaysia Police (RMP) 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 Malaysia Department of Islamic Development (JAKIM) enforces Sharia, which applies only to Muslims. JAKIM sometimes receives assistance from the RMP when conducting raids. State-level Islamic religious enforcement officers also have the authority to accompany police on raids of private premises as well as public establishments to enforce Sharia, including violations such as indecent dress, alcohol consumption, or close proximity to members of the opposite sex. Religious authorities at the state level administer Sharia through Islamic courts and have jurisdiction over all Muslims. Sharia and the degree of their enforcement vary by state, and the penalties imposed by Sharia courts are limited under the law.

RELA has authority to check travel documents and immigration permits of foreigners, conduct raids, detain and interrogate suspects, and conduct other security activities. Since 2009 the government has reduced RELA’s involvement and authority in immigration matters. However, after the August 2010 escape of 20 Afghan

nationals from an IDC near Kuala Lumpur International Airport, Deputy Home Minister Lee Chee Leong announced that security for the IDCs would be transferred from immigration authorities to the Prison Department, with RELA providing perimeter security. NGOs and organizations dealing with refugee affairs reported that RELA continued to enforce immigration laws. On June 25, the RELA director general announced that RELA had halted all enforcement operations against undocumented foreign workers unless invited by the police or immigration department.

In August RELA membership reached 2,690,000 members, an increase of more than half a million since 2010. The government took steps to increase RELA's overall role, specifically in assisting police with criminal matters. NGOs remained concerned that inadequate training left RELA members ill equipped to perform their duties. In December 2010 Koh Tsu Koon, minister in the Prime Minister's Department, said that due to the impossibility of stationing police officers on every corner, thousands of RELA members were deployed to assist police in the patrolling of high-crime areas. Reported abuses by RELA members included extortion, theft, pilfering items from homes, and pillaging of refugee settlements. However, such reports were fewer than in previous years.

On March 1, police arrested a RELA member and three others in connection with a February 27 robbery and rape case. According to police the RELA member had lent a pair of handcuffs to two other suspects who had used it to impersonate policemen. The suspects allegedly abducted a woman and drove her to a hotel where they took turns raping her before robbing her of her cash and valuables. There were no known further developments in the case during the year.

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.

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.

Police officers are subject to trial by the criminal and civil courts. Police representatives reported that there were disciplinary actions against police officers during the year. Punishments included suspension, dismissal, and demotion.

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.

The police training center continued to include human rights awareness training in its courses. SUHAKAM conducted human rights training and workshops for police, prison officials, and RELA several times during the year.

On September 22, the Kuala Lumpur High Court ordered Nadzri Ahmad and the inspector general of police to pay Johari Kasman RM900,000 (\$284,000) in damages. In 2004 Johari was shot in the back by police and became paralyzed from the waist down. The judge ruled that there was no justification for shooting an unarmed person in the back.

Arrest Procedures and Treatment While in 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, local NGOs reported that a police practice of releasing suspects and then quickly rearresting them and holding them in investigative custody 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.

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.

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. NGOs continued to speak out against a perceived police mentality of "arrest first, investigate later." 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.

Arbitrary Arrest.—Four preventive detention laws permit the government to detain suspects without normal judicial review or filing formal charges: the ISA, Emergency (Public Order and Prevention of Crime) Ordinance, Dangerous Drugs (Special Preventive Measures) Act, and 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. 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. An NGO that follows treatment of detainees reported that they received no complaints of mistreatment of ISA detainees.

Even when there are no formal charges, the ISA requires that authorities inform detainees of the accusations against them and permits 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.

On August 2, Home Minister Hishammuddin announced the release of eight Immigration Department officers who had been held under the ISA since October 2010 for alleged connections with human trafficking or migrant smuggling activities. The minister said the detainees showed remorse for the mistakes they had made and had repented.

Almost 4,500 people were detained under the ISA from 2000 to 2010. On June 5, police arrested Abdul Haris Syuhadi for allegedly recruiting for the terrorist organization Jemaah Islamiya. Between November 14 and 16, 13 alleged members of Darul Islam, a forerunner of Jemaah Islamiya, were arrested under the ISA. A credible NGO reported 26 arrests and 20 releases under the ISA during the year. According to the home minister, as of November 9, 37 individuals remained in detention under the ISA, plus 13 individuals being held in solitary confinement under the first 60 days of detention. Reasons given for the detentions included alleged links to terror organizations, document forgery, and involvement in human smuggling syndicates.

Under the Emergency Ordinance (EO), 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.” On September 11, the RMP Vice, Gambling and Secret Societies Unit reported that 722 people were detained under the EO from January to August, including 10 women.

On June 26, 31 members of opposition political party Parti Sosialis Malaysia (PSM) on their way to Penang were arrested at a roadblock on suspicion of spreading communism and conspiring to overthrow the government. One of them, a teenager, was released that day. On July 2, police released the 30 remaining detainees but rearrested six, including MP Michael Jeyakumar Devaraj; all were then held under the EO until their release on July 29. On August 3, the Penang Sessions Court charged the six PSM activists under section 43 of the Societies Act and section 29 of the Internal Security Act with the possession of allegedly subversive documents. The judge released them on bail. At the hearing on October 10, the police withdrew all charges against the 30.

The Dangerous Drugs Act gives 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 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. The review process, however, 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. The government detained 751 persons under the preventive detention provisions of the act during the year. Deputy Home Minister Abu Seman Yusop reported that 92,861 people were arrested from January to October for drug-related offences. In 2010, 157,756 people were detained under various antinarcotics laws, an increase from 125,620 in 2009.

The Restricted Residence Act allowed the home affairs minister to order the arrest and detention of any person or to place individuals under restricted residence

away from their homes for an initial period not to exceed five years, then renewable annually. These persons may not leave the residential district assigned to them, and they must present themselves to police on a daily basis. The minister was authorized to issue the restricted residence orders without any judicial or administrative hearings. For most of the year, the government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted; however, the act was repealed on December 30. On October 5, Prime Minister Najib announced in Parliament that the home minister would free 125 detainees and cancel 200 warrants of those arrested under the Restricted Residence Act.

On September 15, Prime Minister Najib announced the government's intention to repeal and replace the ISA and the EO with new legislation designed to prevent subversive acts, counter terrorist threats, and preserve public order and safety. The Bar Council and several human rights NGOs have called repeatedly over the years for the repeal of such laws and the ISA in particular, which does not allow judicial review of ISA decisions in any court except for issues of compliance with procedural requirements. The repeal of the ISA and the enactment of any replacement laws requires an act of Parliament, expected in early 2012.

Pretrial Detention.—Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years. The International Center for Prison Studies reported that as of mid-2010 pretrial detainees made up 27.3 percent of the total prisoner population. On March 6, then chief justice Zaki Azmi announced that the number of criminal cases waiting to be heard at the High Courts had been reduced 22 percent. The sessions courts' backlog of civil cases was reduced by 46.5 percent and criminal cases by 12 percent. The magistrates courts backlog of civil cases was reduced by 57 percent and criminal cases by 56 percent. The government increased its use of plea bargaining during the year as a means of reducing case backlogs. In September Prime Minister Najib stated that from 2009 to 2011 the judiciary reduced its backlog of cases by 90 percent.

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.

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.

On September 13, the Federal Court ruled that the findings of a Royal Commission of Inquiry (RCI) in a judge-fixing scandal were not reviewable. The RCI was originally formed in 2002 to investigate a videotape of a purported conversation in which a senior lawyer, V.K. Lingam, and a senior judge, Ahmad Fairuz Abdul Halim, discussed arrangements for assigning cases to "friendly" judges. The RCI released its findings in 2008, stating that it had 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. In 2009 in a written reply to opposition Democratic Action Party MP 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. In 2010 Lingam, along with Eusoff Chin and Ahmad Fairuz appealed—first to the Appeals Court and then to the Federal Court—the High Court's 2008 decision denying them permission to appeal the findings of the RCI.

In 2008 authorities arrested parliamentary opposition leader Anwar Ibrahim for alleged consensual sodomy with a former aide. 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.

Anwar's trial began in February 2010, with his former aide and alleged victim, Saiful Bukhari, taking the stand as the prosecution's first witness. On May 16, the High Court ruled that the prosecution had proven a *prima facie* case against him and ordered Anwar to enter his defense. On August 22, Anwar started his defense by delivering a statement "from the dock." The trial concluded on December 15, and a verdict was expected early in 2012. Prosecution for consensual sodomy between two adults is extremely rare in Malaysian jurisprudence.

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. Defendants are presumed innocent until proven guilty.

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 confronted witnesses against them and presented witnesses and evidence on their behalf, although judges sometimes disallowed witness testimony. 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. Government-held evidence was not consistently made available. Attorneys must apply for a court order to obtain documents covered under the Official Secrets Act. Defendants may appeal court decisions to higher courts, but 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.

Sharia courts do not give equal weight to the testimony of women. Many NGOs complained that women did not receive fair treatment from Sharia courts, especially in matters of divorce and child custody.

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

Civil Judicial Procedures and Remedies.—The government and government officials can be sued in court for alleged violations of human rights. 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 courts increasingly encouraged the use of mediation and arbitration to speed settlements.

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.

JAKIM guidelines authorize JAKIM officials to enter private premises without a warrant if they deem swift action necessary to conduct raids on premises where they suspect Muslims are engaged in offenses such as gambling, consumption of alcohol, and sexual relations outside marriage.

On February 14, the Selangor and Kuala Lumpur state religious departments detained 88 Muslims suspected of khalwat (close proximity to a member of the opposite sex) during a Valentine's Day operation.

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 surreptitious 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.

Until it was officially repealed on December 30, the Restricted Residence Act permitted the Home Ministry to place criminal suspects under restricted residence in remote districts away from their homes for an initial period of up to five years, renewable on an annual basis thereafter.

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. The government does not recognize marriages between Muslims and non-Muslims.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech and press; however, in practice the government restricted freedom of expression and intimidated journalists into practicing

self-censorship. Government representatives cited protection of national security, public order, and friendly relations with other countries as reasons for the imposition of restrictions on the media.

Freedom of Speech.—The law provides that legislation “in the interest of security (or) public order” may restrict freedom of speech. 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. The Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. The government used the ISA, Sedition Act, Official Secrets Act, Universities and University Colleges Act, 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 and in online media. However, on some occasions the government retaliated against those who criticized it.

Freedom of Press.—The government banned some foreign newspapers and magazines and occasionally censored foreign magazines or newspapers, most often for sexual content. The government exerted control over news content, both in print and broadcast media, required the annual renewal of publishing permits, punished publishers of “malicious news,” and banned, restricted, and limited circulation of publications believed to threaten public order, morality, or national security.

Parties in the ruling coalition owned or controlled a majority of shares in two of the three major English and most 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.

Violence and Harassment.—Journalists were subject to harassment and intimidation due to their reporting. For example, there were reports of two journalists being threatened with physical violence by supporters of the proposed Lynas rare earth plant in Kuantan, and on August 3, police ordered a journalist with the online newsportal Malaysiakini to surrender his notebook to them.

Censorship or Content Restrictions.—The government continued to censor the media. This was done directly and indirectly by controlling news content; requiring the annual renewal of publishing permits; making publication of “malicious news” a punishable offense; empowering the home affairs minister to ban or restrict publications believed to threaten public order, morality, or national security; and limiting circulation to an organization’s members only. A permit is required to own a printing press. The Printing Presses and Publications Act also prohibits court challenges to suspension or revocation of publication permits. As a result printers often were reluctant to print publications that were critical of the government for fear of reprisal. Such policies, together with antidefamation laws, inhibited independent or investigative journalism and resulted in extensive self censorship. On May 3, Utusan Melayu Corporation sacked one of Utusan Malaysia’s senior editors and president of the National Union of Journalists, Hata Wahari, for issuing statements against the terms of employment. Hata was alleged to have incited racial dissent through his assertion in his October 2010 interview with Malaysiakini that Utusan was not relevant. He criticized Utusan Malaysia’s lack of independence and stated that many of the country’s media were too close to the government.

On July 1, Malaysiakini reported that the Malaysia Communications and Multimedia Commission (MCMC), which oversees all private television and radio stations, had advised electronic media and telecommunications operators in their news coverage to refer to the July 9 Bersih 2.0 rally as an illegal gathering. MCMC reportedly gave the directive to 22 media representatives who were invited to a seminar on June 30. Malaysiakini reported that MCMC, who organized the seminar, told editors that the news should highlight the difficulties and inconvenience the rally caused the public, as well as scenes of public property being vandalized and massive traffic congestion. MCMC also issued a warning that it would shut down Web sites deemed a threat to national security, including those promoting the Bersih 2.0 rally, and would not hesitate to take action against any Web site for breaching the MCMC Act.

According to the government, censorship provisions ensured that the media did not disseminate “distorted news” and were necessary to preserve harmony and promote peaceful coexistence in a multiracial country. Despite these restrictions publications of opposition parties, social action groups, unions, Internet news sites, and other private groups actively covered opposition parties and frequently printed views critical of government policies. English-, Malay-, and Chinese-language press sometimes provided alternative views on sensitive issues, as did online media and bloggers.

On September 23, The Malaysian Insider reported that a public service announcement video promoting the right to vote had been taken off the air at the direction of MCMC because the video featured some opposition leaders, as well as a prominent senior politician speaking about the country having problems. On July 19, the Home Ministry blacked out portions of an article in The Economist covering the July 9 election reform rally and the related arrest of 1,600 people. The Publications Control and Qur'anic Text Division stated that the article, published on July 14, contained incorrect statements that could mislead readers.

Radio and television stations were as restricted as the print media and were predominantly supportive of the government. News about the opposition was restricted and slanted. During the April Sarawak state elections, the mainstream media did not provide proportionate coverage of opposition candidates. Television stations censored programming in line with government guidelines. 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 radio.

The government generally restricted remarks or publications, including books, that it judged might incite racial or religious disharmony.

Libel Laws/National Security.—The Defamation Act governs civil defamation disputes and sections of the penal code govern criminal defamation. Criminal defamation is punishable by a maximum of two years in jail, a fine, or both. On July 19, a High Court judge ordered political blogger Amizudin Ahmat to pay RM300,000 (\$95,000) in damages, plus costs, in a defamation suit brought by Minister of Information, Communications and Culture Rais Yatim over a blog entry that suggested that Rais had raped his Indonesian maid. Amizudin filed an appeal on August 1. In February Malaysia's most famous blogger, Raja Petra Kamarudin, was found guilty of defaming senior lawyer Seri Muhammad Shafee Abdullah over three articles posted on his Web site Malaysia Today. Damages had not been decided because Raja Petra went into self-imposed exile when the charges were first brought against him in 2008.

Publishing Restrictions.—The Printing Presses and Publications Act requires domestic and foreign publishers to apply annually to the government for a permit and empowers the home affairs minister to ban or restrict publications believed to threaten public order, morality, or national security. Although judicial review may be sought for a banned book, the suspension or revocation of publication permits are not subject to judicial review. During the year the ministry continued to review, censor, and confiscate many foreign publications.

The Home Ministry banned one new book during the year, down from 25 in 2010. On August 2, a Home Ministry prohibitory order banned the publishing of *Islam: Evil in the Name of God*, by Jake Neuman, stating that it is "the evil effort of certain quarters to sow hatred and negative sentiments against Islam among non-Muslims." The Home Ministry maintains a list of 1,511 titles banned since 1971.

Internet Freedom.—The government for the most part maintained a policy of open and free access to the Internet. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. On February 12, Prime Minister Najib reiterated the government's stand that it would not resort to Internet censorship.

In September 2010 the Home Ministry revealed that a government task force consisting of police, Internet regulators, the Ministry of Information, and the Attorney General's Chambers was monitoring the Internet for blog postings deemed harmful to national unity and would take action against those trying to stoke racial tensions. 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. A second task force existed to investigate complaints about possible threats to national security and unity. The government continued to warn Internet operators to avoid offensive or indecent content, or sensitive matters such as religion and race.

On May 30, MCMC sent a letter to all Internet service providers, ordering them to block 10 prominent file-sharing Web sites because of alleged breaches of the Copyright Act.

Criminal defamation laws and the existence of preventive detention laws led to some self-censorship from local Internet content sources such as bloggers, Internet news providers, and NGO activists.

On April 15, a prominent NGO reported that many opposition and news Web sites fell victim to "denial of service" attacks in the period prior to the April 16 election in Sarawak. Inaccessible sites included Sarawak Report, Radio Free Sarawak, Dayak Baru Blog, and Malaysiakini, whose Twitter account was suspended.

Malaysiakini reported that it was the victim of a limited, two-day denial of service attack over the July 9 electoral reform rally weekend.

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 March 15, the Petaling Jaya Sessions Court issued a discharge not amounting to acquittal to blogger Irwan Abdul Rahman, who had been charged in September 2010 under the Communication and Multimedia Act for "creating and spreading lies with the malicious intent to hurt others." Irwan had posted a satire stating that the National Electric Company would sue the World Wildlife Federation for organizing the "Earth Hour Campaign" encouraging consumers not to use electricity for an hour because such an event would cost the national corporation millions in unrealized revenue.

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. Self-censorship took place among academics at private institutions as well, spurred by fears 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 students are forbidden by law from being members of a political party. On that basis the government denied 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.

On July 30, four National University of Malaysia students, known as the "UKM4," were acquitted of disciplinary charges under the University and University Colleges Act (UUCA), which provides that no student "shall express or do anything which may reasonably be construed as expressing support for or sympathy with or opposition to any political party, whether in or outside Malaysia." They had been brought before a disciplinary panel in 2010 because police and university officials found packages of political fliers in the vehicle in which they were traveling. The Court of Appeal also found some provisions of the UUCA unconstitutional (see section 2.b.).

In the past the government censored and banned films for profanity, nudity, sex, violence, and certain political and religious content. Films in Hebrew, Yiddish, or from Israel are not allowed to be shown in cinemas. During the year 21 films were censored mostly for reasons of sex, nudity, brutality, and violence, but no particular films were banned. The high cost of producing an edited version of 3D movies led to some of them not being shown at all. Although the government allowed art-house foreign films at local film festivals, sexual content was censored by blocking the screen until the concerned scene was over.

In October the lesbian, gay, bisexual and transgender (LGBT) rights group Seksualiti Merdeka was forbidden from holding its annual arts festival because of protest by government officials and religious leaders. Deputy Prime Minister Muhyiddin Yassin called the event inappropriate and "a waste of time." Media censorship rules forbid movies and songs that promote acceptance of LGBT persons.

In June the youth wing of the opposition Pan-Malaysian Islamic Party (PAS) sent a memorandum to the office of the Selangor chief minister, calling for a ban on an internationally sponsored music concert to be held in Shah Alam, a city in opposition-controlled Selangor. PAS Youth Chief Nasaruddin Tantawi said such concerts promoted a negative culture as men and women mixed freely. The concert took place as scheduled under preagreed guidelines. During the concert PAS Youth distributed 5,000 pamphlets urging youths to refrain from immoral behavior. In past years the youth wing of PAS protested against singers and groups it considered obscene and not in accordance with Islamic values. The government responded in the past 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. In July the Kedah government announced a ban on the operation of entertainment outlets during the Ramadan month but later retracted the ban for non-Muslims. The state government also maintained a blanket ban on rock, reggae, pop, and dangdut (an Indonesian style of music) concerts that it first imposed in 2008, claiming such types of music could have a “negative impact” on youth.

b. Freedom of Peaceful Assembly and Association.—The constitution provides for freedom of assembly and association but allows restrictions deemed necessary or expedient in the interest of security, public order, or (in the case of association) morality.

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.

On December 21, the upper house of Parliament passed a contentious Peaceful Assembly Act that had been passed on November 29 by the lower house of Parliament. The law, set to take effect upon official publication sometime in 2012, eliminates the need to apply for police permits, but it also bans street protests, does not allow for peaceful assembly by noncitizens and minors (under 15), and restricts where and when assemblies can be held. MPs from the opposition coalition, Pakatan Rakyat, walked out in protest before the vote on the bill. A variety of NGOs staged protests against the new law.

Police took preemptive action to disrupt a planned February 27 protest organized by the Human Rights Party (HRP), an ethnic Indian rights group, against the controversial novel *Interlok*, which the HRP claimed contains racial slurs. The police denied HRP’s application to hold the demonstration and detained 109 persons in connection with the rally, some preemptively. Most of the 109 were released the same day, but eight were held overnight and released on bail the next day without being charged.

On May 26, Bersih, an electoral reform advocacy group, announced plans for a gathering on July 9 to press for electoral reforms. In response Home Minister Hishammuddin stated the government’s position that the rally was “illegal,” urged sponsors to call it off, and promised to clamp down on demonstrators if they threatened national security. The government also prohibited the wearing and distribution of Bersih’s yellow shirts and declared Bersih an illegal organization under the Societies Act. Bersih countered that as a coalition of 62 groups it need not be registered.

On June 30, police raided Bersih’s office in Petaling Jaya, as well as the office of an opposition MP, S. Manikavasagam. More than 150 people were detained in the weeks before July 9 for suspected involvement in Bersih-related activities such as distributing leaflets; most were released after questioning. On June 26, 30 PSM members were arrested in Penang on suspicion of spreading communism and conspiring to overthrow the government. Six members, including MP Michael Jeyakumar Devaraj, were held under the Emergency Ordinance until their release on July 29 (see section 1.d). On July 8, police released a list of 91 individuals who were barred from entering Kuala Lumpur’s central business district on July 9.

The rally occurred on July 9. The police made arrests and broke up crowds by using tear gas and chemically laced water cannons. Third party observers estimated between 10,000 and 20,000 participants, although police estimated only 6,000 and rally organizers claimed as many as 50,000. Police confirmed 1,667 arrests, including 167 women and minors. Most of the arrested, including lead organizer and former Bar Council president Ambiga Sreenivasan, were freed by the end of the day. Although the police generally did not resort to physical violence, there were reports of minor injuries and one death, reportedly due to heart complications.

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 continued to ban the Communist Party and its affiliated organizations because they allegedly posed a national security threat, and on August 4, the Registrar of Societies refused registration to the HRP. On August 16, the High Court dismissed the HRP's appeal of the decision. The government also has the power to revoke the registration of an existing, registered society for violations of the act. Unlike in prior years, the government did not use this power of revocation against political opposition groups.

The UUCA 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 (see section 2.a.). Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of individuals affiliated with the ruling coalition also supported reexamination of the act, but for most of the year the government maintained that the act still was necessary. On October 31, the Court of Appeals ruled that the section of the UUCA that disallows student expressions of support, sympathy, or opposition to any political party was unconstitutional. The government appealed the decision reportedly because of its implications for the separation of powers. On November 24, Prime Minister Najib announced the government's intention to amend the UUCA to relax restrictions on student involvement in politics while continuing restrictions against politicians and political activity on campus.

Some human rights and civil society organizations had difficulty obtaining government recognition as NGOs; 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.

On August 3, approximately 30 officers from the Selangor Islamic Department (JAIS) raided the Dream Centre Building at the Damansara Utama Methodist Church in Petaling Jaya, Selangor, during an annual thanksgiving dinner hosted by a private charitable organization, Harapan Komuniti. Attendees included 100 persons from various racial and ethnic backgrounds, including 12 Muslims. It was alleged that JAIS raided the event without a warrant, after receiving a report of an alleged attempt to proselytize Muslims (which is illegal). JAIS seized the program sheets and questioned the dinner guests. The JAIS director, Marzuki Hussin, clarified that the inspection was carried out under the Sharia Criminal Enactment (Selangor) 1995 based on information that a breaking-of-fast function would be held with a thanksgiving dinner in a church. On August 15, the 12 Muslims who attended the event gave their statements to JAIS and were told to appear at the Shah Alam Sharia Court on October 19. On October 10, Selangor Sultan Sharafuddin Idris Shah announced that legal action could not be taken against any party because of lack of evidence. He added that the actions of JAIS were correct and did not breach any law enforceable in Selangor, and that the 12 Muslims would be subjected to counseling sessions by JAIS to "restore their belief and faith."

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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, particularly with respect to the eastern states of Sabah and Sarawak. The government's cooperation with the UNHCR improved during the year, and the UNHCR reported greater access to government officials. The government generally did not impede other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern, with the notable exception of failing to allow the UNHCR to assess the asylum claims of 11 ethnic Uighurs before they were deported on August 18.

In-country Movement.—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, consistent with the agreement on Sabah and Sarawak becoming part of Malaysia in 1963. On September 29, human rights activist and Malaysian citizen Haris Ibrahim was denied entry into Sarawak. He and other civil society activists previously had been barred from entering the state in April during the Sarawak state election. The government regulated the internal movement of provisionally released ISA detainees. The government also used the Restricted Residence Act, which was repealed on December 30, to limit movements of those suspected of criminal activities.

Foreign Travel.—Citizens must apply for government permission to travel to Israel.

Exile.—The constitution provides that no citizen may be banished or excluded from the country. Nevertheless, two prominent citizens remained in exile at year-end. Chin Peng, the former leader of the communist insurgency, continued to live in Thailand because he was either unable or unwilling to satisfy a court ruling compelling him to show identification papers proving his citizenship. Dissident blogger Raja Petra Kamarudin remained in self-exile in London, declaring he would return to the country to face sedition charges when he was assured he would not be detained under the ISA.

The Banishment Act, which provided for the banishment of noncitizens and which had not been used for more than 30 years, was repealed on December 30. The deportation of noncitizens continued to be implemented under the Immigration Act.

Protection of Refugees.—Access to Asylum.—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 provide legal 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. At the same time, the government generally cooperated with the UNHCR and did not deport individuals registered as refugees or persons of concern by the UNHCR and being processed for resettlement to third countries. The government occasionally reported potential persons of concern to the UNHCR.

Because the UNHCR did not maintain a presence at the country's border, most asylum seekers traveled to Kuala Lumpur for determinations; in 2009 and early 2010 the UNHCR conducted mobile registrations in areas with high concentrations of refugees. As of December 31, the UNHCR reported 96,691 persons as asylum seekers and refugees, approximately 93 percent of whom were Burmese citizens with Chin and Rohingya being most numerous, and sizeable groups of Kachin, Karen, and Mon. According to the UNHCR, the country also hosted a population of some 80,000 Filipinos in the province of Sabah, an increase from an estimate of 60,000 in 2010, who are not recognized by the UNHCR or the Malaysian government as refugees, but for whom the government has assumed responsibility.

Nonrefoulement.—Beginning in 2009 the government provided preferential treatment to those individuals carrying a UNHCR card. Reports of government deportation of some refugees and asylum seekers with UNHCR refugee cards effectively stopped as of 2009. Occasional reports by refugees of needing to pay bribes to police to avoid detention, despite carrying a UNHCR card, continued.

On August 18, the government deported to China 11 ethnic Uighur individuals who had been denied access to the UNHCR, resulting in strong condemnation from several human rights groups who feared the Uighurs would be mistreated, tortured, or killed upon their return. The government asserted that they were involved in a people-smuggling ring and that China had requested their extradition. Three others, who had applied for refugee status with the UNHCR, were charged with possession of falsified documents, released on bail, and at year's end were awaiting trial. Two others were released without being charged.

Refugee Abuse.—The government sometimes detained asylum seekers, either in police lockups or in immigration detention centers, until an asylum seeker's bona fides were established by the UNHCR. NGOs reported that detention facilities were overcrowded, unsanitary, and lacked adequate medical facilities (see section 1.c.). In 2010 eight people died at the detention center at the Kuala Lumpur International Airport after a bacterial outbreak due to rats' urine in the water supply. One NGO reported that NGOs were allowed to visit only two of the eleven detention centers in the country.

Unlike in previous years, there were no allegations from NGOs, international organizations, and civil society groups that immigration officials were involved in the trafficking of Burmese refugees from IDCs to Thailand, where some were trafficked further. NGOs and international organizations reported that since 2009, allegations of abuse of power by RELA decreased. On June 25, RELA's newly appointed director general, Datuk Mustafa Ibrahim, announced that RELA had halted all enforcement operations against undocumented foreign workers unless invited by immigration or law enforcement authorities.

According to local NGOs and international organizations, IDCs allowed those with UNHCR documents access to the UNHCR while in detention. Refugees with UNHCR cards occasionally were arrested during raids conducted to arrest illegal migrants but were released after the authorities were satisfied with the documents. Since 2009 the authorities also provided the 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.

Employment.—Although they were not legally authorized to work, the government typically did not interfere with registered refugees doing odd jobs. During the year there were no official announcements concerning deliberations about allowing refugees to work. The government registered 2.3 million documented and undocumented foreign workers under a “6P” migrant registration exercise that began August 23 and subsequently announced plans for a separate program for registration of refugees, in cooperation with the UNHCR, scheduled to be implemented in early 2012.

Access to Basic Services.—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. 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.

Stateless Persons.—Citizenship is derived from one’s parents. The citizenship of one or both of the parents, whether the parents are legally married, and the ability to produce valid identification and proof of citizenship are the key criteria for being able to pass citizenship to a child. The UNHCR estimated that there were 40,000 stateless individuals in peninsular Malaysia alone, in addition to approximately 83,000 refugees and 12,000 asylum seekers. The Philippine government estimated that there were 30,000 children of undocumented Filipino workers in Sabah.

Foreign women often may qualify for permanent resident (PR) status after five years of marriage to a citizen (10 years for foreign men). After two years of PR status, they would be eligible to apply for citizenship. While awaiting PR status, foreign spouses of citizens are usually granted visas to allow them an extended legal stay in the country. A local advocacy group for migrant workers reported that in the last five or six years, these processes have improved to include shorter waiting times in the processing of PR petitions and visas. Although nationality laws in the country are not overtly discriminatory on the basis of gender, ethnicity, or religion, some unevenness in application was evident. Refugees were at a particular disadvantage because they often were unable to provide valid documentation to prove citizenship in their countries of origin.

Women may pass their citizenship to their children born in Malaysia, regardless of whether or not the child was born in wedlock, but Malaysian men may pass their citizenship to their children only if the child is born in wedlock. Children born abroad, in wedlock, to a citizen father and a foreign or citizen mother can be registered as Malaysian citizens. Children born abroad in wedlock to a citizen mother and a foreign father traditionally have been considered to have inherited the father’s citizenship. In 2010 Home Minister Hishammuddin announced that such children could be registered as citizens, provided they meet certain requirements, but it was not clear whether this updated procedure had been implemented.

Children born out of wedlock to foreign women are considered by Malaysian authorities to have inherited their mother’s citizenship. Such births can be registered only upon production of valid proof of citizenship. This creates a risk of statelessness because many foreign women are unable to produce valid proof of citizenship, such as a passport. According to the UNHCR, there are many cases in which refugees or asylum seekers do not have valid proof of citizenship. In these cases the child’s citizenship is listed as “unknown” on his or her birth certificate. The UNHCR did not have firm data for the number of children affected by this issue but estimated that it was a widespread problem among the population they served. These undocumented children were not able to attend public schools or access other services that require proof of identification or citizenship.

Some refugees and asylum seekers marry Malaysian men. Although their children born in Malaysia are eligible for citizenship, the woman may have trouble registering the marriage and subsequently the child’s citizenship because of inability to provide a valid passport or identification document. Some observers indicated that children born to Muslim refugees and asylum seekers often have an easier time receiving citizenship than non-Muslim refugees and asylum seekers. For Muslim marriages, a UNHCR document or other documentation may be accepted in lieu of a passport.

A number of local NGOs and SUHAKAM were active on the issue of stateless children, doing research, conducting workshops, and running public awareness campaigns.

Individuals without proof of citizenship are not able to attend schools, access government services such as reduced-cost health care, or own property. Stateless indi-

viduals technically do not have a right to work in the country, but many were able to find odd jobs. The UNHCR may provide birth registration or other documentation in some cases.

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 RM10,000 (\$3,160), or both, and mandatory caning not to exceed six strokes.

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 some irregularities that affected the fairness of elections, and this right was abridged in practice. The sizes of electoral districts vary, with rural districts generally smaller in population than urban districts. This has the effect of overrepresenting the rural vote, which historically has predominantly supported the ruling coalition.

Elections and Political Participation.—Recent Elections.—In the 2008 national elections the opposition parties won 49 percent of the popular vote, 82 of 222 parliamentary seats, 198 of 505 state assembly seats, and control of five of the 13 state governments. The opposition's electoral success for the first time since 1969 denied the ruling coalition a two-thirds majority in Parliament and thereby blocked the government's ability to amend the constitution at will. These gains came despite the fact that opposition parties were unable to compete on equal terms with the governing BN coalition, led by the UMNO party, which has held power at the national level since independence in 1957, because of restrictions on campaigning, freedom of assembly and association, and access to the media. The opposition parties won eight of 16 by-elections since the 2008 general election.

Bersih 2.0 (see section 2.b.) actively campaigned for electoral reforms. Its principal demands included cleaning of the electoral roll, reform of postal voting, use of indelible ink to reduce the problem of "phantom" voters, and a longer campaign period. A parliamentary select committee on electoral reform was established effective October 3, and tabled an interim report on December 1. Among its ten recommendations were the use of indelible ink, implementation of early voting for security and armed forces personnel, extension of the postal ballot to citizens living overseas, allowing out-of-district voting, cleaning up the electoral roll, and strengthening the Election Commission (EC) to ensure its independence. On December 19, EC Chairman Abdul Aziz Mohd Yusof announced that the EC had agreed to implement seven of the commission's ten recommendations before the next general election, including the use of indelible ink. Bersih 2.0 welcomed the announcement but also criticized it as being incomplete.

Political Parties.—Opposition parties were unable to compete on equal terms with the governing BN coalition, which has held power at the national level since 1957, and 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 2008 national elections and in the subsequent by-elections. News about the opposition was restricted and reported in a biased fashion. 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 2008 national election campaign; however, most observers concluded that they did not substantially alter the results. During the year NGOs and opposition party leaders continued to lodge 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, particularly between urban and rural districts. The most recently publicized data (for the 2008 general election) showed that the Putra Jaya constituency had 6,606 voters, while in urban Kuala Lumpur the Seputih constituency had 76,891 voters. In Perak, Gopeng had 74,344 voters compared with Lenggong, with 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. The central government has appointed all local and city officials since the 1969 race riots. Some politicians and NGO activists advocated reintroduction of local government elections.

In prior years opposition figures in Parliament have been suspended from Parliament from time to time for reasons such as making misleading statements to Parliament and contempt occasioned by their opposition to another's suspension.

Participation of Women and Minorities.—Women faced no legal limits on participation in government and politics. As of December two of the 32 cabinet ministers were women. Women held 22 of the 222 seats in the lower house and 13 of the 65 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 12 of the 29 ministerial posts and 21 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. On June 13, the newspaper *The Star* reported that MACC had arrested 442 people from April 2010 to March 2011 for attempts to bribe enforcement officers. On August 23, MACC reported that it had arrested 46 people in Penang from January to July, with 20 of those suspected of having accepted bribes. On June 27, MACC reported that it had made 944 arrests in 2010, representing an 88.8 percent increase over 2009.

On December 23, the High Court found Mohamed Khir Toyo, a former UMNO chief minister of Selangor, guilty of graft for illegally obtaining for himself and his wife two plots of land.

On September 21, Inspector-General of Police Ismail Omar confirmed the arrest of three senior MACC officers in connection with a RM1 million (\$316,000) extortion and robbery case.

On September 15, the Putrajaya Sessions Court transferred the case of former transport minister Chan Kong Choy to the Kuala Lumpur High Court. As a member of former prime minister Abdullah Ahmad Badawi's cabinet, Chan was charged with deceiving Badawi into approving Kuala Dimensi Sdn Bhd as the turnkey developer for the Port Klang Free Zone mega-transshipment hub project. Chan's predecessor was also charged with deception, and four other prominent figures were charged with various offenses for their involvement in the project, including criminal breach of trust and fraudulent claims. All of the cases remained pending at year's end.

MACC is responsible for investigating and prosecuting corruption by both private and public bodies. Civil servants who refused or failed to declare their assets faced disciplinary actions and were ineligible for promotion.

The Whistleblower Protection Act 2010 is designed to protect individuals who disclose information on corrupt practices in both the public and private sectors. The act states that anyone who has evidence of someone who has committed a corrupt practice, act, or fraudulent activity can file a complaint against that individual and refer the case to court. The whistleblower would be provided immunity from civil or criminal charges.

The Official Secrets Act prohibits the dissemination of classified information. The act encompasses documents concerning national security, defense, and international relations. However, critics accused the government of using the act to prevent dissemination of materials and stifle dissent. Individual members of Parliament were allowed to request and obtain such information on an ad hoc basis, some of which was then made available to the public.

On April 1, the opposition-controlled Selangor State Assembly passed the Selangor Freedom of Information Enactment, which upon implementation in 2012 is intended to allow public access to certain state documents. This is the first law of this type in the country.

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 allowed NGOs to function independently, met with representatives from NGOs and responded to some requests of NGOs. The government also suppressed some positive media coverage of NGOs that espoused views that were contrary to the ruling coalition's and took some actions against some NGO leaders. For example, the government detained some NGO leaders in connection with the planned rally for electoral reform in July (see section 2.b.), and the Sarawak state government barred some NGO leaders from traveling to Sarawak in connection with state elections in April. Amnesty International's 2010 report *Abused and Abandoned: Refugees Denied Rights in Malaysia* noted that it was given unprecedented and unfettered access to three IDCs in and around Kuala Lumpur. UNHCR representatives and members of the diplomatic corps also noted increased willingness by the government to allow visits to IDCs and trafficking shelters.

The federal government denied entry to several human rights lawyers and activists, and the Sarawak state government also prevented several domestic activists from visiting Sarawak. For example, on July 22, French lawyer William Bourdon was detained upon arrival in Kuala Lumpur on a domestic flight from Penang, where he had given a speech the night before regarding corruption allegations relating to a French company's sale of "Scorpene" submarines, and then deported.

U.N. and Other International Bodies.—The government cooperated with some international organizations during the year. In addition to the improved cooperation with the UNHCR noted above, the International Organisation for Migration (IOM) worked with the Ministry of Women, Family, and Community Development on projects such as an international training academy on Langkawi Island and a review of antitrafficking laws. The government also worked with the IOM to assess shelters for trafficking victims.

Government Human Rights Bodies.—SUHAKAM was created by an act of Parliament and is headed by a chairman and commissioners who are appointed by the king on the recommendation of the prime minister. SUHAKAM was generally considered a credible monitor of some aspects of the human rights situation. SUHAKAM conducted training and investigations and provided reports and recommendations to the government. 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.

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 the slow government response to their reports 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 race, sex, religion, descent, or place of birth. The law is silent on discrimination based on disabilities. 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, bumiputra), and discrimination based on this provision persisted. One of the requirements to be considered an ethnic Malay is to be able to speak the Malay language.

Women.—Rape and Domestic Violence.—Rape, including marital rape, is a criminal offense, as are most forms of domestic violence. The penal code states that rape is punishable by a prison term of up to 30 years, caning, and a fine. Marital rape does not have a minimum penalty, but the maximum penalty is 5 years' imprisonment. There is no minimum jail term for a man convicted of statutory rape of a girl age 15 years or less. The government enforced the law effectively. On May 19, the Malay Mail reported the following RMP-released rape statistics: In 2010 there were 3,595 police reports lodged by rape victims, compared to 3,626 in 2009. Of the cases reported in 2010, police arrested 5,068 suspects. Unlike in prior years, the police did not publicly report the number charged, convicted, and punished on rape charges.

In 2009 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 of marital

rape under the law after it was amended in 2007 to outlaw marital rape. There were no reports of such prosecutions in 2010 or 2011.

The Malay Mail reported 3,171 domestic violence cases compared with 3,643 in 2009, and 413 incest cases compared with 385 in 2009. As in the case of rape, the police did not report data on charges, convictions, and punishments for domestic violence cases. 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. A leading women's NGO estimated that only 10 percent of rape cases were reported to police. Women's groups claimed 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. In order to help overcome the reluctance by victims of sexual crimes to report crimes and describe the details of what they experienced, the police began using a reenactment process, which allows the police to obtain information by asking the victim to agree or disagree with events depicted in a reenactment. In addition, police sometimes assign psychologists or counselors to provide emotional support. Women's rights activists claimed that police needed additional training in handling domestic abuse and rape cases.

Some Sharia experts urged Muslim women to become more aware of the provisions of Sharia that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. Provisions in state Sharia, however, generally prohibit wives from disobeying the "lawful orders" of their husbands and presented an obstacle to women pursuing claims against their husbands in Sharia courts. Muslim women were able to file complaints in civil courts.

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 RM2,000 (\$630). In extreme cases involving "grievous hurt" inflicted using a deadly weapon, the maximum imprisonment increases to 20 years. Women's groups continued to criticize 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.

In October an amendment to the Domestic Violence Act passed that expands the definition of domestic violence to include mental, emotional, and psychological abuse as well as physical violence. It also allows courts to issue protective orders to prevent third parties from physically abusing, or even communicating with, victims of domestic violence and allows police to arrest a perpetrator when a protective order has been violated. A prominent women's rights NGO welcomed the amendment, but stated that it does not go far enough because it does not cover stalking and intimidation, applies only to marriage relationships, and does not make domestic violence a separate offense under the penal code. In addition, women's rights activists pointed out that despite the amendment's passage, its provisions had yet to be implemented by year's end.

Female genital mutilation (FGM).—Some news articles reported that this practice was gaining in popularity, even among adult women, converts to Islam, and in urban centers (see children below).

Sexual Harassment.—The law prohibits a person in authority from using his position to intimidate a subordinate into having sexual relations. 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. In past years 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. One lawyer familiar with sexual harassment cases reported that the authorities take such claims seriously, but victims were often reluctant to report sexual harassment because of the difficulty of proving the offense, the length of the trial, and embarrassment. One women's rights NGO reported that approximately 500 sexual harassment cases were filed with the Women, Family and Community Development Ministry from 2000 to 2010; however, according to statis-

tics provided by the ministry, nearly 900 such cases were reported from 2000 to 2007. The ministry has not publicized yearly data since 2007.

Reproductive Rights.—Couples and individuals have the right to decide the number, spacing, and timing of their children. Information on family planning was readily available from government and NGO sources. Contraceptives such as the birth-control pill and condoms were permitted and were locally available. Estimates of contraceptive use by women remained at approximately 50 percent. 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, including HIV. According to the most recently published U.N. statistics, the maternal mortality rate was 31 per 100,000 live births in 2008.

Discrimination.—The constitution prohibits discrimination against citizens based on sex. However, the law allows polygyny, which a small minority of 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 Sharia that allow for divorce without the husband's consent. Non-Muslim women are subject to civil and criminal law but not Sharia. The constitution gives men and women equal rights to inherit, acquire, own, manage, or dispose of any property, including land. Within the matriarchal Minangkabau community, women are favored in the sense that ownership of hereditary or tribal lands is restricted to women. 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.

Women experienced some economic discrimination in access to employment. On March 9, Minister of Women, Family, and Community Development (MWFC) Shahrizat Jalil stated that 47.3 percent of 13.4 million women in the country were in the labor force. The law provides that women are entitled to 90 days' maternity leave. Some pregnant women experienced employment discrimination. On July 13, the High Court in Shah Alam ruled in favor of Noorfadilla Ahmad Saikin, whose offer of employment had been withdrawn once the employer learned she was pregnant. The judge cited the U.N. Convention on the Elimination of All Forms of Discrimination Against Women and the constitution in ruling that Noorfadilla had the right to be appointed as a relief teacher and that the revocation of her placement was unconstitutional. NGOs reported that women continued to be discriminated against in the workplace in terms of promotion and salary. On June 1, Minister Shahrizat made public ministry statistics showing that women occupied 32.3 percent of decision-making positions in the public sector. Women were routinely asked their marital status during job interviews. In Kedah women entertainers are only allowed to perform in front of all-female crowds, a policy that the NGO coalition Joint Action Group for Gender Equality has condemned as an infringement of gender-equality rights protected by the constitution.

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. The Women's Ministry continued to develop programs and workshops to encourage women to enter the business community and operate small- and medium-sized enterprises.

Children.—Birth Registration.—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 a 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. The UNHCR registered children born to refugees. Marriages between Muslims and non Muslims are 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.

Education.—Education is free, compulsory, and universal through primary school (six years). Although primary education is compulsory, there was no enforcement mechanism governing school attendance.

Child Abuse.—The number of physical child abuse cases increased approximately 26 percent, from 203 in 2009 to 257 in 2010, the highest number recorded in a five-year period, according to data provided by the RMP to the Malay Mail in May. Child

abuse took the form of neglect (failure to provide basic needs), physical abuse, sexual abuse, and abandonment of infants. Punishment for child abuse can include being fined, jailed, whipped, or a combination thereof.

The government recognized that sexual exploitation of children and, particularly in rural areas, incest were problems. The law provides for from 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.

Harmful Traditional Practices.—There are no laws on female genital mutilation. FGM reportedly is common among some communities of Muslim Malays, particularly in rural villages in the northern part of the country. In 2009 the online news portal Malaysiakini reported that "in Malaysia, FGM refers to the act of making a small scratch or using a sharp penknife to nick the prepuce of the vagina. It is usually performed on infants within a few months of birth, by medical doctors or midwives."

Child Marriage.—The minimum age of marriage for males is 18; Muslim girls below the age of 16 may marry with the approval of a Sharia court, but such marriages were uncommon. Based on the incidence of premarital HIV screenings of children, some NGOs concluded that the practice of child marriage continued despite lack of coverage in the media.

Sexual Exploitation of Children.—Any person convicted of a trafficking-in-persons offense involving a child for the purposes of exploitation faces punishment of imprisonment of three to 20 years and a fine. Under the penal code, the minimum age for consensual sex in Malaysia is 16 for both boys and girls; however, homosexual acts are illegal regardless of age or consent. Under Sharia, which applies only to Muslims, sex is forbidden outside of wedlock regardless of age or consent.

The law outlaws pornography but does not address the involvement of children specifically.

Statutory rape occurred and was prosecuted. A person convicted of statutory rape may receive punishment of imprisonment up to 30 years or whipping, or both. 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 the prosecution of statutory rape. Such a girl may in fact be charged with *khalwat*, an offense under Sharia, even if she is under the age of 18 and her partner is an adult. Sharia 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.

Displaced Children.—Sabah had a problem with 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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—Estimates of the country's Jewish population were between 100 and 200 people. Other than occasional editorials in government-owned newspapers and statements by current and former political officeholders, which tend to blame civil society activity on "Jewish plots," there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

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.

Following protests by disabled persons in past years, 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 disabled persons.

On September 9, Minister Shahrizat announced that the cabinet approved a proposal requiring all local authorities include a person with disabilities on planning and development committees. The proposal also suggested that local authorities set up an access auditing unit for the purpose of recommending access improvements for such persons to buildings and facilities.

The 2008 Persons with Disabilities Act recognizes the rights of persons with disabilities 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 bylaws requiring new buildings to provide access for persons with disabilities but also loopholes that allow local authorities to exempt compliance. Critics called the act a “toothless tiger.”

A prominent advocate for persons with disabilities pointed out that practical difficulties continued to outweigh any prodisabled laws or policies. For example, the 1 percent set-aside for public sector jobs was not in fact filled, and buildings still lacked adequate toilet and other facilities. He described elementary schools as being practically inaccessible to disabled students, requiring parents who had the means to come to school to carry their children up and down stairs, feed them, and carry their books to class. Some public transportation was equipped with ramps that can manually be put in place to assist disabled patrons, but they required driver assistance and were seldom used. The government does not pay caregivers of persons with disabilities.

National/Racial/Ethnic Minorities.—Government regulations and policy provide for extensive preferential programs designed to boost the economic position of ethnic Malays or bumiputra, who constitute a majority of the population. Such programs limited opportunities for non-bumiputra in higher education, government employment, and ownership of businesses. Many industries were subject to race-based requirements that mandated bumiputra ownership levels, limiting economic opportunities for non-bumiputra citizens. According to the government, these policies 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 bumiputra 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 2010 the prime minister unveiled a New Economic Model that called for restructuring the country’s system of bumiputra ethnic preferences to reduce unequal treatment of different ethnicities by the government and to better target subsidies and preferences to the poorest citizens, regardless of ethnicity. Conservative bumiputra-rights groups raised strong objections to any changes that could threaten ethnic preference programs. On February 8, Prime Minister Najib launched Unit Peneraju Agenda Bumiputra (Teraju) to strengthen further the bumiputra development agenda and boost its economic participation. Critics expressed concerns that Teraju would undermine the New Economic Model and failed to focus on merit-based affirmative action policies. The government claimed that it was necessary because bumiputra equity in the economy remained low.

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 and regional 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 special provision made under Article 153 of the constitution only ensures “the special position of the Malays and natives of any of the States of Sabah and Sarawak” and makes no reference to the Orang Asli. The government did not effectively protect indigenous persons’ civil and political rights.

The Orang Asli, who numbered approximately 180,000 (0.86 percent of the population), constituted the poorest group in the country. According to the 10th Economic Plan covering the years 2011-15, 50 percent of the 29,990 Orang Asli households were living below the poverty line. Of these, approximately 5,700 households (19 percent) were considered to be ultrapoor. In 2010 a local NGO that focused on Orang Asli rights estimated that these numbers underreported the population living in poverty because it considered only Orang Asli living in established villages—not those living deep in the rainforest. A government-sponsored national advisory council existed to monitor the development of Orang Asli; five of the council’s 17 members were Orang Asli, and a local NGO reported that the council did not meet during the year. One Orang Asli held a senior management position in the government’s Department of Orang Asli Development (known by its Malay acronym, JAKOA). The director general of the socioeconomic development section of JAKOA stated that 24 percent of JAKOA’s employees were Orang Asli. JAKOA reported that the dropout 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. One supporter of Orang Asli interests pointed out, however, that these statistics did not account for Orang Asli children who had never been to school at all. Approximately 300 Orang Asli students attended university.

Under the Aboriginal People’s Act, Orang Asli are permitted to live on designated land not as owners but as tenants at-will, and they did not possess land rights. The law allows the government to seize land of indigenous peoples with the payment of compensation. 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 rights to land. In 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. In 2009 the government instituted a new policy towards the Orang Asli designed to lift them out of poverty by giving two to six acres to each of the approximately 30,000 Orang Asli families to work and cultivate on their own. NGOs such as the Center for Orang Asli Concerns expressed disagreement with such plans, noting that what the Orang Asli stood to lose under such a program was far greater than what they stood to gain. Although JAKOA can act as an intermediary in implementing this policy, the final determination for compensation for land is a state matter.

On August 16, JAKOA announced that it had concluded discussions with all state governments concerning the policy on granting land titles to the Orang Asli. On August 24, the president of the Malaysian Bar Council, Lim Chee Wee, (who represents a number of Orang Asli in several claims against developers and state agencies) said the Orang Asli did not welcome the announcement because it demonstrated the government’s refusal to consult the Orang Asli community before formulating policies. On August 25, SUHAKAM Chairman Hasmy Agam said that SUHAKAM was disappointed that the government proceeded with the amendments without waiting for the completion of the government’s national inquiry into the Land Rights of Indigenous Peoples, held on September 17 to October 1, and until “all efforts have been made to obtain free, prior and informed consent from all stakeholders, especially the affected Orang Asli.”

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 that of 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. In recent years court decisions recognizing native customary title in land have resulted in greater protections of the Orang Asli land rights; however, the decisions result in compensation to the plaintiffs, not return of

confiscated lands. In 2007 the Federal Court, the country's highest court, found that native customary titles are recognized in common law.

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, with a hearing scheduled for March 2012. In 2007 a suit was filed against authorities who allegedly tore down an Orang Asli church in Gua Musang. In 2009 the high court declared that the demolition was not legal because it was done before the expiry of the 30-day notice given to the Orang Asli as required by law, that the Orang Asli had a right to occupy the land and to practice the religion of their choice under the constitution, but that the building was not legal because it did not comply with building regulations and that the land itself belongs to the government. 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.

In January the Sarawak Women for Women Society submitted a proposal to state and federal governments to the effect that logging companies should only be awarded contracts if they complied with conditions to protect Penan girls and women from sexual abuse. The proposal stemmed from allegations made in 2009 by an international NGO that 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. In 2009 Minister Shahrizat confirmed that Penan girls had been raped and molested by timber company workers. The minister announced that the timber company was identified and police would take further action. Subsequently, Deputy Commissioner of Police for Sarawak Hamza Taib stated no further action would be taken on three of the cases, while the fourth was still pending. In July 2010 Minister Shahrizat visited the Penan community and urged the police to take these cases seriously. In August 2010 the logging company Samling threatened to withhold transport services for locals unless the Penan retracted their sexual abuse and rape allegations.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Laws against sodomy and “carnal intercourse against the order of nature” exist but were rarely enforced. However, this law was the basis for the case against parliamentary opposition leader Anwar Ibrahim (see section 1.e.). Religious and cultural taboos against same-sex sexual conduct were widespread. On April 18, the Terengganu State Education Department announced that it had sent 66 schoolboys, listed by their schools as students who displayed feminine qualities, to a camp where they received counseling on masculine behavior to discourage them from being gay and to guide them back “to a proper path in life.” The Joint Action Group for Gender Equality, among other groups, condemned the move and described the singling out of the boys as “highly discriminatory.”

Other Societal Violence or Discrimination.—The government's response to HIV/AIDS was generally nondiscriminatory, although stigmatization of AIDS sufferers was common.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows for limited freedom of association and for some categories of workers to form and join trade unions, subject to a variety of legal and practical restrictions. The laws provide for the right to strike and to bargain collectively, but both are severely restricted by regulations and by sector.

The 1959 Trade Unions Act (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. Defense or police officials, or public sector workers categorized as “confidential, managerial, and executive,” are prohibited from joining a union. Additionally, the act restricts a union to representing workers in a “particular establishment, trade, occupation, or industry or within any similar trades,

occupations, or industries.” The Industrial Relations Act (IRA) prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union.

Enforcement of freedom of association lay primarily with the director-general of trade unions (DGTU). For example, the DGTU and, in some cases, the minister of human resources can refuse to register or withdraw registration from some unions, without judicial oversight. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association. By law employers are prohibited from imposing conditions on union membership and activity in employment contracts. In theory foreign workers can join a trade union; however, the Immigration Department bars foreign workers from holding trade union offices.

The IRA requires that an employer respond to a union’s request for recognition within 21 days of application. If an employer does not respond to the union application within 21 days, the union must submit a written appeal to the DGTU within 14 days, who will then notify the minister of human resources of his findings. If the union fails to submit the appeal within the stipulated period or the minister decides that recognition is not to be accorded, the union is not recognized.

While national unions are proscribed within Malaysia, there are a number of territorial federations of unions (the three territories being Peninsular Malaysia, Sabah, and Sarawak). Trade unions were free to associate with these territorial federations, which must register separately as societies under the Societies Act and which exercised many of the responsibilities of national labor unions, although they cannot bargain on behalf of local unions. The government, however, prevented some trade unions, such as those in the electronics and textile sectors, from forming territorial federations. Instead of allowing a federation for all of Peninsular Malaysia, the electronics sector is limited to forming four regional federations of unions, while the textile sector is limited to state-based federations of unions, for those states which have a textile industry. Trade unions were permitted to affiliate with international trade union organizations, subject to the approval of the DGTU.

There are two national labor organizations. The Malaysian Trade Union Congress (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 Services, a federation of public employee unions registered under the TUA.

Charges of discrimination against employees engaged in organizing union activities may be filed with the Ministry of Human Resources or the Industrial Court. The IRA limits worker compensation for wrongful termination to a maximum of two years from the time the employee was laid off. However, these and other provisions preventing management from taking reprisal actions against workers for union activity were not effectively enforced. A labor group blamed delays not on lack of resources or training (there are 27 relevant courts throughout the country, many headed by qualified personnel from the Attorney General’s Chambers), but on a lack of understanding of the effect of delays on the workers involved and an accompanying lack of urgency.

Although private sector strikes are legal, the right to strike is severely restricted. The IRA contains a list of “essential services” in which unions must give advance notice of any industrial action, including financial, transportation, utilities, communications, defense, security, and government sectors, and other industries designated by the minister of human resources as essential to the economy. The list includes sectors not normally deemed essential under International Labor Organization (ILO) definitions. The IRA further denies the right of unions and individuals to hold strikes protesting the lack of recognition of their union.

Additionally, the process for conducting a legal strike is unwieldy. 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 (and no major strikes since 1962).

Private sector workers and, to a lesser extent, public sector workers, have the right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. In companies designated as having pioneer status, the government did not allow workers to affiliate with territorial union federations. In 2010 the government approved the formation of trade unions in the electronics sector, formerly a “pioneer” sector in which collective bargaining was restricted. The Electronics Industry Workers’ Union (EIWU) (Southern Region) is an example of an electronics trade union that was recognized under the new policy. On January 27, the union at ST Microelectronics voted to join EIWU.

The process of collectively bargaining is complex and lengthy. To commence collective bargaining, the trade union submits a proposal for a collective agreement to the employer and invites the employer to begin collective bargaining. The employer has 14 days in which to reply; if the employer accepts the invitation, collective bargaining must begin within 30 days. If the employer refuses to negotiate or fails to reply, or if there is a deadlock in the negotiations, a trade dispute is deemed to exist and the union may notify the DGTU, who will take conciliation measures, including whatever steps she/he deems necessary or expedient. If the parties are still unable to agree, the minister of human resources may refer the dispute to the Industrial Court for binding arbitration. Strikes or lockouts are prohibited while a dispute is before the Industrial Court.

The ILO has repeatedly, including during the year, asked the government to amend the IRA to remove restrictions on the scope of subjects that can be collectively bargained. The law explicitly states that issues of transfer, promotion, appointments, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining. The ILO has also called on the government to limit the amount of discretionary power allotted the DGTU and the minister, including when to intercede in bargaining.

The minister would commonly order recognition of a union if at least 50 percent of the workers in the relevant establishment were members. This threshold, however, was often difficult to achieve because of the numbers of contract workers and workers who were designated as being in management or official roles and who were therefore not eligible for union membership. MTUC officials continued to express frustration about delays in the settlement of union recognition disputes. In practice it was common for such applications to be refused and unions to go unrecognized for one to four years.

Government interference in union activities was rare; however, some trade unions reported that the government detained or restricted the movements of some union members under laws that allow temporary detention without the recipient being charged with a crime and that some foreign workers were not paid or were denied usual work because of their union activity. For example, in May MTUC lodged a complaint on behalf of five Indian nationals based in part on nonpayment of 7-10 months' wages. The Labor Office investigated and on November 4, charged the employer for trafficking. A hearing was scheduled for January 2012.

Many employment contracts for foreign workers contained provisions banning the worker from joining a trade union. NGOs reported that sometimes, in the absence of a formal union structure, the "ring leaders" or unofficial spokespersons for groups of foreign workers were singled out by their employers for unfair treatment, such as withholding work. The president of the newly formed electronic workers union for Renesas Semiconductor was dismissed in April following his posting on a blog about his union recognition claim. Labor activists claimed that his only "crime" was being responsible for organizing workers.

The law has the practical effect of encouraging employers to hire contract workers who are then left without the ability to form a union because they are technically employed in a different industry (staffing) than that in which they are actually working (e.g., hospitality). One NGO reported that following its engagements with Sime Darby, the company agreed to switch to direct recruitment of full-time workers on at least two of its large plantations instead of using recruitment agencies. Similarly, observers noted that the government, by classifying more workers as self-employed, put further limits on their ability to organize.

On September 21, the National Union of Bank Employees (NUBE) accused Maybank, the country's largest bank, of backing a new, in-house union in order to dodge a claim for bonuses. Maybank chief executive Datuk Seri Abdul Wahid Omar said that although 61 percent of Maybank employees in the clerical/non-clerical category were NUBE members, other employees decided to form the Maybank Non-Executive Union (Mayneu) on January 3. NUBE continued its dispute, initiated in 2009, with Maybank over bonuses and was seeking 80 months' pay for its members.

In practice the fact that unions are only able to provide limited protection for workers, particularly foreign workers, created a disincentive to unionize. Some foreign workers reported to NGOs that workers who were successful in proving that their rights had been violated would at best be able to obtain their unpaid wages but no damages, costs, or interest. The employers suffered no additional penalty.

b. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor. By law five agencies, including the Department of Labor, have enforcement powers, but their standard operating procedures did not always result in officers proactively searching for indications of forced labor. A variety of sources reported occurrences of forced labor, and conditions existed that created vulnerabilities to forced labor in commercial agriculture, the fishing industry, fac-

tories manufacturing computer components, garment production, restaurants, and domestic households.

The main types of forced labor included debt bondage and involuntary domestic servitude. Conditions on some plantations created vulnerabilities to debt bondage, labor activists and human rights NGOs reported, as well as in some factories and other businesses. Labor union representatives described a typical pattern involving recruiting agents that impose high fees that sometimes made foreign workers vulnerable to debt bondage. Being indebted to their employers and often without their passports, affected workers were often forced to accept harsh working conditions, lower wages than promised and wage deductions, and poor housing, under threat of imprisonment or deportation.

The government prosecuted several alleged exploiters of forced labor. The police and, to a lesser extent, the Immigration and Labor Departments initiated a combined 45 labor trafficking investigations during the year. The police initiated three prosecutions for labor trafficking but reported no convictions. The police reported that from January to November, officials issued 116 interim protection orders to suspected victims of labor trafficking and 74 protection orders. On September 30, Home Ministry Secretary-General Mahmood Adam announced that 136 people, including eight Malaysians, had been rescued in 53 human trafficking cases—19 involving forced labor—between January and August.

Although the Malaysian Passport Act criminalizes possession of someone else's passport "without legal authority," NGOs continued to report that agents or employers in some cases drafted contracts that included a provision for employees to sign over the right to hold their passports to the employer or agent, while in other cases they simply confiscated employees' passports without contractual authority, thereby making employees more vulnerable to forced labor. This practice effectively made some foreign workers captives of the hiring company.

One high-profile example of forced labor involved 31 Burmese migrant workers working at a factory run by the Malaysian subsidiary of Japanese electronics firm Asahi Kosei (M) Sdn Bhd. The workers alleged that they were being paid wages lower than promised when they agreed to come to Malaysia; that they suffered numerous illegal wage deductions, loss of cooking utensils, electricity and accommodation for lodging complaints; and that they were threatened with termination and deportation when they lodged complaints.

When human rights blogger Charles Hector sought to publicize the workers' complaints, the company sued Hector for defamation, based on its argument that no direct contractual relationship existed between the workers and the company. In exchange for the company dropping its defamation suit, Hector retracted his statements. There were no reports of the outcome for the migrant workers involved.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. 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. 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.

NGOs and trade unions reported that child labor was not a significant problem. The National Union of Plantation Workers reported that in the past, many Malaysians had worked on plantations as family units, and both children and adults, particularly ethnic Indians, experienced forced labor. During the year, however, the majority of plantation workers in Peninsular Malaysia were migrant workers who did not bring their families. For this reason the union reported that it was now very rare to find children involved in plantation work in peninsular Malaysia. Child labor in urban areas often was found in family food businesses, night markets, and small-scale industries. Child labor was also evident among domestic workers, especially Indonesians and Cambodians, as a result of document fraud (incorrect ages on travel and work documents). One NGO reported that stateless children in Sabah were especially vulnerable to labor exploitation, reportedly in the forms of forced begging and occurrences of work in service industries, including restaurants.

d. Acceptable Conditions of Work.—No national minimum wage provision was in effect. Prevailing market wages generally provided a decent standard of living for citizens, although not for all migrant workers. According to the results of a 2010 survey conducted by the Federation of Malaysian Manufacturers, the mean basic monthly salary of foreign workers engaged in the manufacturing sector was RM750

(\$240). 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.

On June 30, Parliament passed the National Wages Consultative Council Act, which aims to set up a National Wages Consultative Council, to recommend the minimum wage and coverage for various sectors, types of employment, and regions. Both the MTUC and the Malaysian Employers' Federation opposed the act, united in the view that it gives the minister of human resources overly wide discretion in setting, amending, or cancelling minimum wage directives. The wage council will include at least five members each representing workers, employers, public officers, and other unspecified members. However, the government has full discretion to determine when the council may make its recommendations and to accept or reject them. Once the government accepts and implements a minimum wages order, it may amend or revoke the order at any time. The act imposes a RM10,000 (\$3,160) fine for each worker if the employer fails to pay the basic salary designated by the council.

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. Limits on overtime vary by sector. The Labor Department of the Ministry of Human Resources is responsible for enforcing the standards, but a shortage of inspectors precluded strict enforcement.

The Occupational Safety and Health Act (OSHA) covers all sectors of the economy except the maritime sector and armed forces. The act establishes a national Occupational 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 OSHA 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.

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. Bilateral agreements or memorandums of understanding (MOU) between Malaysia and some sending states have provisions for rest periods, compensation, and/or other conditions of employment.

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 did not provide adequate protections for household workers; however, a new MOU with Indonesia signed in May calls for the creation of a joint task force to monitor the situation regarding Indonesian domestic workers. The amended MOU also provides one rest day per week (or compensation) and rules on the repayment of recruitment fees. In December the Indonesian government lifted its ban on sending domestic workers to Malaysia after a minimum monthly wage was agreed (RM700 (\$221), increased from RM450 (\$142). The first workers under this new agreement were expected to arrive in April 2012.

Like other employers labor contractors may be prosecuted for violating the law. 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.

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 posed obstacles to foreign workers' access to the system of labor adjudication, particularly if they were illegal aliens.

The law permits migrant workers to bring employment disputes to the Industrial Court. However, the policy of the court was not to hear complaints of migrants who

were undocumented. Court proceedings were time consuming, which may also prevent migrant workers from seeking redress through the court system. Once their work visas expire, migrants require “special passes” to stay in the country—they would be permitted to follow the court case but would not be allowed to work. The passes are valid for one month and cost RM100 (\$32) to renew. Renewal is subject to the discretion of the director general of immigration.

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. Some workers alleged that their employers subjected them to inhumane living conditions, withheld their salaries, confiscated their travel documents, and physically assaulted them.

Plantation workers generally received production-related payments or daily wages. Under a “safety net” agreement, workers are bound to work for 26 days per month, unless unable due to a natural disaster such as flooding or heavy rain, and are paid a minimum of RM650 (\$205). There are three main categories of plantation workers: general field, harvest (constituting the majority), and tappers. Bonus or overtime rates depend on the productivity level. For example, tappers who bring in more than the minimum eleven kilos of rubber receive extra earnings, up to RM2,000 (\$631) for the most productive tappers. Such agreements are approved by Malaysian Agriculture and Plantation Association and are in line with the Employment Act.

Employers sometimes failed to honor the terms of employment and abused their household workers. For example, the contract terms for Indonesian domestic workers, who made up approximately 90 percent of all foreign household workers, were often vague and open to abuse. At the same time that arrivals from Indonesia dropped due to the 2009 ban, arrivals from Cambodia and other countries increased. An estimated 30,000 Cambodian maids arrived in the first seven months of the year, and some encountered conditions similar to those that had led to Indonesia’s ban. In July one young Cambodian maid was found dead under suspicious circumstances and another was rescued by police after she was allegedly abused and had her head shaved by her employer. In October the Cambodian government banned recruitment firms from sending domestic workers to Malaysia following numerous reports of abuses. The Cambodian ban remained in force at year’s end; the Indonesian ban was lifted in December.

On November 1, the Indian High Commission began implementing its revised guidelines for the employment of workers from India that included a minimum wage structure ranging from RM800 (\$252) per month for unskilled workers (restaurant, construction) to RM1,400 (\$442) per month for skilled domestic workers. According to the High Commission, Indian authorities do not grant workers clearance for travel to Malaysia unless they can produce a conforming employment contract that has been attested to by the High Commission in Kuala Lumpur as meeting the guidelines.

On June 5, Isti Komariyah, a 26-year-old Indonesian maid, died on her way to the hospital after being physically abused by her employers. On June 16, the magistrates court in Kuala Lumpur charged her employer with murder, which carries a mandatory death penalty upon conviction.

In January the Kuala Lumpur High Court dismissed the appeal of Hau Yuan Tyng from her conviction for causing grievous harm to her Indonesian maid, Siti Hajar. In May 2010 Hau had been found guilty on three counts; she allegedly scalded Siti Hajar with boiling water as well as tortured and starved her. In dismissing Hau’s appeal, the judge increased her jail time from eight years to 11 years and ordered her to pay RM5,000 (\$1,580) in compensation to Siti Hajar.

MARSHALL ISLANDS

EXECUTIVE SUMMARY

The Republic of the Marshall Islands is a constitutional republic led by President Jurelang Zedkaia. On November 21, voters elected the Nitijela (parliament) in generally free and fair multiparty elections. The Nitijela, almost evenly divided between the two dominant political factions, is scheduled to elect a new president in January 2012. Security forces report to civilian authorities.

The government continued to address human rights challenges including poor prison conditions, government corruption, violence toward women, child abuse, and lack of worker protections.

The government took steps to prosecute and punish officials who committed abuses, whether in the security services or elsewhere in the government.

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards. Lighting, ventilation, and sanitation were inadequate, and there was no program to ensure regular access to outside activity. The jail is built into the police station and security is minimal. The walls are built of simple concrete blocks with the rebar exposed. There is no regular maintenance of the prison, and conditions continued to deteriorate. Prisoners have access to potable water.

According to a Ministry of Justice official, as of August the country's only national prison, on Majuro Atoll, held 41 inmates—all male adults. Of these, 38 were convicted prisoners, and three were awaiting trial.

There were no specialized prison facilities for female prisoners, including juveniles. During the year the government established a holding cell for up to two women at the National Police offices in Uliga. Generally, female prisoners were held under house arrest, although some were held temporarily in a separate police substation until released to house arrest. Male juveniles were held temporarily with the general prison population until their release to their parents. Pretrial detainees were not separated from the general prison population.

Prisoners had reasonable access to visitors and were permitted religious observance. They were permitted to submit complaints about their treatment without censorship and request investigation of credible allegations of inhumane conditions. There were no reported cases of abuse during the year.

The government permits prison visits by independent human rights observers, but there were no requests for such visits during the year.

The country does not have an ombudsman, but the public defender has authority to serve on behalf of prisoners and detainees and advocates for their appropriate and timely release. Due to the small size of the country and the small prison population, inmates generally were known to the courts, and judges regularly reviewed pending cases.

Authorities continued to limit improvements to only one wing of the Majuro prison. Little progress was made during the year, and sanitary conditions and overall security continued to be poor.

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. During the year there was one report of impunity in which police officers reportedly stole more than \$3,000 (the U.S. dollar is the official currency) from the police station's evidence room. The money originally had been confiscated in an earlier raid on private apartments. Nonetheless, there were other reports that stated there was additional money stolen at the time of the raid. No disciplinary action was taken, and at year's end the case remained under investigation.

Arrest Procedures and Treatment While in Detention.—Under the constitution a warrant issued by a court is required for an arrest if there is adequate time to obtain one. The courts have interpreted this to exempt situations such as a breach of the peace or a felony in progress. The law provides detainees the right to a prompt judicial determination regarding the legality of the detention. 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. 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, although there were unconfirmed reports from local business owners and the Attorney

General's Office that government officials used their positions to protect family members from prosecution for alleged wrongdoing.

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. An attorney is provided at public expense for indigent defendants facing serious criminal charges. Defendants may question witnesses, examine government-held evidence, and appeal convictions. The constitution extends these rights to all citizens. Noncitizen defendants also enjoy these rights.

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.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech including for members 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 credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 need did not arise during the year for government cooperation with the Office of the U.N. 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'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. 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.—*Recent Elections.*—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 is an unelected body and serves a largely consultative function dealing with custom and traditional practices. National elections were held on November 21 and were generally free and fair.

Participation of Women and Minorities.—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 there were four women in the 12-seat House of Iroij. Since the country's founding there has always been a woman in the Nitijela, but never more than one.

In the November national election, seven women ran, and one was elected. Several women served in prominent appointed government positions, including those of minister, secretary of health, secretary of foreign affairs, director of the Social Security Administration, banking commissioner, and director of the Environmental Protection Agency.

There were no members of minorities in the legislature. There are few minorities in the country, and running for office requires land rights, which are only available to native Marshallese.

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 sometimes engaged in corrupt practices with impunity. In September independent auditors reported that they had identified 12 problem areas in the country's 2010 financial statements. The auditors gave a qualified opinion on internal controls and compliance, noting deficiencies and material weaknesses in fiscal controls.

Public officials are not subject to financial disclosure laws. The Attorney General's Office is responsible for investigating cases of alleged corruption.

During the year, Kenneth Kedi, minister of transportation and communication, pled no contest to three misdemeanor charges of misconduct in public office and petty larceny, the first time a high-level official had been indicted for corruption. The government dropped seven other felony charges related to improper use of public funds in a plea bargain. Minister Kedi remained in office after paying a \$1,000 fine.

Also during the year, one individual was found guilty on charges made in December 2010 relating to corruption in the government's procurement practices at the Ministry of Finance. This individual, along with alleged co-conspirators in the Ministry of Finance, created fraudulent contracts between the government and private businesses. At year's end the sentencing for this individual remained pending, as did the trials of several alleged co-conspirators whose cases were filed in January.

Voters looked to representatives for financial assistance, which pressured elected officials to use government authority to provide patronage to extended family members and supporters. There also were frequent allegations of nepotism in government hiring, especially for teachers, and in-depth studies found serious discrepancies between teacher pay and qualifications.

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. In most cases, in order to receive the information, a document must be filed with the court showing the reason the information is required.

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

Domestic human rights organizations generally operated without government restriction, but few local groups existed. The government was not always responsive to the concerns of nongovernmental organizations (NGOs).

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.—Rape and Domestic Violence.—The law criminalizes rape, including spousal rape, and the government generally enforced the law when incidents were reported to officials. The law establishes penalties of up to 25 years' imprisonment for first-degree sexual assault. However, most observers believed that few sexual offenses were prosecuted, since cultural constraints discouraged victims from reporting such crimes to the police. The courts have promulgated rules designed to protect women filing rape charges during court testimony.

New legislation passed in September specifically prohibits domestic violence. Previously, the law established criminal penalties for assault and battery, and domestic abuse was sometimes included in these categories. 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 2009, more than 70 percent of female spouses had been abused during an unspec-

ified 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.

Sexual Harassment.—Sexual harassment is not prohibited by law, and there is no reliable data regarding the incidence of harassment.

Reproductive Rights.—Couples and individuals have the right to decide the number, spacing, and timing of children and the information and means to do so free from discrimination. Access to information on contraception, and to prenatal care, skilled attendance at delivery, and postpartum care were available on Majuro and Kwajalein Atolls; however, on remote atolls, only infirmaries with minimally trained attendants were available. The Ministry of Health provided free contraceptives, with particular emphasis on reducing the high rate of teenage pregnancy. According to indicators published in 2011 by the Population Reference Bureau, an estimated 45 percent of married women ages 15-49 used some form of contraception.

Maternal mortality was approximately 0.15 to 0.3 percent (four reported maternal deaths in 2009 and two in 2010, with approximately 1,340 births per year in the country), although maternal deaths in the outer islands may have been underreported. A large number of premature babies were born to young teenage mothers, with a resulting high number of babies born with physical and mental deficiencies.

Discrimination.—Women generally enjoy the same rights as men under family law and in the judicial system. 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 husband or eldest son 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 public and private sectors, many were in low-paying jobs with little prospect for advancement. Men and women had pay equity for all government positions involving similar work.

Women's groups under the NGO Women United Together in the Marshall Islands (WUTMI) continued to publicize women's issues and promote greater awareness of women's rights. Following the killing of a college teacher by her husband in August 2010, WUTMI worked with the government to strengthen legal penalties for domestic violence offenses. Police charged the murder victim's husband in her death, and he was sentenced in August to 20 years in prison. An off-duty police officer was outside the teacher's house when the killing occurred and reported to his on-duty colleagues that he heard screams, and when the fighting subsided he called the police to report that the fight was over. Following this incident local NGOs provided additional training for police on how to respond properly to reports of domestic violence.

Children.—Birth Registration.—Citizenship is derived through one's parents. Children born within the country to foreign parents do not acquire citizenship at birth but may apply for citizenship upon turning 18.

Education.—There are various fees required for primary and secondary education. Although primary education is legally compulsory, it is not strictly enforced. In order to enter high school, students must take an admission exam, and not all are admitted due to space constraints.

Child Abuse.—Child abuse and neglect are criminal offenses, but public awareness of children's rights remained low, and child abuse and neglect remains common. Convictions for violations 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 no reports of prosecutions during the year.

Sexual Exploitation of Children.—The minimum age for consensual sex is 16. The country's statutory rape law provides penalties of up to 25 years' imprisonment for violators. No laws address child pornography.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were few Jewish residents in the country, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip/rls/tiprpt>.

Persons With Disabilities.—The constitution states that no person may be treated in a discriminatory manner under law or by public officials, but it does not include disability in its listing of specific prohibited grounds of discrimination. In practice persons with physical, sensory, intellectual, and mental disabilities faced difficulties in obtaining employment and accessing health care and other state services. There were no laws or policies designed to ensure access for individuals with disabilities to buildings, public transport, education, communications, or information. There were no building codes, and in practice most buildings were not accessible to persons with disabilities. Hospitals and two major grocery stores had ramps for persons with disabilities.

The government provided minimal support for persons with mental disabilities.

There were no psychiatric facilities in the country. Persons whom the police deemed as exhibiting psychotic behavior were held 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 in general. The Ministry of Health is charged with treating mental and physical disabilities, and the Ministry of Education is responsible for supporting special education for children with disabilities. In practice there were no special education classes for children with disabilities, except for a small foreign-funded class providing three months of instruction for the hearing impaired at Ebeye on Kwajalein Atoll and in Majuro. 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.

National/Racial/Ethnic Minorities.—As in some previous years, the authorities appeared to selectively enforce immigration laws against migrants, particularly from the People's Republic of China. Some ethnic Chinese reported being threatened or attacked based on their race and receiving regular racial slurs. Other ethnic Chinese stated that taxi drivers commonly refused to stop for Chinese passengers, although most taxis were owned by Chinese businessmen. The local press reported that attacks on Chinese sailors by youth gangs were common. The government did not take any steps to address this problem.

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 willingly paid the fee 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 law criminalizing consensual same-sex activity, and there were no reports of societal violence based on sexual orientation or gender identity. There were no reports of official or societal discrimination based on sexual orientation or gender identity 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. Freedom of Association and the Right to Collective Bargaining.—The law provides for the right of freedom of 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 has a limited history and culture of organized labor.

The law does not provide workers the right to strike, and there is no legislation concerning collective bargaining or trade union organization. There are no laws prohibiting antiunion discrimination or allowing for reinstatement if dismissed for union activity.

In 2008 public school teachers formed the country's first labor union. During the year, the approximately 30-member union took no public action and did not engage in negotiation or collective bargaining. There were no reports of government restrictions on its activities.

b. Prohibition of Forced or Compulsory Labor.—The constitution prohibits involuntary servitude, one form of forced labor. There were no reports of government enforcement of the law, and there were no reports of its practice among citizens.

c. Prohibition of Child Labor and Minimum Age for Employment.—There is no law or regulation setting a minimum age for employment of children, and the government took no preventive measures during the year. 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. This was particularly true in the subsistence economies of the more remote atolls.

d. Acceptable Conditions of Work.—The law establishes a minimum wage of \$2.00 per hour for both government and private-sector employees. This minimum wage has remained the same for over a decade, and there has been no legislation concerning maximum hours of work. No legislation exists that allows workers the right to remove themselves from situations that endanger their health or safety, and no legislation provides protection for workers who file official complaints about such conditions. The laws apply to foreign workers in the same manner as indigenous citizens.

There are no official poverty levels. However, the bottom tax bracket (under which no taxes are assessed) is \$1,560 annually.

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. Most foreign workers—who constituted approximately 30 percent of the workforce (excluding agro-forestry) and most of the professional and technical classes in the country—earned considerably more than the minimum wage. Their earnings were estimated to average at least 50 percent higher than those of local workers.

The Office of the Chief of Labor within the Ministry of Foreign Affairs has the authority to make recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours, overtime payments, and the occupational health and safety standards for workers. However, there have been no policy recommendations, or political initiatives, by the Office of Chief of Labor during the past four years, and during 2011 the office did not conduct any inspections of workplaces related to health and safety conditions.

On Sundays, most businesses are closed, and people generally refrained from working.

MICRONESIA

EXECUTIVE SUMMARY

The Federated States of Micronesia is a constitutional republic composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. Individual states enjoyed significant autonomy and traditional leaders retained considerable influence, especially in Pohnpei and Yap. The elected unicameral Congress selects the president from among its four members elected from at-large state districts. On May 10, Congress reelected Emanuel Mori as president. 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. Security forces reported to civilian authorities.

Continued discrimination and violence against women and widespread corruption constituted to be the most prevalent human rights problems in the country.

Other reported human rights problems included judicial delays, domestic violence, and child neglect.

In some instances the government took steps to punish officials and their friends who committed abuses, but in many instances impunity was a problem.

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. There were reports of beatings while in police custody in Chuuk and one substantiated case of a foreigner beaten by the chief of police while in custody. At year's end the case was under investigation, and the police chief was removed from office.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards. The government permitted prison visits by independent human rights observers, but none occurred during the year.

At year's end the four states' prisons had approximately 95 inmates held in facilities with a total capacity of 150 prisoners. Pohnpei held 18 persons, including one woman; Yap held 16 persons, including one female inmate; Kosrae held 13 inmates (all male); and Chuuk reportedly held 48 inmates, including one female prisoner and one mentally ill prisoner. Pretrial detainees usually were held within the same facil-

ity but separately from convicted prisoners. The female prisoners were held separately from male prisoners.

There were no designated juvenile detention facilities, and the states seldom incarcerated juvenile offenders. Crimes by juveniles usually were resolved in a traditional, mediation-based manner between the families of the perpetrator and the victim. No juveniles were incarcerated as of year's end.

Prisoners and detainees had reasonable access to visitors and potable water and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, but authorities rarely investigated such allegations. The government has the obligation to investigate and monitor prison and detention center conditions, but no information was available publicly whether it did so during the year. There is no ombudsman to serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate any overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offense.

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, state, and local police forces, and the government has effective mechanisms to investigate and punish abuse and corruption. Three cases of abuse of power were investigated in Pohnpei. No abuse was found in one case, one officer was suspended in another case, and one officer was given a warning in the third case. One case of police brutality was under investigation in Chuuk (see section 1.c.). Law enforcement agencies in Chuuk remained staffed with friends and relatives of powerful individuals.

Arrest Procedures and Treatment While in Detention.—Warrants are required for arrests, and detainees were advised promptly of the charges against them. Detainees must be brought before a judge for a hearing within 24 hours of arrest, a requirement generally observed in practice. Most arrested persons were released on bail. Detainees generally had prompt access to family members and lawyers. However, in practice not all detainees who requested help from the Office of the Public Defender received adequate legal assistance because of lack of funding and properly trained lawyers.

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. Trials are public, although juveniles are 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.

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 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.—*Status of 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 credible reports that the government monitored e mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e mail.

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.—See the International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 was restricted. The need did not arise during the year for government cooperation with the Office of the U.N. 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.

Protection of Refugees.—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.

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.—Recent Elections.—National congressional elections in March generally were free and fair. There were allegations of polling fraud in a special election to replace the governor in Chuuk in August, and the losing candidate filed two complaints. The court rejected the complaints and upheld the election results.

Political Parties.—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. Only one congressional candidate ran on a platform in March. He unseated an incumbent.

Participation of Women and Minorities.—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 there was one female associate justice on the national Supreme Court and one female associate justice on the Pohnpei State Supreme Court. The country's first female ambassador was appointed permanent representative to the United Nations in 2010. One woman ran unsuccessfully for national office in the March elections. There were two elected women in the Pohnpei State legislature. There were no other women in the other state legislatures or in the national legislature.

To the extent that the country is a multicultural federation, both the legislature and the executive 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 generally engaged in corrupt practices with impunity. Government corruption was a serious problem, particularly in Chuuk. Criminal referrals from the Office of the National Public Auditor (ONPA) to the Department of Justice were not acted upon. The ONPA's findings and recommendations were generally ignored.

Public officials are 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 2007, was suspended from practice before the bar in 1999 due to allegations of improper practices and at year's end remained suspended. Although the president attempted to reappoint him, the national Congress did not confirm the appointment. At year's end the office was filled by an acting attorney general.

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. Information from other branches of government also was accessible; however, retrieval sometimes was delayed by the loss or mishandling of

records. In March the state legislative building in Chuuk burned and all records destroyed. 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 are 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 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. There are no laws against family violence or trafficking in persons.

Women.—Rape and Domestic Violence.—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 a fine of up to \$20,000 (the U.S. dollar is the national currency) in Kosrae and \$10,000 in the other states. If neither a dangerous weapon nor serious physical harm is involved, the assault is punishable in all states by up to five years' imprisonment or a fine. Due to social stigma such crimes were underreported, and few cases were prosecuted. The 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 the belief that the police would not involve themselves actively in what is seen as a private family problem. 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.

There were no governmental facilities to shelter and support women in abusive situations. In Chuuk a private facility for women's groups, funded by a foreign government, was opened at year's end, but it did not include a shelter. In 2010 the Pohnpei Department of Public Safety began a program of domestic violence education that included a hotline and training of its officers to handle domestic violence situations.

Sexual Harassment.—The law does not prohibit sexual harassment, and anecdotal reports suggested it was pervasive.

Reproductive Rights.—Couples and individuals have the right to decide the number, spacing, and timing of children, and the information and means to do so free from discrimination. Access to information on contraception, prenatal care, skilled attendance at delivery, and postpartum care were widely available through private and public medical facilities. From 2005-09 the maternal mortality rate was estimated as 128 per 100,000 live births. According to indicators published by the Population Reference Bureau, skilled health personnel attended an estimated 80 percent of births, and an estimated 46 percent of married women ages 15-49 used modern contraceptive methods. The government conducted public information campaigns on reproductive health matters through posters and billboards; other types of local media were not readily available.

Discrimination.—Women have equal rights under the law, including the right to own property, and there were no institutional barriers to education or employment. The largest employers were the national and state governments, and women received equal pay for equal work. The public sector comprised approximately half of the country's jobs, with 5,000 plus in state and municipal government positions and approximately 2,500 in national government and government agencies or public enterprises. Societal discrimination against women continued, however, and cultural mores encouraged differential treatment for women. For example, in Yap women are

prohibited from entering a meeting hall during men's meetings. In Chuuk women must bow in the presence of men during formal meetings. Nonetheless, women were active and increasingly successful in private business. A national women's working group composed of female national government employees, including the secretary of health and social services, was formed to advise the government. Additionally, several small nongovernmental organizations (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.

The Chuuk Women's Advisory Council, an NGO, received a foreign government grant for a multipurpose center to be used initially as an office and eventually as a shelter for victims of domestic violence as well. At year's end it was only being used as an office.

In July 2010 the national government held a National Women's Conference that adopted three resolutions: asking all states to pass mandatory maternity leave for state employees, as the national and Kosrae State governments already had done; urging state governments to pass necessary laws to address domestic violence and other forms of violence against women; and endorsing a pending congressional bill to provide reserved seats for women in Congress. None has been enacted.

Children.—Birth Registration.—A child acquires citizenship if one or both parents were citizens. Individual states maintain birth records.

Education.—Although a compulsory education law requires all children to begin school at age six, not all did so, nor did they stay in school, and the law was not enforced. The law permits children to leave school when they reach the age of 14 years or after completing the eighth grade, but many students leave school before that.

Child Abuse.—Child abuse is illegal, although the constitution provides for a right of parental discipline. Cultural attitudes regarding parental discipline limited the reporting of abuse, although there were some anecdotal reports of child abuse and neglect.

Sexual Exploitation of Children.—The states' statutory rape laws apply to children age 13 and below in Chuuk, Yap, and Kosrae and age 15 and below in Pohnpei. The maximum penalties vary according to state—Chuuk: five years' imprisonment, \$5,000 fine; Kosrae: 10 years, \$20,000 fine; Yap: 10 years, \$10,000 fine; and Pohnpei: five years, \$5,000 fine. Only Pohnpei 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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were no known Jewish communities in the country, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination in public service employment against persons with physical disabilities. There were no reports of discrimination against persons with physical, sensory, intellectual, or mental 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. The government provided children with disabilities, including learning disabilities, special education, including instruction at home if necessary and if foreign funding was available. Neither laws nor regulations mandate accessibility to public buildings or services for persons with disabilities. In practice many buildings had ramps or only one story. There was one elevator in the two-story Pohnpei State government building. No policies or programs ensured access to information and communications for persons with disabilities.

Due to a lack of facilities for treating mentally ill persons, the government housed some individuals with mental illnesses but no criminal background 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.

The national Health Services Department is responsible for protecting the rights of persons with disabilities but does not provide significant services.

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 can rise to senior positions in society. Nonetheless, the traditional system affected contemporary life. Persons from low-status backgrounds tended to be less assertive in advocating for their communities' needs, and low-status communities sometimes continued to be underserved.

The national and state constitutions prohibit noncitizens from purchasing land, and foreign investment laws limit the types of businesses noncitizens can own and operate. 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 same-sex sexual activity. There were no reports of violence, official or societal discrimination, or workplace discrimination, against lesbian, gay, bisexual, or transgender 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. Freedom of Association and the Right to Collective Bargaining.—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 being subject to coercion, discrimination, or reprisals. No workers, including foreign workers, were prohibited from joining unions, but for a variety of reasons—including the facts that most private-sector employment was in small-scale, family-owned businesses and the majority of the remaining working-age population was engaged in subsistence farming and fishing—there were no unions. No law deals specifically with trade unions or with the right to collective bargaining.

There is no specific right to strike, but no law prohibits strikes. There were no employment-related disputes or demonstrations during the year.

b. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor. There are no laws against trafficking in persons.

See section 7.d. and the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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.

d. Acceptable Conditions of Work.—The minimum hourly wage for employment with the national government was \$2.65. All states had a minimum hourly wage for government workers: \$2.00 in Pohnpei, \$1.25 in Chuuk, \$1.42 in Kosrae, and \$1.60 in Yap. Only Pohnpei had a minimum wage for private sector workers: \$1.35 per hour. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective. Statistics were not readily available, but salaried persons were relatively well-off. As of 2000, 28.4 percent of the population was in the subsistence economy.

National law sets a standard of an eight hour/five day workweek, with premium pay for overtime. A federal regulation requires that employers provide a safe workplace. No law for either the public or private sector permits workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Working conditions aboard some foreign-owned fishing vessels operating in the country's waters continued to be very poor. Crewmen reported a high incidence of injuries, beatings by officers, and nonpayment of salary.

MONGOLIA

EXECUTIVE SUMMARY

Mongolia is a multiparty parliamentary democracy. The most recent presidential election, held in 2009 and considered largely free and fair, was won by former prime minister Tsakhia Elbegdorj of the Democratic Party. Prime Minister Sukhbaatar

Batbold and his majority Mongolian People's Party (MPP) continued to dominate the parliament but governed under a unity government with the Democratic Party. The MPP, formerly known as the Mongolian People's Revolutionary Party (MPRP), changed its name during the year. A small remnant of the original MPRP kept the MPRP name and continued as a competing splinter party led by former president Nambar Enkhbayar. Security forces reported to civilian authorities.

The three prominent human rights abuses were police abuse of detainees, uneven enforcement of the law and corruption within the judicial system, and a lack of transparency in government affairs. While the law provides for protection of basic human rights, there was a significant disconnect between human rights laws, regulations, and government pledges of support and what was implemented.

Other human rights issues included poor conditions in detention centers, arbitrary arrests, government interference in the media, religious discrimination, including continued refusal by some provincial governments to register Christian churches, unlawful deportation of foreign citizens, opaque and complicated procedures for stateless persons to gain citizenship, secrecy laws and a lack of transparency in government affairs, inadequate measures to counter domestic violence against women, trafficking in persons, discrimination against persons with disabilities, discrimination against ethnic minorities, and violence and discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons.

The government took few steps to punish officials who committed abuses, and there was an atmosphere of official impunity.

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.

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, sources reported that police, especially in rural areas, occasionally abused prisoners and detainees. The use of unnecessary force, particularly to obtain confessions, was common. Nongovernmental organizations (NGOs) claimed guards or police sometimes meted out cruel punishment to inmates at police stations and detention centers. NGOs stated that some inmates were beaten and deprived of visitation rights in response to infractions committed in detention. According to an NGO working closely with the prison system, prisoners who attempted suicide were beaten and refused basic amenities and visitation rights.

During the year the Office of the State Prosecutor General's Special Investigative Unit (SIU) received 50 complaints against officials suspected of torture. Of these, 37 were dismissed for failure to comply with the relevant code's definition of torture. According to Amnesty International (AI), the code was interpreted to apply only to investigators and exempts prosecutors and prison officials. Six of the torture complaints were under investigation by SIU, while seven were transferred to other departments. AI reported that while there was a reduction in physical forms of torture, complaints to SIU did not decline. Complaints more recently concerned coercion and threats, including threats from police to investigate family members if a confession was not forthcoming.

Prison and Detention Center Conditions.—According to AI conditions in prisons were poor but improved during the year. Prison and detention center conditions generally varied based on the facility. The new predetention facility, Number 461 Songolon Predetention Center, had natural light and was well ventilated. Women and juveniles had at least 30 minutes of exercise or outdoor time every day, and men had the same amount of time four days per week. The facility contained a clinic that could accommodate approximately 126 patients, and there was a full-time doctor, social worker, and psychologist on call. The facility had a significantly lower rate of tuberculosis than the previous predetention facility.

In contrast, within the Denjin Myanga administrative detention facility, sources reported detainees found guilty of administrative offenses lived in squalid conditions due to overcrowding and poor ventilation. All prisoners were allowed outside three times per day and up to an hour each time, although during the winter severe weather precluded outside activities. Conditions in police-operated detoxification centers were equally poor. Inebriated individuals were detained in overcrowded holding cells for up to 24 hours. Officials reported they lacked the resources to provide adequate water, food, hygienic standards, adequate bedding, ventilation, and bathing facilities. In all detention facilities, prisoners had access to potable water.

The General Executive Agency of Court Decision (GEACD) reported 25 deaths during the year in prisons and three deaths in detention facilities. AI declared these

totals were underestimated due to the practice of correctional officials releasing terminally ill patients from their ward shortly before their impending death.

The GEACD reported there were 6,631 prisoners serving sentences, of whom 393 were women and 20 were juveniles. Number 461 Songolon Predetention Center, which held prisoners awaiting trial, could house more than 1,000 detainees and held an estimated 700 in September. In addition the Denjin Myanga administrative detention facility in Ulaanbaatar was built to hold 160, but there were often more than 250 detainees, particularly during the winter. U.N. officials reported children and adults often were not separated in police detention facilities and pretrial detainees were held with convicted prisoners. Conditions for men and women were similar; however, in general women were allowed more outdoor recreational time than men.

The GEACD reported that ombudsmen are not able to serve on behalf of prisoners and detainees. No steps were taken to improve recordkeeping or use alternative sentencing for nonviolent offenders, although good behavior was a consideration for early probation. Prisoners and detainees had reasonable access to visitors and were permitted religious observance. The law allows prisoners and detainees to submit complaints to judicial authorities without censorship and request investigations, but AI stated that in many cases this process was significantly flawed and failed to address legitimate complaints. The Prosecutor's Office and State Specialized Inspection Agency monitored prison and detention center conditions.

The government generally allowed access to independent nongovernmental observers, but the access was limited to low- and medium-security facilities. However, even at these facilities, reportedly visitation requests had to be submitted in advance and the previous relatively unfettered access afforded to NGOs was limited.

The government took several steps to improve overall conditions in prisons and detention centers. The parliament requires video and voice recording equipment in interrogation rooms, predetention centers, and prisons to help prevent abuses. At the Denjin Myanga administrative detention facility, the detention administration improved hygienic standards by purchasing washing machines and renovating public spaces. At year's end the GEACD reported the government invested 1.17 billion tugrik (\$841,000) in prison renovation during the year.

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. Politicians from certain opposition parties complained about what they characterized as the arbitrary arrest and detention of certain members who were never formally charged. In particular authorities arrested certain politicians under the pretext of possibly opening a case; they were subsequently held for a period of days or weeks and then released. The press reported such cases and interviewed those detained.

Role of the Police and Security Apparatus.—External security forces, who reported directly to the Ministry of Defense, are responsible for national defense but also assist internal security forces in providing domestic emergency assistance and disaster relief. The national police and the Border Force, who operate under the Ministry of Justice and Home Affairs, are responsible for internal security. The General Intelligence Agency, whose civilian head reports directly to the prime minister, assists the aforementioned forces with internal security as well as foreign intelligence collection and operations.

Civilian authorities largely maintained control over both external and internal security forces, yet mechanisms to investigate police abuses remained inadequate, primarily because of a lack of resources to pursue allegations. There were numerous instances of impunity involving the security forces reported during the year. Complaints against the police, prosecutors, and members of the judiciary were referred to the SIU. 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. During the first nine months of the year, the SIU received 50 complaints against law enforcement officials, opened cases on seven of these complaints, rejected 37, and transferred six to other agencies. Among these cases there was one conviction, two dismissals, and one still under consideration. At year's end one case before the court system was under investigation. There were no major government actions, including training, to reform the security forces.

It was widely reported that ultranationalist groups enjoyed impunity due to police complacency and unwillingness to apprehend the offenders. Ultranationalists targeted LGBT persons, Chinese, and Koreans with threats, violence, and the extraction of protection money.

Arrest Procedures and Treatment While in Detention.—A judge-issued warrant is required to arrest a suspect. A "pressing circumstances" exception allows police to arrest suspects without a warrant. The U.N. reported that two-thirds of those ac-

cused of criminal offenses in Ulaanbaatar were arrested without court authorization.

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 the suspect.

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 had prompt access to family members and could 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.

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 increasingly problematic, particularly at the level of the Supreme Court. Bribery sometimes contributed to the dismissal of a case or reduction of a recommended sentence.

Trial Procedures.—The law provides for the right to a fair public trial by a judge, but this was undermined by frequent bribery and a large caseload per judge. Defendants are innocent until proven guilty, and this was respected in practice. Defendants could question witnesses, present evidence, and appeal decisions. Juries were not used.

In practice trials 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, to convict defendants. Additionally, NGOs complained about witness intimidation, limited public access to trials, and an overall lack of transparency in court decisions.

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

Civil Judicial Procedures and Remedies.—Administrative and judicial remedies were available for alleged wrongs. Corruption, outside influence, and lack of enforcement of court orders were problems in the civil judicial system. 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 criminal code and constitution prohibit such actions; however, there were reports of government surveillance, wiretapping, and e-mail account intrusions against journalists and NGOs critical of the government.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The law provides for freedom of speech and press, and the government generally respected these rights in practice. Nevertheless, government interference with licensing and indirect intimidation of the press, particularly broadcast media, was evident.

Freedom of Press.—The media law bans censorship of public information and any legislation that would limit the freedom to publish and broadcast; however, political influence in the media continued to be a problem. Observers stated that many newspapers and broadcast media were either affiliated with political parties or owned (fully or partly) by individuals affiliated with political parties, and that such affiliation strongly influenced their reports. The observers also noted underpaid reporters frequently demanded payment to cover or fabricate a story. Additionally, 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.

Censorship or Content Restrictions.—Press representatives alleged indirect censorship in the form of government and political party harassment. For example, the Media Office of the General Policy Authority sent a cooperation agreement valid for one year to all Ulaanbaatar-based television stations. The cooperation agreement

provided safety for television stations and their journalists working at flashpoints. In exchange for providing this safety, the agreement imposed certain restrictions. It required the media to cooperate with the police to broadcast reports to defuse and resolve mass disorder and forbade the dissemination of information that encourages mass disorder during public demonstrations or compromises public or organizational privacy and state security.

Libel Laws.—Press representatives often faced the threat of libel complaints and tax audits by government authorities. The law places the burden of proof on the defendant in libel and slander cases, and both defamation and insult were criminal charges.

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; however, there were reports that the government monitored some e-mail accounts.

A representative of the LGBT Center alleged government monitoring of LGBT persons' personal e-mail accounts and stated that recent activity logs frequently listed unknown Internet protocol addresses within 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.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Foreign Travel.—Foreign residents must obtain exit visas to leave the country. Public and private entities increasingly used the visa requirement to pressure foreign investors to settle commercial disputes and force some NGOs, particularly non-profit Christian organizations, to leave the country.

Protection of Refugees.—Access to Asylum.—The constitution provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees, yet problems persisted in a few areas. For example, by law the procedure to acquire or reacquire citizenship should take no more than six months, but it often took considerably longer. The Immigration Agency asserted that under the Law on the Legal Status of Foreign Citizens, passed in 2010, there were now clearer provisions concerning deportation criteria. At the same time, the law provides more power to the Immigration Agency to deport individuals seeking refugee status.

Employment.—Refugees are considered illegal migrants and as such do not have permission to work.

Access to Basic Services.—Refugees generally lacked access to basic services such as health care and education.

Stateless Persons.—The UNHCR reported that many thousands of ethnic Kazakh Mongolians renounced their Mongolian nationality upon moving to Kazakhstan in the early 1990s, but many who were unable to gain Kazakh citizenship returned to Mongolia, where they became stateless. The UNHCR reported that the process of reacquiring Mongolian nationality was long and complicated and recommended improving the implementation of relevant laws. In addition observers cited lack of awareness regarding the relevant law as a reason for statelessness. Furthermore, the process of verification with the Kazakh government was protracted. Adding to the confusion, the Mongolian Immigration Agency estimated there were 40,000 ethnic Kazakhs holding both Mongolian and Kazakhstani citizenship, despite the fact that Mongolia does not recognize dual citizenship.

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.—Recent Elections.—In the most recent presidential election, held in 2009, the former prime minister and candidate of the opposition Democratic Party, Tsakhia Elbegdorj, defeated MPRP incumbent Nambiar Enkhbayar. Independent observers described the election as largely free and fair.

Political Parties.—Political parties could operate without restrictions or outside interference, although bias within the General Election Commission was a concern, particularly for smaller political parties.

Participation of Women and Minorities.—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. One of the 15 cabinet ministers was a woman, 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 two members of minority groups serving in the cabinet or on the 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 in all branches and at all levels of government, particularly within the judiciary, customs service, and law enforcement agencies. 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 Independent Agency against Corruption is the government body responsible for combating corruption. While the agency was provided with a relatively large budget and broad mandate, public faith in the agency was low, and it was not viewed as politically impartial. Moreover, when the agency launched corruption investigations, the results of the investigations and subsequent court proceedings were not made public.

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. NGOs initially complained that one problem with the prosecution of bribery was that both the official soliciting the bribe as well as the person compelled to pay it are prosecuted. This led to less reporting of bribery. NGOs reported that the problem was somewhat alleviated after the government began granting limited immunity for those paying smaller bribes.

Members of parliament are immune from prosecution during their tenure, preventing a number of allegations of corruption from going to trial. Corruption-related arrests and convictions were rare but increasing, but there was a sense that high-level cases were politically motivated.

The anticorruption agency 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 agency 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 agency received 495 reports of improprieties during the first 10 months of the year, of which it referred more than 47 for criminal investigation.

There was no law providing for public access to government information. The far-reaching State Secrets Law inhibited freedom of information and government transparency while at the same time 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.

Government Human Rights Bodies.—The National Human Rights Commission (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 six-year terms. While the NHRC was not viewed as completely independent of political influence, it was considered some-

what effective relative to other agencies, and some of its reporting was viewed as credible.

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 Violence.—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 maximum penalty is 10 years. Such a crime resulting in death, victimizing a child less than 14 years of age, or committed by a recidivist may result in 15 to 25 years' imprisonment or the death penalty. Gang rape is punishable by death. However, no law specifically prohibits spousal rape, which is commonly not recognized or prosecuted. Victims were often stigmatized and accused of not fulfilling their marital duties. As a result many NGOs blamed law enforcement officials for spousal rape victims' silence.

During the year there were 237 rape cases, in which 336 persons were convicted, according to the Supreme Court research center. However, according to NGOs police referred only a small number of rape cases for prosecution, generally claiming there was insufficient evidence. In addition NGOs alleged 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 deterred reporting.

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 NGOs, were often reluctant to intervene in what was viewed as an internal family matter.

Arrestees were sometimes held under an administrative penalty law rather than for domestic abuse, in which case they were fined 15,000 tugrik (\$11) and detained for up to 72 hours before being released. In addition domestic violence cannot be reported anonymously; callers must give their names and location, thereby dissuading individuals from reporting domestic abuse due to fear their identity might be leaked to the perpetrator.

In 2010 there were 1,242 reported cases of domestic violence, nearly double the 720 in the previous year. The National Center against Violence (NCAV) believed that this was likely due to increased awareness of the resources available as a result of media campaigns about recent legislation changes. There have never been any domestic violence convictions due to the fact that, while domestic violence legislation exists, there is no implementing provision in the criminal code. Offenders are prosecuted under other criminal codes involving assault, infliction of injury to health, disorderly conduct, or hooliganism. The NCAV reported that of 18 clients requesting restraining orders, only two of the requests were granted. Moreover, the law fails to assign responsibility to particular agencies to execute restraining orders. The Mongolian Women's Legal Association reported that, as a result, restraining orders were poorly monitored and enforced. The law states restraining orders can be in effect only as long as victims are in a shelter, thus exposing them to danger upon their release.

The NCAV stated that in the first six months of the year, it provided temporary shelter to 237 persons at its six locations and provided psychological counseling to more than 1,300 individuals. The NCAV launched domestic violence prevention campaigns without governmental support. State and local governments financially supported the NCAV in providing services to domestic violence victims. In total the Ministry of Social Welfare and Labor (MSWL) provided 14.3 million tugrik (\$10,270) in the first nine months of the year to assist victims of domestic violence.

Sexual Harassment.—There are no laws against sexual harassment. NGOs stated there was a lack of awareness within society on what constituted inappropriate behavior, making it difficult to gauge the actual extent of the problem.

Sex Tourism.—According to women's NGOs, sex tourism from South Korea and Japan remained a problem.

Reproductive Rights.—Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and have the information and means to do so free from discrimination. The Ministry of Health reported

that 83 percent of pregnant women had access to childbirth services, prenatal care, essential obstetric care, and postpartum care in 2009. According to the U.N. Population Fund's 2011 State of the World Population Report, 61 percent of women ages 15-49 had access to modern methods of contraception. However, observers stated that public reproductive health-care facilities had long waiting times, a lack of confidentiality, and unprofessional treatment by medical personnel.

Discrimination.—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. In February the parliament enacted the Law on Gender Equality. This law sets mandatory quotas for the inclusion of women within the government and political parties. It also outlaws discrimination on the basis of sex, appearance, or age. 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 mid-level 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 that 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. In a majority of cases, the divorced wife retained custody of any children, but Monfemnet reported that divorced husbands often failed to pay child support without penalty. Women's activists said that because businesses were usually registered under the husband's name, ownership continued to be 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 MSWL. In the parliament, a Standing Committee on Social Policy, Education, and Science focused on gender matters.

Children.—Birth Registration.—Citizenship is derived from one's parents, and births generally were registered immediately, although this was not always the case for those living in rural areas or landfill dumpsites. Failure to register can result in the denial of public services and ineligibility to participate in the Human Development Fund, which entitles each registered citizen to a share of the nation's mineral wealth as well as social welfare benefits in the form of fixed monthly cash distributions. This particularly affected citizens moving from urban to rural areas, who often had to wait decades to register and receive social services in their new location.

Child Abuse.—Child abuse was a significant problem, principally violence and sexual abuse. According to the governmental National Center for Children, both problems were most likely to occur within families.

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. Police officials stated that children of abusive parents were sent to shelters, but some observers indicated many youths were sent back to abusive parents.

Sexual Exploitation of Children.—Although against the law, the commercial sexual exploitation of children less than 18 years of age was a problem. According to NGOs there were instances where teenage girls were kidnapped, coerced, or deceived 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. However, NGOs stated that child online pornography was not uncommon. Furthermore, NGOs reported there was no corresponding agency to deal with child pornography or sex advertisements on the Internet and that police did not investigate such crimes because they did not have the technical resources and were stretched thin with other duties.

Displaced Children.—According to the MSWL, there were 38 temporary shelters and orphanages, six or seven of which were government-run. There were also seven social service day care centers caring for 168 children. More than 1,100 children lived in shelters countrywide. Approximately 120 children were living on the street and 130 at dump sites.

Minors who ran away from or were lost or abandoned by their parents were brought to the police-run Address Identification Center (AIC) in Ulaanbaatar to re-

connect children with their families. With a capacity of 56, it sheltered 42 children in October. The AIC was unable to provide adequate medical attention to the children, many of whom could not access public health services for lack of an identification card. Since many of the children lacked identification cards, public hospitals refused to provide them even rudimentary treatment. The Law on the Provisional Detention of Homeless Children states that children should be kept in the AIC for no longer than seven days, yet in practice they were kept for up to 180 days. Children residing at the AIC for such long periods were not integrated into regular schools.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish population was very small, and there were no reports of anti-Semitic acts during the year.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The labor law prohibits discrimination in employment and education against persons with disabilities. The law defines the types of disabilities as including those concerning physical, sensory, and mental but not intellectual attributes. 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.

In February 2010 a new law took effect that mandates standards of physical access for persons with disabilities to newly constructed public buildings; however, by year's end the law had not been applied. Government buildings and public transportation remained largely inaccessible to persons with disabilities. Despite a law introducing standards for road construction, the persistence of open manholes, protruding obstacles, and unheeded crosswalks prevented many persons with disabilities from moving freely.

Persons with disabilities could not fully participate in the political process; little accommodation was made for such persons at polling stations. There were no persons with disabilities in the parliament. The Mongolian National Federation of Disabled People's Organization (MNFDPPO) estimated that, in the 2009 presidential election, only 34 percent of the electorate with disabilities cast a ballot. In comparison, the overall turnout rate for the voting age population was 55 percent. Persons with sight and hearing disabilities had difficulty remaining informed about public affairs due to a lack of accessible broadcast media.

The government implemented various policies to provide benefits to and promote respect for persons with disabilities. It provided tax benefits to enterprises that hired persons with disabilities. Additionally, the law requires workplaces to hire three persons with disabilities for every 50 employees or pay a fine. However, NGOs reported that enforcement was a problem because most companies were reluctant to hire disabled persons and preferred to pay the fine. Furthermore the government failed to employ individuals with disabilities in the ratio required of employers.

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 33,000 children with disabilities, 60 percent failed to complete secondary education. The MNFDPO encouraged vocational education centers to work with children with disabilities so that they could eventually be capable of running small businesses.

The law requires the government to provide benefits according to the nature and severity of the disability. Although the government generally provided benefits, the amount of financial assistance was low, and it did not reach all persons with disabilities owing to the absence of any system for such persons. The MNFDPO stated that benefits were provided in an ad hoc manner, often failing to meet the needs of the recipients.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Consensual same-sex sexual conduct is not specifically proscribed by law. However, AI 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 same-sex sexual conduct. LGBT persons reported harassment and surveillance by police. Nonetheless, NGOs reported a marked improvement in police investigations of crimes against LGBT individuals as well as more respectful police treatment of victims.

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 or gender identity. 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 in derogatory terms and associated them with HIV/AIDS, pedophilia, and the corruption of youth.

The government, while acknowledging that discrimination against LGBT individuals was a problem, stated that social acceptance of gay men and lesbians must be promoted before definitive steps can be taken.

The law concerning rape (Article 126 of the criminal code) addresses only rape of female persons; rape of transgender individuals is not a crime under the article. According to the Asia Foundation, there were cases in which ultranationalists raped transgender persons; in other incidents boys and men were raped. Since the criminal code does not recognize such persons as victims, it was difficult to prosecute such rapes.

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 same-sex sexual activity, burdening victims with the attendant social stigma.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law entitles workers to form or join independent unions and professional organizations of their choosing without previous authorization or excessive requirements, provides for the right to strike, and protects the right to collective bargaining. However, some legal provisions restrict these rights for groups such as foreign workers, public servants, and workers without formal employment contracts. Nevertheless, all groups have the right to organize, but the law restricts certain public servants from striking. The law protects the right of workers to participate in trade union activities without discrimination, and the government protected this right in general. The law provides for reinstatement of workers fired for union activity, but the Confederation of Mongolian Trade Unions (CMTU) states that it was not always enforced.

The government prohibits third parties from organizing a strike. Moreover, persons employed in essential services, which the government defines as occupations critical for national defense and safety and includes police services, utilities, and transportation, do not have the right to strike. The list of essential services appeared to comply with International Labor Organization (ILO) guidelines.

The law on collective bargaining regulates relations among employers, employees, trade unions, and the government. Wages and other conditions of employment are set between employers, whether public or private, and employees, with trade union input in some cases. The government does not allow intervention in collective bargaining by third parties, and its own role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work.

Laws protecting the right to collective bargaining and freedom of association generally were enforced in practice, most often through the courts. The tripartite Labor Dispute Settlement Committee resolves disputes between workers and management.

In late December South Gobi Sands, a foreign-owned mining company, was accused by former laid-off employees and the CMTU of dismissing 49 of its employees allegedly for wanting to form a union to protect their rights to a clean and safe working environment and to ensure adequate social protection. South Gobi Sands countered that the layoffs were a result of financial difficulties encountered from a reduction in off-work days coupled with salary increases.

In another case the administration failed to enforce a 2009 court order requiring the compensation and rehiring of striking Aero Mongolia mechanics. When the strikers subsequently picketed, police forcibly removed the striking workers from the grounds while threatening arrest. The government also failed to enforce the law on employment stating that foreigners can be hired only for tasks that Mongolians cannot carry out—the Immigration Agency granted a work visa and the MSWL a work permit to a Dutch engineer to replace the striking workers. After the Supreme Court ruled against it, Aero Mongolia filed a new case during the year claiming the union to be illegal. The fired mechanics initially reported being blacklisted as a result of their union activities. Management ultimately hired back most but not all of the workers.

There were also some violations of collective bargaining rights. In a case involving the Federated Food and Agriculture Union, a manufacturing enterprise fired 20 workers for protesting against mismanagement of the company. The matter continued at year's end.

In a recent case, the mining agreement over Tavan Tolgoi was challenged by CMTU on the basis that it was formed outside the tripartite process without agreement between employers and employees on matters relating to workers' rights and social protections. The CMTU was also dissatisfied with the Ulaanbaatar city gov-

ernor, who had not appointed an arbitrator to resolve such issues. The CMTU's main goal was to ensure that Mongolian labor (as opposed to foreign labor) predominated on the project. While hiring companies argued there was not a sufficient pool of skilled workers for technical and semiskilled labor, CMTU countered these skilled workers were available and underutilized. Negotiations continued between the development companies, the government, and CMTU on balancing the interests of all concerned parties.

b. 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.

During the year prison labor was used on construction of the Ministry of Justice and Home Affairs building, during which one prisoner died in an accident. According to press reports, a criminal case was opened and the accident was under investigation. Opposition parties also announced that they would make sure that prisoners' bank accounts were checked to verify if prisoners were being paid for their labor.

The NHRC stated a decline in forced labor within military units, whereby military officials subjected subordinates to cutting firewood, digging ditches, or working at construction sites owned by the officials' friends or relatives. During the year the NHRC signed a memorandum of understanding with the Mongolian Armed Forces, National Police, GEACD, Border Force, and State Specialized Inspection Agency not to use forced labor.

An estimated 1,500 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. Also, their freedom of movement and communication was restricted, and they received only an unknown fraction of the money paid to the North Korean government for their work.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children under the age of 14 from working; those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. The workweek for children 16 and 17 years of age is capped at 36 hours. 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 are responsible for enforcement of these prohibitions and 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 privately owned enterprises. Inspectors generally did not conduct inspections in the informal sector.

Forced child labor occurred in the construction and mining (coal, gold, and fluor spar mineral) sectors, although largely if not exclusively in the informal, artisanal mining sector.

Children worked informally in petty trade, construction, hotels, restaurants, and unauthorized small-scale mining as well as scavenging in dumpsites and herding animals. While statistics were limited, widespread alcoholism, poverty, and parental abandonment made it necessary for many children to support themselves. The National Center for Children estimated the number of children in the labor force as high as 77,000; up to 90 percent of these children were involved in traditional animal husbandry, while only 1 percent was estimated to be involved in mining. While the government approved the National Program for the Worst Forms of Child Labor and revised its labor law during the year, it had yet to allocate resources to deal with the issue. When the ILO program to combat the worst forms of child labor concluded in 2010, all of the joint ILO-government initiatives were discontinued or drastically reduced due to lack of funding. Most of the ongoing programs were funded by district and city governments, with very limited support from the national level.

International organizations continued to voice concern over child jockeys in horseracing. 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 races range from two to nearly 20 miles. The state bans racing with child jockeys during the coldest period (October 18 through February 13), and there are regulations requiring adequate headwear. With increased NGO monitoring during horseracing events, there reportedly was greater adherence to these regulations.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The legal minimum wage was 140,400 tugrik (\$100) per month. National poverty estimates are based on population-weighted subgroup estimates from household surveys. The surveys indicated approximately one-third of the population lived on 1,618 tugrik (\$1.16) a day or less and were unable to feed themselves sufficiently. The minimum wage, which applied to both public and private sector workers and was enforced by the Ministry of Labor, did not provide a decent standard of living. The problem was exacerbated by significant inflation over the past year. Many workers received less than the minimum wage, particularly at smaller companies in rural areas. The minimum wage was reset annually by the MSWL 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. 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 by law from working overtime. 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. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities enforced this right.

These laws governing minimum wage and working hours generally were enforced, but enforcement of safety standards was inadequate. Although inspections were conducted both proactively and in response to complaints filed, the CMTU stated the MSWL had an insufficient number of inspectors. A CMTU representative also stated that fines imposed on companies not complying with labor standards were insufficient 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. While industrial accidents increased alongside industrial and mining sector growth, most accidents occurred at unofficial construction sites and private mining areas. Large multinational projects, such as those at Tavan Tolgoi and Oyu Tolgoi, were better at ensuring safety standards.

Foreign workers, the majority of whom were Chinese mining and construction workers, reportedly worked in conditions that did not meet government regulations. The MSWL did not monitor the working or living conditions of Chinese or North Korean laborers. North Korean worker conditions were not fully known, and secrecy surrounded the contractual agreements, labor rights, and compensation of these workers. However, observers stated that North Korean laborers likely failed to receive the minimum wage. In press reports, it was reported that Mongolian companies paid North Korean workers' wages directly to the government of North Korea. NGOs reported that Mongolian companies wishing to employ North Korean workers could do so through mediator companies. There were no official reports on labor exploitation, but there were several cases in which workers, mostly Chinese, were deported without receiving their wages. In one case an employer withheld food from approximately 40 Chinese workers. Such instances were confirmed as labor exploitation only if they went to court, but few if any cases ever moved past the investigatory phase before the foreign workers raising the complaints were deported.

NAURU

EXECUTIVE SUMMARY

Nauru is a constitutional republic. The most recent parliamentary elections, held in June 2010, were generally free and fair. In November 2010 Parliament reelected Marcus Stephen as president. On November 9, Stephen resigned in the face of corruption allegations, and on November 10, Parliament elected Freddie Pitcher to replace him. A few days later, however, Pitcher lost a no-confidence vote after an additional Member of Parliament (MP) joined the opposition, and Sprent Dabwido became president. Security forces reported to civilian authorities.

Few human rights problems were reported.

There were some allegations of government corruption, and there were some instances of domestic violence, child abuse, and discrimination against women.

Impunity was not an issue, as there were no reports that government officials committed human rights abuses.

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 generally met international standards, and prisoners had access to potable water. The sole correctional facility could hold up to 60 prisoners at full capacity. The facility houses a juvenile center, a women's prison, and a main prison. During 2010 (the latest statistics available) there were approximately 20 prisoners in detention, including one woman and no juveniles. There were five pretrial detainees held in the same facility. Short-term detainees (those held for no more than 24 hours, generally for drunk and disorderly behavior), including juveniles, were accommodated in the low-risk area of the prison.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities through their families, lawyers, or directly with the officer in charge. All complaints were addressed by the officer in charge. If necessary, police assist in the investigation. Government representatives made weekly visits to the prison.

The government affirmed it would permit monitoring visits by independent human rights observers, but none were reported. Prisoners had access to visitors and were permitted religious observance.

There was no ombudsman who could serve on behalf of prisoners and detainees. Prison authorities provided daily reports to the correctional center management on the behavior of each prisoner. These reports were submitted to the Quarterly Remission Program, which could reduce a prisoner's sentence by a quarter of the total term based on good behavior. The recommendations were made by correctional center management to the secretary for justice, who issued final decisions. The program also was used to ensure prison terms were accurately monitored.

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

Role of the Police and Security Apparatus.—The national police under the Ministry of Police maintain internal security and as necessary, external security. The country has no military force. 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 trial by jury, adequate time and facilities to prepare a defense, and prohibitions on double jeopardy and forced self-incrimination. Defendants have the right to be informed promptly of charges and consult with an attorney or have one provided at public expense when required "in the interest of justice." They also have the right to confront witnesses, present evidence, access government-held evidence, and appeal convictions. Trials are public. Bail and traditional reconciliation mechanisms rather than the formal legal process were used in many cases, usually by choice but sometimes under communal pressure.

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 by individuals or organizations 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.—*Status of Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press, and the government generally respected these rights in practice.

Freedom of Press.—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 credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

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.

Exile.—Neither the constitution nor law prohibits forced exile, but the government did not use it.

Protection of Refugees.—The government had not established a system for providing protection to refugees. There were no requests for asylum or refugee status during the year.

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.—*Recent Elections* The most recent parliamentary elections, held in June 2010, were generally free and fair but did not break an existing parliamentary deadlock; parliament remained evenly divided between government supporters and the opposition. In November 2010 the protracted standoff was resolved when parliament reelected Marcus Stephen as president after opposition member and former president Ludwig Scotty accepted the position of speaker. On November 9, however, Stephen resigned after another MP alleged he had taken kickbacks (see section 4) and on November 10, Freddie Pitcher replaced him as president. On November 15, Pitcher lost a parliamentary no-confidence vote after a progovernment MP switched to the opposition, and parliament elected Sprent Dabwido president.

Political Parties.—Political parties could operate without restriction or outside interference, but there were no formal parties.

Participation of Women and Minorities.—There are no legal impediments to participation in politics by women. However, women traditionally were less prominent in politics than men. No women stood as candidates in the parliamentary elections. The country's dually accredited permanent representative to the U.N. and ambassador to the United States 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 parliament or cabinet. The country has a small and almost entirely homogenous Micronesian population.

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. In November opposition MP David Adeang—himself the subject of corruption allegations in 2007—asserted that then president Stephen had sought kickbacks from foreign phosphate dealers. Stephen denied the allegations. By year's end there had been no investigation into the matter.

There are no legal provisions 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 or operation of local human rights organizations, but no such groups existed. No international human rights organizations maintained offices in the country, although there were no government restrictions.

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 and Domestic Violence

Rape is a crime punishable by up to life imprisonment. Spousal rape is not specifically identified as a crime, but police investigated and filed charges when allegations of rape were made against a spouse. Police investigated all reports of rape that they received, and cases were vigorously prosecuted by the courts.

The law does not address domestic violence specifically, but domestic violence cases can be prosecuted under laws against common assault. The maximum penalty for simple assault is one year's imprisonment, and for assault involving bodily harm, three years' imprisonment.

The government kept no statistics on the incidence of physical or domestic abuse of women. However, credible reports from women's organizations 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.

Sexual Harassment.—There is no specific law against sexual harassment, but harassment involving physical assault could be prosecuted under the assault laws. Sexual harassment was not believed to be widespread.

Reproductive Rights.—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 surveyed married women used some form of contraception.

Discrimination.—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. In practice, however, societal pressures and the country's impoverished economic circumstances often limited opportunities for women to exercise these rights fully. While women headed approximately one-third of all households, less than one-quarter of heads of households engaged in paid work were female. Overall 70 percent of male heads of households and 40 percent of female heads of households were economically active in either paid or unpaid work, according to the Secretariat of the Pacific Community. More than half of the female heads of household were not working and were either unemployed (25 percent), were undertaking other activities, or were not able to work (29 percent).

The Women's Affairs Office was responsible for promoting professional opportunities for women.

Children.—Birth Registration

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. The law requires registration of births within 21 days.

Child Abuse.—Child abuse statistics were not compiled, but anecdotal evidence indicated that some cases of abuse occurred. There were no prosecutions for child abuse during the year. Several nongovernmental organizations were concerned with youth and children's issues.

Sexual Exploitation of Children.—The minimum age for consensual sex is 17. Carnal knowledge of a girl under age 12 has a maximum penalty of life imprisonment. The penalty for unlawful carnal knowledge or attempted carnal knowledge of a girl under age 17 is six years' imprisonment. "Indecent treatment" of a girl under age 17 is punishable by two years' imprisonment, and indecent treatment of a boy under age 14 is punishable by seven years' imprisonment.

There is no specific law against child pornography.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—During the year there were no confirmed reports that persons were trafficked to, from, or within the country.

Persons With Disabilities.—The law does not specifically prohibit discrimination against persons with disabilities. Nonetheless, there was no reported discrimination against persons with physical, sensory, intellectual, and mental 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. The government provides a welfare benefit to persons with disabilities. As part of aiding the participation in society of persons with disabilities, in 2009 the government began installing mobility ramps in public buildings. However, many buildings in the country were not accessible. Department of Education teachers provided rudimentary classes for a small group of students with disabilities; classes were held at a teacher's home.

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.—More than 95 percent of the population report their ethnicity as Nauruan. Persons of Chinese and other Asian backgrounds constituted slightly more than 3 percent of heads of households, and i-Kiribati made up 1.5 percent. Unlike in some previous years, there were no reports during the year of violence targeting minorities.

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. 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.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The constitution provides for the right of citizens to form and belong to trade unions or other associations. However, the country lacks formal trade unions and labor laws relating to 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.

Although there are 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, who constituted more than 90 percent of salaried workers, are governed by public service regulations.

b. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

c. 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. The government enforced the law in the public sector but did not conduct any workplace inspections of private businesses during the year. Some children under 17 worked in small family-owned businesses.

d. 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. There was no official poverty-level income figure, but approximately 26 percent of the population lived at the subsistence level.

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, but most workers observed Saturdays and Sundays as holidays. There were provisions for premium overtime pay only for public sector workers; there were no specific regulations governing overtime for private sector workers.

The government sets some health and safety standards, which the Department of Human Resources and Labor enforced in the public sector. 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 revival 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

EXECUTIVE SUMMARY

New Zealand is a parliamentary democracy. Citizens choose their representatives in free and fair multiparty elections, most recently held on November 26, when the National Party won 59 parliamentary seats and formed a minority coalition government with John Key as prime minister. Security forces reported to civilian authorities.

There were no reports of widespread human rights problems, but indigenous persons disproportionately experienced societal problems and ethnic minority individuals experienced societal discrimination. There also were allegations during the year of labor abuses of crewmembers on board foreign chartered vessels fishing in the country's Exclusive Economic Zone (EEZ).

Violence against women also was a problem.

The government took steps to prosecute officials who committed abuses.

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, including availability of potable water, and the government permitted monitoring visits by independent human rights observers.

On May 20, three men were convicted of murder in the killing of a fellow prisoner at Auckland Prison in 2009. They were sentenced to life imprisonment on December 16. There have been no prison inmate deaths since this occurrence.

At year's end the prison population was 8,378. Of these, 493 were female, 373 were between the ages of 15 and 19, and 4,273 (approximately half) were of Maori descent.

Persons accused of a crime who are 17 years of age or older are tried as adults and, if convicted, sent to adult prisons. Prisoners younger than 17 are managed in residential facilities operated by the national Child and Youth Welfare Agency.

Authorities allow prisoners at least one personal visit each week for a minimum of 30 minutes, permit religious observance, and allow inmates to make uncensored complaints to statutory inspectors or the ombudsmen. The Ombudsmen Office reports to Parliament annually on its findings. The law provides for specified rights of inspection, including those by members of Parliament (MPs) and justices of the peace, and information was publicly available on complaints and investigations, subject to the provisions of privacy legislation.

The law requires prison facilities to be inspected to ensure that they meet minimum standards, and improvements were made when deficiencies were identified.

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 New Zealand Police is responsible for internal security, and the armed forces, under the Ministry of Defense, are responsible for external security. Civilian authorities maintained effective control over the security 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.

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. Authorities granted family members prompt access to detainees and allowed detainees prompt access to a lawyer of their choice and, if indigent, 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 public trial by jury, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence and the right to counsel. They also have the right to present, confront, and question witnesses; access government-held evidence; and appeal convictions. 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.—Individuals and organizations may seek civil judicial remedies for human rights violations, including access to the Human Rights Review Tribunal. 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.—Status of Freedom of Speech and Press

The law provides for freedom of speech and 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 credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

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 U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Protection of Refugees.—Access to Asylum

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.

Durable Solutions.—The government accepts up to 750 refugees each year for resettlement from third countries and facilitates their local integration.

Temporary Protection.—The government processed a total of 305 requests to provide temporary protection to individuals outside the annual quota of 750 refugees accepted for resettlement. Outcomes included granted applications, a different visa granted on other grounds, or individuals absconded; a specific breakdown was not available.

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.—Recent Elections.—In the most recent general elections, held on November 26, the National Party won 59 of 122 parliamentary seats and formed a minority government in coalition with the ACT and United Future parties. The National-led government also had a cooperation agreement with the Maori Party. Four other parties were represented in Parliament: Labour, Green, New Zealand First, and Mana.

Participation of Women and Minorities.—Women participated fully in political life. There were 39 women among the 121 MPs and eight women 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 was one woman in the 24-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 MPs by election or appointment to non-Maori seats.

There were 21 Maori members, six 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.

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, including access for noncitizens and foreign media, to be provided within 20 working days of a request, and the government generally adhered to the law in practice. Information must be made available unless a good reason, such as concern for national security, exists for not doing so; the government did not abuse this provision. 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.

Government Human Rights Bodies.—The Ministry of Justice funds the active HRC, which operated as an independent agency without government interference. The commission had a staff of 60 and adequate resources to perform its mission. It submitted more than 50 legal and policy interventions during the year ending June 30, and the government responded to its recommendations, which led to several law changes. The HRC was considered effective and enjoyed high public confidence.

The Office of the Ombudsmen, an organization responsible to Parliament but independent of the government, is charged with investigating complaints about the administrative acts, decisions, recommendations, and omissions of national and local government agencies; inspecting prisons; and following up on prisoner complaints. The office enjoyed government cooperation, operated without government or party interference, was adequately resourced, and was considered effective and trusted by the public. The office produced a wide variety of reports for the government that were available on its Web site.

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.—Rape and Domestic Violence.—Violence against women affected all socioeconomic groups. The law criminalizes rape, including spousal rape. The maximum penalty is 20 years' imprisonment; however, indefinite detention may occur in cases where the parole board during its annual review believes that the prisoner poses a continuing threat to society. The Ministry of Justice reported no such cases during the July-December 2010 period, the most recent publicly available data.

Domestic violence is a criminal offense. During the period July-December 2010, police recorded 1,691 charges for "sexual attacks," resulting in 659 convictions. During the same period, there were 12 charges of spousal rape with three convictions, and four charges of "unlawful sexual connection with spouse" with no convictions.

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.

Harmful Traditional Practices.—There were no cases of female genital mutilation (FGM) reported in the country during the year. However, a 2011 U.N. report commented that a growing number of women and girls among the country's immigrant communities have been subjected to or are at risk of FGM. The New Zealand Female Genital Mutilation Education Programme stated that "there is no documented evidence" that FGM currently occurs in the country.

Sexual Harassment.—The law prohibits sexual harassment and provides 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. In the year ending June 30, the HRC's disputes resolution team heard and resolved 60 new human rights inquiries and complaints that cited the ground of sexual harassment. Additionally, two cases appeared before the director of the Office of Human Rights Proceedings. In one case the director decided to provide legal representation and the matter was before the Human Rights Review Tribunal at year's end.

Reproductive Rights.—The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children free from discrimination, coercion, or violence, and granted access to information on reproductive health. The government does not limit access to male contraception, and female contraception is available without parental consent to women age 16 and older. Skilled healthcare for women was widely available.

Discrimination.—Women enjoy the same legal status and rights as men. While the law prohibits discrimination in employment and rates of pay for equal or similar work, the government acknowledged that a gender earnings gap persisted in practice. According to 2011 Department of Labor (DoL) survey statistics, women earned more than 90 percent of the average hourly earnings for men.

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 HRC has an equal opportunity employment team that focuses on workplace gender problems. 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.

Children.—Birth Registration.—Children born in the country attain citizenship if either parent is a citizen or legal permanent resident of the country. Children born outside the country attain citizenship if either parent is a citizen born in the country. The law requires notification of births by both parents as soon as "reasonably practicable" (deemed as generally being within two months of the birth), and most births were registered within this time frame.

Child Abuse.—Continuing a trend from the previous year, total cases of identified child abuse and neglect increased approximately 11 percent in 2011 compared with 2010. According to the Ministry of Social Development, abuse or neglect was found in around two-fifths of the cases investigated. More public awareness campaigns were conducted to bring attention to this issue, which was believed to have led to more reports of concern. A disproportionately high number of reported cases of child abuse (approximately 45 percent) involved Maori children.

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 Com-

missioner for Children played a key role in monitoring violence and abuse against children.

Sexual Exploitation of Children.—Commercial sexual exploitation of children remained a problem. A 2007 nationwide study—the most recent available—found that 1.3 percent of 772 surveyed sex workers were underage. When discovered, law enforcement authorities arrested and prosecuted violators. Citizens who commit child sex offenses overseas may be prosecuted in New Zealand courts. The law makes it an offense punishable by seven years' imprisonment to assist a person under 18 years of age in providing commercial sexual services; to receive earnings from commercial sexual services provided by a person younger than 18; or to contract for commercial sexual services from, or be a client of, a person under 18. The law also makes it an offense to deal in individuals younger than 18 for sexual exploitation or engagement in enforced labor. The penalty for a person who sells, buys, transfers, barter, rents, hires, or in any other way enters into a dealing or takes an action involving a person under 18 for the purposes of sexual exploitation or enforced labor is 14 years' imprisonment.

The government developed in concert with nongovernmental organizations (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 law provides that any person who has a sexual connection with a person younger than 16 years of age is liable to imprisonment for a term not exceeding 10 years.

The law prohibits child pornography and provides for a NZ\$10,000 (approximately \$8,000) fine of an individual, and NZ\$30,000 (\$24,000) of a corporate body, if a person makes, imports, supplies, distributes, possesses for supply, displays, or exhibits an objectionable publication. The law also provides a penalty of 10 years' imprisonment or a NZ\$200,000 (\$160,000) fine of a corporate body if a person commits such an act knowing that the publication is objectionable. Possession of objectionable material is also an offense punishable by a NZ\$2,000 fine (\$1,600) for an individual and NZ\$5,000 (\$4,000) for a corporate body. A person knowingly possessing objectionable material is liable to a penalty of five years' imprisonment or a NZ\$50,000 (\$40,000) fine for an individual or a NZ\$100,000 (\$80,000) fine for a corporate body. It constitutes an aggravating factor to be taken into account in sentencing if the publication promotes or supports exploitation of children or young persons for sexual purposes, deals with sexual conduct with or by children or young persons, or exploits nudity of children or young persons.

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.

International Child Abductions.—The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community numbered approximately 7,000. Anti-Semitic incidents were rare.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

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. The government is prohibited from discriminating on the basis of physical, sensory, intellectual, or mental disability, unless such discrimination can be "demonstrably justified." During the year the HRC received 279 disability-related complaints, which represented 26 percent of the total complaints received. Compliance with access laws varied.

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 problems 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 some societal discrimination. The government mandates a race relations commissioner who developed a Diversity Action Program aimed at the Maori, Pacific Islander, and Asian

communities. The program includes an annual Diversity Forum to eliminate race-based discrimination. It was widely attended and considered effective.

The Office of Ethnic Affairs within the Department of Internal Affairs focuses on improving dialogue and understanding about minority communities among the wider population.

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 constituted approximately half 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 persons and their traditional values and customs, including cultural and environmental problems that affected commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous persons.

In March Parliament passed the Marine and Coastal Area Act to replace the controversial 2004 Foreshore and Seabed Act. The new act provides that the common marine and coastal area (formerly known as the foreshore and seabed) cannot be sold off, and guarantees public access, fishing, navigation, and existing use rights. Various Maori leaders expressed differing views on its passage. The Maori Party supported passage for addressing two fundamental rights that they contended were not addressed by the previous act: the right to access justice through the courts and property rights. However, some Maori groups and individuals, including MPs, protested the bill's passage for not providing any mechanism to claim private title of these marine and coastal areas—meaning that the title cannot be sold and that public access cannot be denied. Despite some initial outcry after its passage, little public debate about the act subsequently occurred.

From January through December, the government settled three Maori claims related to the 1840 Treaty of Waitangi, the country's founding document. Through the end of the year, 14 additional groups signed deeds of settlement and awaited legislation to make their deeds unconditional. A further 12 indigenous groups, known as "iwis," moved into active negotiations, making a total of 78 iwi groups in various stages of claims, including the final legislative phase, which occurs after claims are settled.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law prohibits abuse, discrimination, and acts of violence based on sexual orientation and gender identity, and the government generally enforced the law. During the year the HRC received 205 discrimination complaints relating to gender identity or sexual orientation (19 percent of all complaints). The Ministry of Justice received no reports of societal violence or discrimination based on sexual orientation or gender identity.

Other Societal Violence or Discrimination.—The law prohibits violence or discrimination against persons with HIV/AIDS, and no such cases were reported.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides workers in the public and private sectors the right to form and join organizations of their choice without previous authorization or excessive requirements, and the law was applied in practice. The law allows unions to conduct their activities without government interference, including the right to strike, and this right was exercised in practice. The law provides for the right of workers to organize and bargain collectively through unions, and workers exercised this right in practice. The law prohibits antiunion discrimination and allows for reinstatement of workers fired for union activity. No such cases arose during the year that required government intervention.

Contractors are not covered by most provisions of employment law and cannot join unions, bargain collectively, or benefit from certain leaves or overtime compensation.

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. The listing of some of these sectors is based on broader criteria than the International Labor Organization's definition of "essential services."

To bargain collectively, unions must be registered, independent, governed by democratic rules, and have at least 15 members. Unions may not bargain collectively on social or political issues. Nearly all unionized workers were members of unions affiliated with the New Zealand Council of Trade Unions (NZCTU), a federation that included unions representing various trades and locations. A few small, nonaffiliated unions also existed.

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. With regard to strikes, the law prohibits sworn police officers (which includes all uniformed and plainclothes 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. The government effectively enforced applicable laws without lengthy delays.

A labor law amendment passed in 2010 extends to all employers the ability of employers and employees to agree to trial periods of 90 days or less, during which employees are not permitted to raise a personal grievance for unjustified dismissal. Designed to improve labor-market flexibility and encourage employment of new staff members, particularly from groups that faced higher levels of labor-market disadvantage, this amendment became effective on April 1. Previously, 90-day trial periods applied only to small businesses with fewer than 20 employees. The NZCTU criticized this reform as undermining workers' rights. However, employees let go during the trial period may still raise a personal grievance on the grounds of sexual or racial harassment, discrimination, or unjustified disadvantage. If an employment problem arises during the trial period, the employee and the employer may access mediation services.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and the government generally enforced these provisions effectively. There were no reports of forced labor during the year.

c. Prohibition of Child Labor and Minimum Age for Employment.—By law children under age 16 may not work between the hours of 10 p.m. and 6 a.m. The law also states that children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education. The law bans the employment of children under age 15 in hazardous industries such as manufacturing, mining, and forestry. DoL inspectors effectively enforced these laws.

d. Acceptable Conditions of Work.—On April 1, the government increased the minimum hourly wage by NZ\$0.25 to NZ\$13.00 (\$10.40). The separate new entrants' wage for 16- to 17-year-old workers was increased to NZ\$10.40 (\$8.32) for non-supervisory workers with less than three months or 200 hours of employment. There was no official poverty-level income figure, but researchers frequently used 50 percent of the median income as the poverty-level income; using this measure, full-time workers earning the minimum wage were above the poverty level. 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 is the norm for most industries. 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.

By law employees are accorded 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.

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. The government mandates employers to provide health insurance for their seasonal workers.

The DoL is responsible for enforcing laws governing working conditions. 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. During the year the DoL received 9,600 complaints of health- or safety-related workplace incidents. Approximately 1,200 of these resulted in compliance or enforcement action.

The NZCTU reported that in the mining and road transport industries, lack of adequate rest in practice resulted in increased safety risks and health risks for workers.

During the year there were allegations by unions, Maori groups, and human rights organizations, among others, of labor abuses on foreign fishing vessels operating in the country's territorial waters. In August the government established a panel of inquiry to investigate and evaluate the economic and social costs and benefits of use of foreign chartered vessels in the country's fishing industry. The panel's mandate included making recommendations concerning government policy on use of such vessels and improvements in operational practices. The panel held hearings in October and was scheduled to release conclusions and recommendations in February 2012.

PALAU

EXECUTIVE SUMMARY

Palau is a constitutional republic. The president, vice president, and members of the legislature (the Olbiil Era Kelulau) are elected for four-year terms. There are no political parties. In the generally free and fair elections held in November 2008, Johnson Toribiong was elected president. Security forces reported to civilian authorities.

The most significant human rights problems in the country occurred in the areas of government corruption and discrimination and abuse of foreign workers.

Other human rights problems that occurred during the year were domestic violence and trafficking in persons.

The government took steps to prosecute officials who committed abuses. Impunity was not a problem.

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. The government permits visits by independent human rights observers; however, no visits were requested or made during the year. Overcrowding remained a problem. There were 73 prisoners, including four women and four juveniles. Prisoners have access to potable water.

The few female prisoners were held in separate cells but were permitted to mingle with male inmates during daylight hours. Prison conditions for female inmates were the same as for male prisoners.

Prisoners had access to visitors and held religious observance. They were permitted to file complaints, and authorities investigated allegations of mistreatment. Authorities also monitored prison conditions.

The government does not have an ombudsman. Officials took measures to alleviate overcrowding through a work-release program and other programs allowing prisoners to take academic courses at a local community college; provided separate confinement for juveniles; and had established procedures for recordkeeping. Prisoners and detainees could raise problems through private attorneys or court-appointed attorneys.

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, 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.—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.

A person arrested has the right to remain silent and to speak to and be visited by counsel, a family member or his employer. Those arrested must be released or charged within 24 hours, and must be informed of the preceding rights.

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; certain crimes warrant jury trial. Defendants enjoy a presumption of innocence, the right of appeal and the right to consult with an attorney. 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 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 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.—*Status of Freedom of Speech and Press.*—The law provides for freedom of speech including for members 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.

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

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 U.N. 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.

Protection of Refugees.—*Access to Asylum.*—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. 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.

Durable Solutions.—During the year the government provided temporary protection to one refugee from Ethiopia.

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.—Recent Elections.—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.

Participation of Women and Minorities.—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. Five 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; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. 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. The Office of the Special Prosecutor has been vacant since March 2010.

In June the chief of the Division of Fish and Wildlife was sentenced to five years imprisonment and fined \$5,000 (the U.S. dollar is the official currency) for five criminal counts: misconduct in public office, obstruction of justice, violation of the Code of Ethics, conversion of public funds and aiding and abetting forgery. The five-year imprisonment sentence was suspended.

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 U.N. representatives or other international governmental organization. There were 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 and Domestic Violence.—Rape, including spousal rape, is a crime punishable by a maximum of 25 years' imprisonment. During the year 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. Alcohol and drug abuse contributed to violence and crime against women and children. 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. There were no shelters for victims. The government conducted public education efforts to combat abuse against women and children.

In November the country commemorated the Elimination of Violence Against Women and Children with a presidential proclamation, and government and community leaders appeared on television and radio talk shows urging better treatment of women and children and to end the vicious cycle of violence that all too often begins at home.

Sexual Harassment.—Sexual harassment is illegal and did not appear to be a major problem.

Reproductive Rights.—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. People have access to contraceptive products available

from Belau National Hospital, private clinics, and department stores. According to the government, the maternal mortality rate was reported to be at zero in 2007. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Discrimination.—Women have the same legal rights as men and enjoy those rights. 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 gender-related job discrimination. There are laws protecting women from job discrimination and providing equal pay for equal work. The Bureau of Aging and Gender, under the Ministry of Community and Cultural Affairs, promotes gender workplace equality.

A local women's group 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.—Birth Registration.—Citizenship of a child is derived from the parents. A child born to foreign national parents is registered as a citizen of those countries. Births are registered immediately, and there has not been a report of failure to register.

Child Abuse.—Children's rights generally were respected, although there were isolated reports of child neglect. Law enforcement officers including the Office of Victims of Crime aggressively investigated and prosecuted cases of violence against children.

The Office of Victims of Crimes, under the Ministry of Health's Office on Social Health, deals with women, children, and men who are victims of crimes. The Office of Victims of Crimes reported that most violence or abuse against children happened in the home or place of residence and generally involved members of the family. The Office of Victims of Crimes worked closely with the law enforcement officers and the Office of the Attorney General on cases involving children.

Sexual Exploitation of Children.—There were no reports of children under age 18 engaging in prostitution. Commercial sexual exploitation of children is not a problem, and there were no reported cases. There are no laws on commercial sexual exploitation of children.

The age of consensual sex is 16, and the penalty for statutory rape is not more than five years' jail term. The law does not specifically address child pornography.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/tip>.

Persons With Disabilities.—The constitution prohibits discrimination against persons with physical or mental disabilities. The Disabled Persons' Anti-discrimination 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. Public schools had special education programs to address problems encountered by persons with disabilities.

The government agency Ngak Mak Tang (Everyone Matters) is responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The law prohibits noncitizens from purchasing land or obtaining citizenship. The only legal mechanism to obtain a citizenship is by blood, meaning that one of the parents must be Palauan. Children born to noncitizens inherit their parents' citizenship. Foreign workers constituted approximately 55 percent of the workforce. A majority of citizens viewed the recent rapid increase in foreign workers negatively. Foreign workers and their dependents, both documented and undocumented, accounted for nearly a third of the population. Foreign residents were subject to discrimination and were targets of petty and sometimes violent crimes, as well as other harmful acts against the persons 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.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There were no reports of cases of violence or discrimination based on sexual orientation or gender identity.

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. Freedom of Association and the Right to Collective Bargaining.—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.

There is no law concerning trade union organization, collective bargaining, or antiunion discrimination. Market forces determine wages in the cash economy.

There are no export processing zones.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor; however, there were reports that such practices occurred. 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 worked with employers and employees to address these problems.

There were no reports of forced or compulsory labor by children. Regulations require foreign workers to be at least 21 years old to obtain a work permit.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. 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.

See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

d. 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. 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 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

EXECUTIVE SUMMARY

Papua New Guinea is a constitutional, federal, multiparty, parliamentary democracy. On August 2, Peter O'Neill was elected prime minister when the speaker of Parliament declared the premiership vacant due to the prolonged illness and absence of former prime minister Sir Michael Somare. On December 12, the Supreme Court declared O'Neill's election unconstitutional and restored Somare as prime minister. On the same day Parliament disqualified Somare as a member of Parliament (MP) and reelected O'Neill as prime minister. Security forces reported to civilian authorities, but there were some instances in which they acted independently of civilian control.

The principal human rights abuses were severe police abuse of detainees; violence and discrimination against women; and vigilante killings and abuses, some related to alleged involvement in sorcery and witchcraft.

Other human rights problems included arbitrary or unlawful killings by police; poor prison conditions; lengthy pretrial detention; infringement of citizens' privacy rights, particularly in highland areas; government corruption; abuse and sexual exploitation of children; trafficking in persons; discrimination against persons with disabilities; intertribal violence; and ineffective enforcement of labor laws.

Despite minor reforms to the justice system, the government frequently failed to prosecute or punish officials who committed abuses, whether in the security services or elsewhere in the government, and impunity was pervasive.

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.

In October a group of traditional landowners in the East New Britain Province opposed to a controversial oil palm project told the media that they had been assaulted by drunken police officers. The police commissioner ordered an investigation into the allegations. At year's end no results had come out of the investigation. On December 8, the police commissioner issued an order withdrawing all police from logging camps after allegations that police were abusing their powers in dealing with opponents of logging. There were claims police in logging camps had been involved in beating people with iron bars and fan belts, raiding villages in the middle of the night, and drunkenness. At year's end no investigation was conducted and no charges brought against any officers.

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. On June 29, the Supreme Court introduced human rights rules to fast track human rights cases through the justice system by making it easier for the public to begin court proceedings.

In May 2010 the U.N. special representative on torture, Manfred Nowak, visited the country on a fact-finding mission at the invitation of the government. He reported systemic beatings of detainees by police upon arrest and within the first hours of detention, including during interrogation. He also reported severe punishment of prison escapees that he characterized as amounting to torture, including brutal beatings with bush knives and gun butts, shooting detainees at close range, and cutting detainees' tendons with axes and bush knives after they were apprehended with the intent of disabling them. He further reported that the victims usually were kept in cells without any medical treatment, a practice that occasionally led to their deaths.

Prison and Detention Center Conditions.—Despite minor improvements to existing cells and increased capacity, prison conditions remained poor, and the prison system continued to suffer from serious underfunding. In 2011 Australian assistance continued toward upgrading these facilities. Two prisons—in Tari, Southern Highlands, and Daru, Western Province—remained closed during the year due to tribal conflicts and unresolved health issues, respectively. Neither prisons nor police detention centers had proper medical care facilities.

Overcrowding in prisons and police cells remained a serious problem in some facilities. According to the correctional services commissioner, all but five of the country's prisons experienced overcrowding during the year. The holding capacity of the country's prisons was 4,366 beds.

At year's end there were 4,134 inmates, with overcrowding existing in some of the prisons. Of the total number of inmates, almost one-third were pretrial detainees. There were a total of 259 female inmates. Within the inmate population, there were 2840 convicted prisoners, 1140 pretrial detainees, and 154 male juveniles—consisting of 90 convicted prisoners and 64 pretrial detainees.

In some areas infrequent court sessions, slow police investigations, and bail restrictions for certain crimes continued to exacerbate overcrowding.

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. Pretrial detainees were held in the same prisons as convicted prisoners but had separate cells.

During the year, 13 of the country's 19 prison facilities had separate accommodations for juvenile offenders; the remaining five did not. The Catholic Church operated three juvenile reception centers to hold minors awaiting arraignment prior to posting of bail. Human Rights Watch (HRW) reported that juveniles routinely were held with adults in police detention cells, where they were often assaulted by older detainees. Police denied juvenile court officers access to police cells.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit credible complaints of inhumane conditions without censorship to the Ombudsman Commission for investigation, or directly to the judicial authorities. The Ombudsman Commission was mandated to visit prisons but could not effectively monitor and investigate prison conditions due to lack of adequate funds and staff. There were no known steps taken to improve recordkeeping or use alternatives to sentencing for nonviolent offenders.

The government permitted monitoring visits by independent human rights observers, but no 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.—The commissioner who directs the national police force reports to the minister for internal security. Divisions related to clan rivalries and a serious lack of resources diminished police effectiveness and hampered internal security activities. Police impunity was also a serious problem.

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. A coroner's court also investigates and reviews cases of police shootings of bystanders during police operations. Despite these prescribed procedures, in many cases investigations remained unresolved. This was largely due to a lack of funding and resources to complete investigations, especially in rural areas where the shootings often occurred; police officers' reluctance to give evidence against their own colleagues involved in shootings; and public

fear of retribution from police, resulting in a lack of credible witnesses coming forward.

An Ombudsman Commission deals specifically 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 most arrests without one. 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.

Pretrial Detention.—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. In addition 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 a presumption of innocence and 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 law extends these rights to all citizens. 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. In addition, many human rights matters were handled by village courts, which were largely unregulated. Village and district courts often hesitated 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.

At year's end there was no further information on the status of a 2009 lawsuit filed by landowners in Porgera against the police, charging that, during an operation against alleged illegal mining and criminal activity in the area, police also destroyed more than 300 homes of legal residents.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech and 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.

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

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.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/irf/rpt>.

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 U.N. 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.

Protection of Refugees.—Access to Asylum.—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.

Durable Solutions.—In February during a special operation headed by the police, approximately 170 illegal border crossers who lacked proper documentation—including men, women and children from West Papua—were peacefully repatriated from Vanimo, West Sepik Province, following a police sweep of seven suspected Operesi Papua Merderka camps.

Registered refugees residing in the East Awin refugee settlement were granted a certificate of identity that allowed them to travel freely within the country and to West Papua.

Temporary Protection.—The government provided temporary protection to individuals who may not qualify as refugees. With support from the UNHCR, the government continued to provide protection to approximately 2,300 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, and approximately 2,400 lived in urban areas, including the capital, Port Moresby.

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.

On April 4, Deputy Prime Minister Sam Abal was appointed acting prime minister after then Prime Minister Michael Somare was found guilty of tax-related offenses (see section 4). On August 2, Peter O'Neill was elected prime minister when the speaker of Parliament declared the premiership vacant due to Somare's prolonged illness and absence. On December 12, the Supreme Court declared O'Neill's election unconstitutional and restored Somare as prime minister. On the same day Parliament amended the legislation to disqualify Somare as a member of Parliament for the second time and reelected O'Neill as prime minister. A political impasse ensued when the governor general failed to recognize O'Neill and instead swore in Somare's minority government. On December 21, the governor general reversed his earlier decision, citing flawed legal advice, and recognized O'Neill as prime minister based on Parliament's decision of December 12. At year's end Somare maintained that he was still the rightful prime minister despite having a minority government and indicated he was seeking further clarification from the courts.

Elections and Political Participation.—Recent Elections.—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, 33 petitions had been dismissed and 14 withdrawn. Two by-elections and four judicial recounts were ordered.

In May 2010 presidential and parliamentary elections were held for the government of the autonomous Bougainville Province. International observers deemed the elections generally free and fair.

Political Parties.—Political parties could operate without restriction or outside influence. In February 2010 the governor of the National Capital District launched a new political party, the United Democratic Front, with a stated goal of fighting government corruption.

Participation of Women and Minorities.—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 until August 2, when the government changed, and was reappointed to the position after the Supreme Court decision on December 12 restoring Sir Michael Somare as prime minister. There were no female provincial governors. Unlike in previous years where there was only one female judge, as of March 18, there were three female judges of the National and Supreme courts. All judges sit on both courts.

On November 23 Parliament passed a bill for a constitutional amendment to allow for up to 22 reserved seats for women in Parliament. At year's end Parliament had yet to muster the required two-thirds majority vote required to allow for amendments to other related laws to determine the number of reserved seats and entitlements of those occupying the seats.

There were six minority (non-Melanesian) MPs. Of these, one was 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 use of public resources to meet traditional clan obligations.

In September the government filed corruption charges against the former minister for national planning, Paul Tientsen, for misappropriation of funds, conspiracy to defraud the state, and abuse of office. Tientsen fled to Australia but returned and was arrested in November. He was re-arrested in the same month on further corruption charges for diverting state funds to his own private company. At year's end both cases were still before the courts.

In June 2010 Finance Minister Patrick Pruaitch was suspended from office after the Supreme Court ruled that under the law an official referred to a leadership tribunal for allegations of official misconduct is automatically suspended from office. Pruaitch had been referred to such a tribunal. He appealed the referral and the suspension was overturned and he was reinstated as Minister for Finance and Treasury until August 2, when there was a change in government. At year's end the case was pending the court's decision on Pruaitch's application for a stay order against the Ombudsman Commission's decision to refer his case to the public prosecutor.

On November 3, the National Court dismissed charges against the operations chief of the National Capital District, Andy Bawa, who was then reinstated.

A trial remained pending in the case of MP Tonny Puana, who in November 2010 was arrested and charged with misappropriation of funds and false pretenses.

Public officials are subject to financial disclosure laws as stipulated in the leadership code of conduct. The Ombudsman Commission, Leadership Tribunal, and Public Accounts Committee are key organizations responsible for combating government corruption.

On March 21, a leadership tribunal made up of three foreign judges found former prime minister Sir Michael Somare guilty of 13 counts of filing late and for turning in incomplete financial returns to the Ombudsman Commission. Somare was suspended from office without pay from April 4-18. He did not return to office following his suspension due to his prolonged health condition. He was replaced as prime minister in August and was dismissed as an MP in September.

In April 2010 Parliament took a preliminary vote to pass an amendment to the constitution that removes the power of the Ombudsman Commission to issue directives to individuals and organizations to preserve and uphold the conduct of public office holders. The Ombudsman Commission had used this power to issue directives preventing payments from public funds to officeholders it believed were using such

funds improperly. A final vote on the bill proposing the amendment had not taken place by year's end.

No law provides for public access to government information. The government published frequent public notices in national newspapers and occasional reports on specific issues 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.

Government Human Rights Bodies.—The Ombudsman Commission is responsible for investigating alleged misconduct and defective administration by governmental bodies, alleged discriminatory practices by any person or body, and alleged misconduct in office by leaders under the Leadership Code. While it operated without government or political party interference, constraints in staffing resources often caused delays in investigations and thus in completion and release of reports. The government did not act on the commission's 2009 report, which concluded that then prime minister Somare was complicit in illegal government actions in arranging the 2006 repatriation of a former Solomon Islands attorney general, who was facing criminal charges in Australia.

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.—Rape and Domestic Violence.—Violence against women, including gang rape and domestic violence, 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 is criminalized yet existed at high levels throughout the country and was generally committed with impunity. 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 deterred 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. According to Amnesty International (AI), approximately two-thirds of women in the country have been struck by their partners, with the number approaching 100 percent in parts of the Highlands. 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 approximately 90 percent of women in prison had been convicted for attacking or killing another woman.

Sexual Harassment.—Sexual harassment is not illegal, and it was a widespread problem.

Reproductive Rights.—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 prenatal, 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. According to indicators published by the Population Research Bureau, 26 percent of married women between the ages of 15 and 49 used some form of contraception. The country's estimated maternal mortality ratio exceeded 250 deaths per 100,000 live births.

Discrimination.—Although laws have provisions for extensive rights for women dealing with family, marriage, and property disputes, gender discrimination existed at all levels. Although some women have achieved senior positions in business, the professions, and the civil service, 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 being purchased 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 U.N. Educational, Social, and Cultural Organization, women continued to lag behind men in literacy and education; 53 percent of women were literate, compared with 62 percent of men. The Ministry of Community Development, Religion and Family Affairs was responsible for women’s issues and had considerable influence over the government’s policy toward women.

Children.—Birth Registration.—Citizenship is derived through birth to a citizen parent.

Education.—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. With foreign funding assistance, the government abolished school fees for students in grades one and two in an effort to increase primary school enrollment.

Child Abuse.—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 in 2009. Incest is a crime and reportedly increased in frequency.

Child Marriage.—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.

Sexual Exploitation of Children.—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. There were cases of commercial sexual exploitation of children in urban areas, including minors working in bars and nightclubs. HRW documented numerous instances of police abuse of children.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

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

Trafficking in Persons.—See the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—Although the constitution prohibits discrimination against persons with physical or mental disabilities, there are no antidiscrimination laws. Persons with physical, sensory, intellectual, and mental disabilities faced discrimination in employment, education, access to health care, and provision of other state services. No legislation mandates accessibility to buildings, and most buildings were not accessible. There were no policies or programs to assist persons with disabilities in obtaining access to communications and information.

Through the National Board for the Disabled, the government granted funds to a number of nongovernmental organizations 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. During the year tribal fighting continued in the highlands provinces. The number of deaths resulting from such conflicts continued to rise due to the increased availability of modern weapons.

On September 30, 15 people were killed during a tribal clash between the Agarabi and Kamano tribes of the Eastern Highlands Province. Police said guns and knives were used in the fighting and a whole settlement was burned to the ground. On October 19 police reported that seven people had been gunned down and several others wounded in a tribal fight in Enga province as a result of an ongoing conflict between two tribes from the Porgera area, which has claimed numerous lives and led to the destruction of property over the last few years.

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), 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. The nongovernmental Business Coalition against HIV/AIDS worked to combat discrimination against persons with HIV/AIDS.

There were numerous press reports during the year of vigilante killings and abuses, some of which were related to alleged involvement in sorcery and witchcraft. For example, in October three men were tortured and killed by villagers in the Pangia District in the Southern Highlands Province for allegedly using sorcery to kill a young man. In December six people in the West Sepik Province were killed after being accused of witchcraft and sorcery.

In December, upon completion of a review of the Sorcery Act of 1971, the Constitutional and Law Reform Commission recommended to Parliament that the act be repealed by the end of 2012. The government had ordered the review in 2009.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides for the right of workers in the public and private sectors to form and join independent unions, conduct legal strikes, and bargain collectively; however, the government may intervene in strikes and collective bargaining processes. Workers in the informal sector are not covered by these laws.

The law requires that unions register with the Department of Labor and Industrial Relations (DLIR). Although the law provides for the right to strike for workers, the government may and often did intervene in labor disputes to require arbitration before workers could legally strike. Under the law the government has discretionary power to intervene in collective bargaining by canceling arbitration awards or declaring wage agreements void when they are contrary to government policy.

The law prohibits both retaliation against strikers and antiunion discrimination by employers against union leaders, members, and organizers. However, that prohibition does not extend to workers in the informal sector. The law does not provide for reinstatement of workers dismissed for union activity.

The DLIR was responsible for enforcing labor laws, but did so selectively. The DLIR did not always act to prevent retaliation against strikers or protect workers from antiunion discrimination. The ineffectiveness can be attributed to lack of sufficient manpower and resources in the Labor Department.

Workers exercised the right to form and join unions in practice. The government did not use registration to control unions; however, an unregistered union has no legal standing and thus cannot operate effectively. Unions were independent of both the government and political parties.

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.

Workers in both the public and private sectors engaged in collective bargaining. The DLIR and the courts are involved in dispute settlement. There were no reports of violations of collective bargaining rights.

During the year antiunion practices were widespread in the logging industry, which was known for extremely low wages and poor working conditions, including

debt bondage and cramped and nonhygienic accommodation of workers. In July 2010 the International Transport Workers' Federation (ITF) reported that members of the ITF-affiliated Papua New Guinea Maritime and Transport Workers' Union employed by the fishing company Frabelle reportedly were told by their employer that they would lose their jobs unless they agreed to sign a petition giving up their union membership.

b. Prohibition of Forced or Compulsory Labor.—The constitution prohibits all forms of forced or compulsory labor, but the government did not effectively enforce such laws and there were reports that forced labor occurred in practice.

There were no significant government efforts to prevent and eliminate forced labor during the year.

There were instances of women and children forced into involuntary domestic servitude (see section 7.c.), often by members of their immediate family or tribe, and of men forced to work in logging and mining camps. There were also reports of a growing number of foreign workers, particularly from China and other Pacific nations, entering the country illegally and being subjected to conditions of forced labor in mines and logging camps and in commercial sexual exploitation.

See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. 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.

The DLIR is responsible for enforcing child labor laws; however, enforcement was not effective due to lack of resources and weak penalties.

There were children selling cigarettes, food, CDs, and DVDs on the street and in grocery stores near mining 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. There were reports of child prostitution.

Also see the U.S. Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/ocft/tda/htm>.

d. Acceptable Conditions of Work.—The minimum wage was 100.80 kina (approximately \$41.06) per week for workers in all sectors, including new entrants into the labor force between the ages of 16 and 21.

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. There is no prohibition on excessive compulsory overtime. The law provides for at least one rest period of 24 consecutive hours every week. Labor laws do not apply to workers in the informal sector.

The DLIR is responsible for enforcing the laws on minimum wage and hours of work, 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. Although the DLIR and the courts attempted to enforce the laws on minimum wage and hours of work, they were not effective, in part due to insufficient penalties to deter violations.

Violations of wage, overtime, and occupational safety and health laws and regulations were common in the logging, agricultural and construction sectors due to the government's lack of manpower to continuously monitor working conditions in these sectors. Workers in these sectors were also subject to hazardous and exploitative conditions.

Workers' ability to remove themselves from hazardous working conditions depended on their workplace. Unionized workers had some measure of protection in such situations. The law protects legal foreign workers but many illegal foreign workers lacked full legal protection and were vulnerable to exploitation and abuse. Informal sector workers were similarly excluded.

PHILIPPINES

EXECUTIVE SUMMARY

The Philippines is a multiparty, constitutional republic. May 2010 national elections—which were generally free and fair but marked by incidents of violence and allegations of vote buying and electoral fraud—resulted in the selection of President Benigno S. Aquino III, members of the bicameral legislature, and leaders of provincial and local governments. Security forces reported to civilian authorities.

Leading human rights problems were as follows: continued arbitrary, unlawful, and extrajudicial killings by national, provincial, and local government agents and by antigovernment insurgents; an underresourced and understaffed justice system that resulted in limited investigations, few prosecutions, and lengthy trials of human rights abuse cases; and widespread official corruption and abuse of power.

Other human rights problems included allegations of prisoner/detainee torture and abuse by security forces, violence and harassment against leftist and human rights activists by local security forces, disappearances, warrantless arrests, lengthy pretrial detentions, overcrowded and inadequate prison conditions, killings and harassment of journalists, continued internally displaced persons (IDPs), violence against women, local government restrictions on the provision of birth-control supplies, abuse and sexual exploitation of children, trafficking in persons, limited access to facilities for persons with disabilities, lack of full integration of indigenous people, absence of law and policy to protect persons from discrimination based on sexual orientation and gender identity, suspected vigilante killings, child labor, and ineffective enforcement of worker rights.

The government investigated and prosecuted only a limited number of reported abuses, and concerns about impunity persisted.

Long-running Communist and separatist insurgencies resulted in killings of soldiers and police in armed clashes. Terrorist organizations—Abu Sayyaf Group (ASG); Jemaah Islamiya (JI); and New People's Army (NPA), the military wing of the country's Communist Party—and rogue elements of the separatist Moro Islamic Liberation Front (MILF) killed security forces, local government officials, and other civilians. These organizations also were linked with kidnappings for ransom, bombings that caused civilian casualties, and reports of the use of child soldiers in combat or auxiliary roles.

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

a. Arbitrary or Unlawful Deprivation of Life.—There were several reports that security forces committed a number of arbitrary and unlawful killings, including in connection with combat operations between government forces and Muslim rebels in parts of the islands of Mindanao (see section 1.g.). Killings of activists by security or paramilitary forces as well as killings of judicial officials and local government leaders by antigovernment insurgents continued to be serious problems.

The Commission on Human Rights (CHR), an independent government agency, investigated 78 new complaints of politically motivated killings involving 95 alleged victims during the year—a decrease from the 87 complaints investigated in 2010. The CHR suspected personnel from the Philippine National Police (PNP) were involved in 11 of the complaints and the Armed Forces of the Philippines (AFP) in seven others. Suspects in the remaining complaints were members of the terrorist NPA, ordinary citizens, or unidentified.

During the year the PNP Task Force Usig (TFU)—responsible for investigating and monitoring killings of media members, militant/labor activists, and foreigners—identified five new cases of killings in 2011 (using different criteria than the CHR). Of the 166 cases of such killings recorded since 2001 and monitored by the TFU, 103 were filed in court and prosecutors' offices, 62 were under investigation, and one was closed. There were no convictions of state actors during the year.

Reports by nongovernmental organizations (NGOs) on the number of alleged extrajudicial killings and torture cases during the year varied. The NGO Karapatan (Alliance for the Advancement of People's Rights) recorded 39 victims of extrajudicial killings by government forces in 2011, compared with 46 victims in 2010. The credible Report on Philippine Extrajudicial Killings: 2001-2010 recorded 21 extrajudicial killing victims from January to August 2011, compared with 19 victims in the comparable period of 2010. The NGO Task Force Detainees of the Philippines (TFDP) also reviewed allegations of summary executions by government security forces. It was unable to investigate all allegations it received but counted five cases involving five victims of alleged summary executions by government forces during the year, compared with nine cases involving 11 victims in 2010.

On February 25, four unidentified men abducted Rodel Estrellado, a farmer activist and member of Bayan Muna (a political party representing workers' organizations) in Malilipot, Albay Province. Two days later, his family confirmed that a body recovered in Bato, Camarines Sur Province, was that of Estrellado. A police investigation revealed that, hours before Rodel Estrellado's disappearance, a military spokesperson reported that alleged NPA member "Elmer Estrellado" was killed in an armed encounter in Bato and that a member of the military based in Tigaon, Camarines Sur Province, filed a report that same afternoon confirming the death of "Elmer Estrellado" in an operation in Bato. On May 19, Estrellado's wife filed a murder case with the Camarines Sur provincial prosecutor against nine AFP members. Authorities transferred the case from the Camarines Sur Provincial Prosecution Office to the Albay Provincial Prosecution Office, where preliminary investigation continued at year's end. The AFP suspended general court martial proceedings against the nine suspects when the murder case was filed and relieved them of their duties and responsibilities.

On November 30, a Manila court ordered the arrest of PNP Senior Inspector Joselito Binayug and six other police officers (former station commander Rogelio Rosales, Jr.; Joaquin de Guzman; Rodolfo Ong; Dante Bautista; Nonito Binayug; and Rex Binayug) for their involvement in the March 2010 torture and killing of detained robbery suspect Darius Evangelista in Manila. Television carried a video of the incident in August 2010, and authorities dismissed Binayug from the PNP on January 14 and stripped him of his pension and other benefits.

The trial before a designated "special court" that began in September 2010 of those accused of involvement in the 2009 massacre of 57 individuals in Maguindanao Province continued during the year. Of the 196 accused individuals, 65 suspects were detained and arraigned, 28 individuals were detained but arraignment was pending, and 103 suspects remained at large (including 10 police officers and four soldiers).

b. Disappearance.—According to credible local human rights NGOs, government forces and antigovernment insurgents were responsible for disappearances. During the year the CHR investigated seven new cases of enforced disappearances, abductions, and kidnappings involving 30 victims, compared with 23 cases involving 107 victims in 2010. The CHR investigations implicated civilian perpetrators in the kidnapping of 16 individuals; antigovernment NPA insurgents in the kidnapping of seven individuals; and the PNP and AFP in the abduction of one victim each. Of the 30 victims, 19 returned to their families after being released by their captors, and two surfaced alive and reported they had not been detained or kidnapped. The CHR investigations implicated four PNP officials in one case and 10 unidentified members of the military in another.

The PNP Directorate for Investigation and Detective Management (DIDM) reported that authorities began proceedings against 393 PNP personnel during the year for various human rights violations and resolved 80 of the cases, as follows: cases against 52 individuals were dismissed/closed; 14 individuals were exonerated; seven individuals were suspended; three personnel were demoted; three personnel were dismissed from service; and one individual forfeited pay. The three dismissed personnel were in connection with cases involving murder, physical injury, and torture. At year's end another police officer was undergoing summary dismissal procedures for alleged involvement in a kidnap-for-ransom case, and authorities had investigated seven police officers for kidnapping and dismissed one of the cases.

During the year the NGO Families of Victims of Involuntary Disappearances (FIND) monitored four reported disappearance cases involving four victims and members of the military and police as suspects. As of year's end three were found alive, and one was still missing. Two victims had been in military custody and were detained at provincial jails facing criminal charges, while the military reportedly released the third.

Some victims' families asserted that courts and police failed to address adequately their complaints concerning disappearances in which security force involvement was suspected. A limited number of cases moved forward, and investigative and judicial inaction on previous cases of disappearance resulted in low rates of prosecution and conviction. Evidence of a kidnapping or killing is required to file charges, and in many cases evidence and documentation were unavailable or not collected. A Supreme Court rule enables family members of alleged victims of disappearances or any person whose right to life, liberty, and security has been violated or threatened to compel government agencies to provide statements in court about what they know of the circumstances of a disappearance or extrajudicial killing and the victims' status.

On July 5, the Supreme Court upheld the CHR findings that named First Lieutenant Harry Baliaga, Jr., an active-duty member of the army's 56th Infantry Bat-

talion based in Bulacan Province, as the “principal by direct participation” in the 2007 abduction of activist Jonas Burgos, although it dropped former president Gloria Macapagal-Arroyo as a respondent in the case. The court issued a writ of habeas corpus and ordered the Court of Appeals to revive the habeas corpus case that Burgos’s mother had filed that year against the military. At year’s end the Court of Appeal’s habeas corpus hearing continued. Burgos’s mother had also filed arbitrary detention charges with the Department of Justice against Lieutenant Baliaga, Colonel Delquiades Feliciano, Colonel Eduardo Ano, and other members of the 56th Infantry Battalion. At year’s end these charges were under preliminary investigation.

On December 16 the Department of Justice recommended the indictment of two Army retirees (major general Jovito Palparan, Jr., former commander of the Seventh Infantry Division, and master sergeant Rizal Hilario) and two active-duty military personnel (Lieutenant Colonel Felipe Anotado, Jr., and Staff Sergeant Edgardo Osorio) for the kidnapping and illegal detention of University of the Philippines student activists Sherlyn Cadapan and Karen Empeno, who disappeared in Bulacan Province in 2006. On December 19, Angeles City airport authorities stopped Palparan, the highest-ranking military officer to be indicted on such a charge in the last 25 years, from departing abroad but did not detain him in the absence of a current court order. On December 21, a court issued a hold-departure order for Palparan, and the AFP handed over the two active-duty personnel to the PNP. At year’s end the two retirees remained at large, and the PNP, National Bureau of Investigation, and government departments were coordinating efforts to apprehend them.

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. According to the CHR and reliable human rights groups, the use of 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, and suffocation.

During the year the CHR investigated 47 cases of alleged torture involving 56 victims, with police, military, and other law enforcement officers identified as suspects, compared with 46 cases involving 121 victims in 2010. During the year the TFDP documented 21 cases of torture involving 27 victims and alleged that security forces were responsible, compared with 35 cases involving 57 victims in 2010.

Reports continued 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. Human rights activists believed suspected ASG and NPA members in captivity were particular targets for abuse. Authorities sometimes punished police who committed assault or abuse.

On July 23, members of the army’s Special Operations Task Force in Basilan Province, Mindanao, arrested 39-year-old baker Abdul Khan Ajid in Sumisip for suspected ASG membership and participation in the 2001 Lamitan siege. On July 27, Ajid’s wife filed a petition for habeas corpus, and upon a judge’s order, the military presented Ajid in court that same day. The judge committed Ajid to the Isabela City Provincial Jail pending a determination of the legality of his arrest. As of year’s end the case was unresolved, and Ajid remained in jail. The AFP initiated three separate investigations within 24 hours of Ajid’s appearance in public, as a result of the assignment of human rights officers to every unit battalion size or larger. The AFP completed its investigations on August 3, determined that Ajid had been physically tortured and suffered serious injuries and second-degree burns during three days in military custody, and accused three military personnel of torture and violating the law. Authorities dishonorably discharged two staff sergeants from active service and filed a case against Captain Guidagen with the Efficiency and Separation Board. As of year’s end there were no criminal charges filed against the three.

There were allegations of rape and sexual harassment by PNP officials. During the year NGO Tanggol Bayi (Defend Women) reported that female inmates in the PNP custodial center at Camp Crame were removed from their cellblocks at night and forced to sit with jail officers during drinking sessions and that women prisoners were required to massage male guards and wash their clothes.

Prison and Detention Center Conditions.—Prison conditions were rudimentary and sometimes harsh. Jails and prisons were often overcrowded, lacked basic infrastructure, and provided prisoners with inadequate nutrition and medical attention. Lack

of potable water, poor sanitation, and poor ventilation continued to cause health problems. During the year the Bureau of Corrections (BuCor) and the Bureau of Jail Management and Penology (BJMP) reported 732 deaths in prison due to various illnesses, including cardiopulmonary arrest and pulmonary tuberculosis. Some prisoners, including women and children, were abused by other prisoners and prison personnel. The slow judicial process exacerbated overcrowding.

The BuCor, under the Department of Justice, administered seven prisons and penal farms for prisoners sentenced to terms exceeding three years. During the year BuCor facilities held 36,295 prisoners, including 2,165 women. The official capacity was 17,719, resulting in facility operation at 105 percent above capacity.

The BJMP, under the Department of Interior and Local Government (DILG), and the PNP controlled approximately 990 city, district, and municipal jails that held pretrial detainees, persons awaiting final judgment, and convicts serving sentences of three years or less. The DILG reported that BJMP jails operated at an average of 351 percent more than designated capacity, and Manila City Jail, built to hold 1,000 inmates, held 5,300 at the start of the year.

BJMP regulations, which require male and female inmates to be held in separate facilities and, in national prisons, overseen by guards of the same sex, were not uniformly enforced. All BJMP- and PNP-staffed jails had separate cells for women and minors, but 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 not fully segregated from adult inmates. Girls were sometimes held in the same cells as women. Lack of adequate food for minors in jails and prisons was a concern (see section 6, Children).

From January to November, BJMP and PNP jails held 66,825 prisoners, 95 percent of whom were pretrial detainees. The remainder had been convicted of various crimes. Of the total number of prisoners and detainees, 6,107 were adult women and 501 were minors. During the same period the BJMP released 104 minor inmates, usually in response to a court order following a petition by the Public Attorney's Office (PAO) or the inmate's private lawyer or through NGO-led appeals.

Prisoners and detainees generally had access to visitors, but local NGOs reported that authorities restricted family visitation at times for some political detainees. Prison officials noted that security concerns and space limitations at times restricted prisoner access to visitors. Muslim officials reported that while Muslim detainees were allowed to observe their religion, Roman Catholic masses were often broadcast by loudspeaker to prison populations made up of both Catholic and non-Catholic prisoners and detainees. There were no reports that authorities censored or blocked prisoner or detainee complaints or requests for investigation of inhumane conditions. International monitoring groups, including the International Committee of the Red Cross, were allowed free access to jails and prisons.

BuCor continued to automate inmate records in order to fast track the release of qualified inmates. The PAO worked with BuCor and the BJMP to address the status and circumstances of confinement of juvenile offenders and improve pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. Improvement of BuCor's prison record facility and installation of additional equipment for updating inmates' records continued during the year. Additional dormitories were under construction at the New Bilibid Prison in Muntinlupa City. Classification of inmates qualified for colony assignment continued during the year, with a total of 1,335 inmates transferred to less congested BuCor facilities.

BJMP paralegal officers continued to monitor and help expedite court cases and secure needed documents from the courts for speedy disposition of inmates' cases. Through this program, authorities released 14,163 inmates from BJMP jails from January to November. Since its implementation in 2008, the Supreme Court's enhanced mobile courts program, "Justice on Wheels," facilitated the release of 6,470 inmates, provided medical and dental assistance to 13,385 inmates, and successfully mediated 6,970 cases. During the year the program facilitated the release of 1,200 inmates and successfully mediated 140 cases in more than 20 provinces. The DILG launched its e-Dalaw (e-Visit) system—which allows inmates to connect with their families, locally or abroad, through supervised Internet video calls—at the Quezon City Jail in October and the Manila City Jail on December 1. The BuCor continued to partner with the Department of Health, international organizations, and others to implement a tuberculosis control and prevention program in National Capital Region jails and prisons.

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, po-

lice and the AFP arrested and detained citizens arbitrarily. During the year the TFDP documented 71 cases of illegal arrest and detention involving 97 victims. The CHR tracked 27 cases of arbitrary arrest involving 57 victims and 46 cases of illegal detention involving 72 victims.

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. In the AFP's 2010 Internal Peace and Security Plan, the government recognized that achieving lasting peace, security, and economic development requires a "whole of nation" approach, including increasingly transitioning internal security functions to the PNP. The PNP leads internal security functions in most of the country, although the AFP continues to direct security functions in regions with a high incidence of conflict, notably certain areas of Mindanao. The DILG directs the PNP, which is responsible for law enforcement and urban counterterrorism, but governors, mayors, and other local officials have considerable influence over local police units, including approval of top departmental and municipal officers and provision of resources.

The 138,825-member PNP has deep-rooted institutional deficiencies and continued to suffer 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 continued to reform and professionalize the institution through improved training, expanded community outreach, and pay raises implemented in June.

Civilian authorities generally maintained effective control over the PNP and AFP, although the government had insufficient mechanisms to investigate and punish abuse and corruption. From January to August, there were 238 administrative cases filed against 238 PNP members, including administrative officials and officers, for various human rights violations. Of the cases filed, 54 were resolved, and 162 were undergoing summary proceedings as of August. The PNP dismissed three individuals in connection with these cases. The AFP Human Rights Office continued to monitor and review alleged human rights abuses involving members of the military. During the year the Human Rights Office investigated 59 reported incidents of human rights violations involving 18 AFP personnel and 24 units. Of these incidents, 22 occurred during the year, including four concerning killings; five, torture/illegal detention/illegal arrest; five, harassment/threats/abuse of authority; and eight, child rights violation/occupation of schools. Investigations conducted for human rights violations committed during the year resulted in four dishonorable discharges and 10 personnel undergoing general court martial proceedings or hearings with the Efficiency and Separation Board. Authorities filed criminal charges against nine persons in connection with the February 25 killing of Elmer Estrellado (see section 1.a.). During the year the Office of the Ombudsman, an independent agency responsible for investigating and prosecuting charges of public abuse and impropriety, received 344 cases involving military and law enforcement officers allegedly committing human rights abuses; the cases included killings, injuries, arbitrary detention or unlawful arrest, and torture, and most were filed against low-ranking police and military officials. As of year's end all cases were under investigation.

The police and military routinely provided human rights training to their members, augmented by training from the CHR. In February the AFP began to overhaul the education and training of individual soldiers as directed by its 2010 plan. The AFP also continued to adhere to 2005 Presidential Memorandum Order Number 259, which states that human rights- and international humanitarian law-related subjects must be incorporated in all AFP education and training courses and undertaken by all officers and enlisted personnel. Moreover, successful completion of these training courses is required for recruitment, entry, promotion, reassignment, designation, and foreign schooling.

The PNP maintained a network of 1,744 human rights desk officers at the national, regional, provincial, and municipal levels. The CHR continued to note that senior PNP officials appeared receptive to respecting the human rights of detainees, but rank-and-file awareness of detainee rights 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 through background investigations. A promotion can be withheld indefinitely if the commission uncovers a record of abuses. Negative findings, however, do not preclude promotion, and there were no reports of promotions withheld on human rights grounds as of August.

Cooperation and coordination between police and prosecutors remained limited. Human rights groups and the CHR continued to note little progress in implementing and enforcing reforms aimed at improving the effectiveness of investiga-

tions and prosecutions of suspected human-rights violations, such as the July 2010 Justice Department Memo Circular to guide prosecutor-police cooperation in the investigation of political and media killings. Funding for the main government witness protection program managed by the Department of Justice remained inadequate, and the CHR did not receive funding for its separate witness protection program during the year. Potential witnesses were at times unable to obtain protection due to funding constraints or procedural delays.

Government-armed civilian militias supplemented the AFP and PNP; the AFP held operational control of Citizens' Armed Force Geographical Units (CAFGU), while the Civilian Volunteer Organizations (CVOs) fell under PNP command. These paramilitary units often received minimal training and were poorly monitored, tracked, and regulated. Some politicians and clan leaders, particularly in Mindanao, maintained their own private armies and at times co-opted CVO and CAFGU members into these armies. Human rights NGOs linked state-backed militias and private armies with numerous human rights abuses, including the 2009 massacre of 57 civilians in Maguindanao Province. The prosecution of that case continued to proceed slowly due to its complexities and justice system inefficiencies (see section 1.a.). Such delays continued the perception of impunity for national, provincial, and local government actors accused of human rights abuses.

Arrest Procedures and Treatment While in Detention.—Citizens are required to be apprehended with warrants issued by a duly authorized official based on sufficient evidence and brought before an independent judiciary. However, there were some reports during the year of citizens, including minor children, being picked up by security forces without warrants and detained arbitrarily. The law permits warrantless arrests and detention without charges for up to three days for allegedly committing or attempting to commit acts of terrorism, but this authority was not exercised.

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. The law provides an accused or detained person the right to choose a lawyer and, if indigent, to have one provided by the state. Authorities are required to file charges within 12 to 36 hours for arrests made without warrants, with the time to file charges increasing based on the seriousness of the crime. Lengthy pretrial detention remained a problem, due largely to the under-resourced justice system. The BJMP released 14,163 inmates from January to November as part of jail decongestion programs. Large jails employed paralegals to monitor inmates' cases, prevent detention beyond the maximum sentence, and assist decongestion efforts.

The NPA and some Islamic separatist groups were responsible for a number of arbitrary detentions, including kidnappings and hostage taking for ransom.

On February 13, in San Jorge, Samar Province, AFP members arrested Ericson Acosta, an artist, freelance journalist, and cultural worker who was writing a human rights background document when captured. He was arrested without a warrant, not informed of the reason for his arrest, and denied the right to counsel. While detained in a military camp, Acosta was allegedly subjected to prolonged interrogation and forced to admit NPA membership. After two days he was brought to a police station and charged with illegal possession of explosives (which NGOs claimed were planted). On July 12, the prosecutor denied Acosta's request that the charges be dismissed and recommended charges be filed in court. In September Acosta sought Justice Department review of the decision to proceed to trial. At year's end he remained in the Calbayog City Provincial Jail, and Justice Department review was pending.

Lengthy pretrial detention remained a problem. Trials took place in short sessions that were spread out as witnesses and court time became available, which created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high; of the total 2,187 trial-court judgeships, 537 were vacant as of August. Courts in Mindanao and poorer provinces had higher vacancy rates than the national average. Sharia (Islamic law) court positions were particularly difficult to fill because of the requirement that applicants be members of both the Sharia Bar and the Integrated Bar. All five sharia district court judgeships and 39 percent of circuit court judgeships remained vacant. Sharia courts do not have criminal jurisdiction.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected judicial independence in practice. Corruption through personal connections and sometimes bribery resulted in impunity for some wealthy or influential offenders. Overall, the judicial system continued to suffer from a lack of sufficient personnel, inefficient processes, and long delays. The Report on Philippine Extrajudicial Killings: 2001-2010 audited pending cases and

computed the average trial duration for extrajudicial and enforced disappearance cases to be longer than five years. These factors contributed to widespread skepticism that the judicial process could deliver 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. No judges were dismissed or disciplined as of August.

Trial Procedures.—The law requires all persons accused of crimes to 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, present evidence in their favor, review government evidence, and appeal convictions; these legal requirements were generally implemented. The authorities respected defendants' right to be represented by a lawyer, but poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the PAO under the Department of Justice, but their workload was large and resources were scarce. The PAO provided legal representation for indigent litigants at trial; however, during arraignment, courts may appoint, at their option, 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 were not respected in practice. In effect there were no time limits for trials. Government officials estimated that it takes an average of five to 10 years to obtain a conviction and that the national conviction rate was 20 percent. The system relied heavily on witnesses' testimony and gave relatively little weight to circumstantial and forensic evidence.

Political Prisoners and Detainees.—Various human rights NGOs maintained lists of incarcerated persons they considered political prisoners. Some NGOs asserted 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 TFDP tracked 316 political prisoners and detainees as of year's end, an increase from the 289 individuals recorded in 2010; the majority were pretrial detainees. The BJMP reported 149 political detainees as of year's end, a decrease from the 389 detainees tracked in 2010. The BJMP cited an increase in the number of released political detainees and the transfer of detainees to BuCor prisons as reasons for the decline in the number of political prisoners during the year.

The government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs. For example, the TFDP recorded 39 political prisoners released from prisons or detention centers as of August.

The government permitted access to alleged political prisoners by international humanitarian organizations on a regular basis.

Civil Judicial Procedures and Remedies.—The judiciary is independent and impartial in civil matters. Complainants have access to local trial courts to seek civil damages for, or cessation of, human rights abuses. There are administrative remedies as well as judicial remedies for civil complaints; however, cases often were dismissed.

Property Restitution.—NGOs claimed the AFP sometimes appropriated civilian facilities or private property without providing compensation to residents.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—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, although leaders of communist and leftist organizations and rural-based NGOs complained of alleged patterns of surveillance and harassment.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—For decades the Philippines has contended with a communist insurgency supported by a nationwide NPA presence; armed secessionist movements in southern areas predominantly populated by persons self-identifying as Moros; and violence from smaller, transnational terrorist organizations (such as the ASG and JI) as well as from criminal syndicates. During the year government forces killed a number of civilians during clashes with these groups. Some citizen groups complained that the AFP, in confronting the ASG and NPA, illegally detained citizens, destroyed houses, and displaced residents. Clashes between the AFP and separatist MILF forces, as well as incidents of interclan vendettas leading to violence (known as rido), continued in central Mindanao and resulted in civilian deaths and the displacement of thousands.

Killings.—Government forces acknowledged civilian deaths in the course of their military operations against the NPA, MILF, and other insurgent groups. During the year AFP operations killed 166 insurgents (57 suspected NPA, 54 ASG and 55 MILF members). The PNP reported killing 19 NPA insurgents in various operations from January to December.

Antigovernment groups were responsible for killing AFP soldiers, police, and civilians. Military sources reported that 113 AFP members were killed in action during encounters with rebel and terrorist groups during the year: 61 by the NPA, 32 by the MILF, and 20 by the ASG. Insurgents killed 20 PNP officers as of year's end. There were media reports that Islamic separatist groups set fire to villages.

The AFP recorded 49 bombings by insurgents that killed 12 civilians during the year. The government suspected that ASG- or JI-linked groups were responsible for bombings in Cotabato, Jolo, and Zamboanga cities that killed civilians; no group(s) claimed responsibility. The government also attributed fatal bombings in Basilan and beheadings in Sulu provinces to the ASG. On July 28, the ASG killed seven AFP marines, two of whom were beheaded, during an encounter in Jolo, Sulu.

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. During the year the NPA claimed responsibility for the killings of two former rebels and a police asset in the following three separate incidents in Batangas Province: the April 16 killing of a man known as "Magno" in Balete, the April 23 killing of Dennis Ramos in Calatagan, and the April 28 killing of police asset Richard Villarin in Balayan. The NPA and other criminal extortion groups also harassed government offices or burned businesses, farms, and private communication facilities to enforce the collection of "revolutionary taxes."

Abductions.—Various armed criminal and terrorist groups, including the ASG, in Mindanao and the Sulu Archipelago kidnapped numerous civilians. Victims often were ransomed or rescued by authorities.

During the year the ASG, NPA, and other kidnap-for-ransom groups abducted at least 40 individuals (12 government workers and security personnel, 10 businessmen, eight foreign citizens, three fishermen, and seven local residents) in several areas of Mindanao (Lanao del Norte, Basilan, Cotabato City, Sulu, and the Zamboanga Peninsula). As of December, 32 were either rescued or released and eight remained missing or captive. During the year the NPA accorded "prisoner of war" status to four jail guards abducted on July 21 and put Mayor Henry Dano of Lingig, Surigao del Sur Province, on trial before a "people's court." On October 8 and 9, the four jail guards and Mayor Dano, respectively, were released.

Physical Abuse, Punishment, and Torture.—Leftist and human-rights activists reported harassment by local security forces, including rape and abuse of detainees by police and prison officials.

Child Soldiers.—The U.N. monitored incidents of the recruitment and use of children in armed conflicts and worked to verify these incidents during the year. In an October 11 report, the NGO Human Rights Watch criticized both the use of child soldiers by antigovernment insurgent groups and the alleged AFP practice of detaining children and fabricating stories of their child soldiering. Government reporting mechanisms for children in armed conflict were inconsistent between agencies and regions, especially in conflict-affected areas due to security concerns, making it difficult to evaluate the scope of this problem in the country. See also the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

In a May 2010 report, the U.N. identified the ASG, NPA, and MILF as among the world's "persistent violators of prohibitions on the use of children in armed conflicts." According to the report, these groups have recruited or used child soldiers at least since 2005. It noted the progress made with the MILF when its representatives signed the 2009 action plan to prevent the recruitment and use of child soldiers and to release children from all MILF units. During the April visit of the special representative of the U.N. secretary general for children in armed conflict (SRSG-CAC), MILF leadership agreed that the process of registration of children associated with the armed group would be completed in nine months, after which a period of reintegration and rehabilitation of the children would begin. The government continued its support of the UN-MILF action plan on the issue of the recruitment and use of children in the armed conflict in Mindanao, but extension of the plan remained pending at year's end.

In April during the visit of the SRSG-CAC, the National Democratic Front, the political arm of the country's Communist Party, agreed to develop a similar action plan with the U.N.

During the year the NPA reportedly targeted children for recruitment as combatants and noncombatants. The NPA claimed it assigned persons 15 to 18 years of age to self-defense and noncombatant duties, but there were reports that the NPA continued to use minors in combat. AFP records showed 14 child soldiers, allegedly recruited by the NPA, who voluntarily surrendered to authorities during the year.

The ASG continued to recruit teenagers to fight and participate in its activities.

The May 2010 U.N. report also noted isolated cases of minors, ages 15-17, who were voluntarily recruited into the paramilitary CAFGU entities that fall under AFP operational control. The AFP Human Rights Office reported an incident in January of a minor inadvertently accepted for training preparatory to appointment in a CAFGU. Upon discovery of his real age, the minor's appointment was canceled, and he was immediately reintegrated with his family.

Other Conflict-related Abuses.—Clashes between the MILF and AFP continued and caused the number of IDPs to fluctuate. Most IDPs were in the central Mindanao provinces of Lanao del Norte, Cotabato, and Maguindanao (see section 2.d.). The AFP sometimes used civilian facilities, such as schools, to quarter soldiers during military operations in remote areas, which interfered with their normal activities.

The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people" and executed some of the "defendants." The MILF also maintained its own "people's courts."

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech and press, and the government generally respected these rights in practice.

Freedom of Press.—The independent media were active and expressed a wide variety of views without restriction, including criticizing the government. Most media outlets were criticized for lacking rigorous journalistic standards and reflecting 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.

Violence and Harassment.—Journalists continued to face harassment and threats of violence from individuals critical of their reporting. Human rights NGOs frequently criticized the government for failing to protect journalists. The National Union of Journalists continued to accuse police and local elected officials of subjecting journalists to harassment and surveillance as well as failing to investigate killings of journalists.

The NGO Center for Media Freedom and Responsibility reported eight journalists killed and contended that five of them were killed while carrying out journalistic tasks. The TFU, which also tracks killings of media practitioners, classified two of these cases as work-related killings, part of its recorded 41 media practitioners slain in work-related killings since 2001; this total does not include the 31 media members killed in the Maguindanao massacre, which was monitored by a special task force established solely to investigate the case (see section 1.a.).

In an April 17 open letter to the president, members of the press, together with journalism professors from the University of the Philippines and student journalists with the College Editors Guild of the Philippines, warned that "failure to prosecute the killers of journalists as well as those of political activists is sending the dangerous signal that killings can continue during your watch without the perpetrators being punished."

On September 7, the secretary of justice replaced the original panel of prosecutors and ordered a reinvestigation of the case of the January 24 shooting and killing of Radio Mindanao Network commentator and antimining advocate Gerardo Ortega in Puerto Princesa City, Palawan Province. Authorities had filed murder charges at the prosecutor's office against 10 individuals, including well-known government officials, but on June 8, the Justice Department dismissed the cases against six individuals, including the officials, and found probable cause to proceed only against the other four. Ortega's case was pending reinvestigation at year's end.

Authorities used criminal defamation prosecutions, with the possibility of imprisonment and fines, to harass and intimidate journalists. For example, an Iligan City councilor's defamation complaint (he had been accused of lying on air about the city budget) resulted in the April 18 arrest of Radio DxRJ journalist Alberto Loyola; he was released on bail pending trial.

Internet Freedom.—There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat

rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events.—There were no government restrictions on academic freedom or cultural events, although student groups at some universities accused security forces of harassing student political groups. The Cultural Center of the Philippines closed an exhibit in August after Roman Catholic and lay groups filed charges against the center director, the board, and an artist for displaying a piece of art it considered indecent.

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

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 U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign Travel.—The government limited foreign travel in several respects, such as when a citizen had a pending court case, and discouraged travel by vulnerable workers to areas in which they faced personal security risks, including the risk of being exploited or trafficked. 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, Somalia, Jordan, Syria, and Lebanon. The Philippine Overseas Employment Administration sought to regulate and control departures for work abroad and required citizens to register with government agencies and receive predeparture screening, training, and certification before traveling for employment overseas to ensure workers were not being exploited or trafficked.

Internally Displaced Persons (IDPs).—The four-decade-long conflict between the government and Moro armed groups, sporadic interclan fighting, and severe flooding in Mindanao generated significant internal displacement in 2011. There were continuing counterinsurgency campaigns against the ASG, primarily in Sulu and Basilan provinces, plus clashes with the NPA in most provinces—but mainly in remote areas of Negros Oriental, Surigao del Sur, Davao del Norte, and Compostella provinces—that caused sporadic and small-scale displacement.

The U.N. Office for the Coordination of Humanitarian Affairs estimated the number of IDPs at more than 46,000 as of October, including approximately 10,000 resulting from 50 interclan incidents between January and October. In addition, Tropical Storm Washi in mid-December killed more than 1,000 persons and affected approximately 722,000 across 13 provinces, according to the government's National Risk Reduction and Management Council. As of year's end more than 73,000 storm-related IDPs remained in 55 evacuation centers.

Two years after hostilities ended between the AFP and MILF, the Office of the Presidential Adviser on the Peace Process (OPAPP) reported in July that 4,538 displaced families—a substantial reduction from previous years—were living in camps and relocation sites in southern Mindanao, with a majority in Maguindanao Province. The NGO Internal Displacement Monitoring Center (IDMC) reported a February figure of approximately 15,000 IDPs remaining in camps. Other IDPs were living in informal settlements or with host communities in both rural and urban areas, but they were not included in official government data, and although estimated by the IDMC to number several thousand in February, their precise number remained unknown.

In August the government launched the PAMANA (Peaceful and Resilient Communities) program, a peace and development effort to respond to the needs of communities countrywide that were affected by armed conflict. PAMANA adopts a "whole of nation" strategy in which all government agencies as well as civil society organizations and donor groups pool efforts and resources to help empower families in conflict areas. During the year the government launched the IDP Shelter Assistance Project with a 195-million-peso (approximately \$4.5-million) fund to build 2,815 shelters for displaced families in the provinces of Maguindanao and North Cotabato.

Government agencies, often with support from U.N. agencies and other international donors, provided food assistance and other goods (although NGOs noted that food aid was sometimes delayed); constructed shelters and public infrastruc-

ture; repaired schools; built sanitation facilities; offered immunization, health, and social services; and provided cash assistance and skills training. The government permitted humanitarian organizations access to IDP sites. Security forces did not target IDPs, but military operations were sometimes carried out near IDP sites, which risked casualties and damage and restricted freedom of movement. At times the government encouraged IDPs to return home, but they often were reluctant due to insecurity and food scarcity. The IDMC speculated that some also remained because they had better access to basic facilities and livelihood opportunities than in their home areas.

Protection of Refugees.—Access to Asylum.—No comprehensive legislation provides for granting refugee status or asylum. The Justice Department refugee unit determines which asylum seekers qualify as refugees. During the year the department received 21 asylum applications; at year's end it had granted one, denied seven, and continued 13 under review.

Safe Country of Origin/Transit.—The government cooperated with the UNHCR and other humanitarian organizations in assisting refugee transit through the country. As of October the Justice Department reported 97 transiting refugees in country, not including emergency transit. A 2009 Department of Foreign Affairs-UNHCR memorandum of agreement permits the emergency transit of refugees through the Philippines for onward resettlement in another country, and the UNHCR recorded the transit of 243 such 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 through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation.—Recent Elections.—In May 2010 the country conducted nationwide elections for president, both houses of congress, provincial governors, and local government officials. It was the country's first automated election, and procedural problems caused extensive polling delays. International and national observers viewed the election as generally free and fair, but there were numerous incidents of violence and allegations of fraud in some areas. The PNP recorded 180 election-related violent incidents that resulted in the deaths of 55 individuals between January and June 2010. The Commission on Elections (COMELEC) recorded 96 election-protest cases filed due to allegations of vote buying, anomalies, and irregularities. As of year's end 16 were resolved, and the remaining cases were pending investigation or a motion for reconsideration.

On November 18, authorities arrested Congresswoman and former president Gloria Macapagal-Arroyo in Manila on charges of electoral fraud and tampering with 2007 senatorial elections, following action by COMELEC. At year's end she was under hospital arrest at the Veterans Memorial Medical Center in Quezon City.

Some 300,000 poll-station workers, mostly teachers, were denied the right to vote when COMELEC failed to create procedures allowing them to vote at their assigned polls, which generally were outside their designated precinct.

Participation of Women and Minorities.—There were no restrictions in law or practice on participation by women and minorities in politics. There were three women in the 24-seat Senate and 64 women in the 285-seat House of Representatives. There were six women in the 32-member cabinet, two female associate justices on the 15-member Supreme Court, 16 women among the 80 governors, and 298 women among the 1,621 mayors.

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, and one member of indigenous descent. Muslims, indigenous groups, and other citizens argued that electing senators from a nationwide list favored established political figures from the Manila area and preferred therefore the election of senators by region, which would require a constitutional amendment.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, but corruption remained a very serious problem, and in spite of government efforts to file charges and obtain convictions in a number of cases, officials engaged in corrupt practices with relative impunity. To combat this problem, the constitution established the independent Office of the Ombudsman and the Sandiganbayan (an anticorruption court). Public officials were subject to financial disclosure laws.

On December 28, the Office of the Ombudsman filed graft and corruption charges at the Sandiganbayan against former president Gloria Macapagal-Arroyo in connection with the cancelled \$329 million National Broadband Network project agreement with China's ZTE Corporation. Also charged with graft were former first gentleman Jose Miguel Arroyo, former transportation and communication secretary Leandro Mendoza, and former COMELEC chairman Benjamin Abalos. During the year the government obtained convictions against 52 officials in 171 corruption cases, including those on June 22 of a mayor of the municipality of Leyte and a former mayor in Nueva Ecija Province.

There were reports of widespread corruption among prison guards and some prison officials, complaints of judicial workers accepting bribes or being threatened to delay or derail cases, and accusations that PNP members solicited bribes and conducted illegal acts.

The law provides for the right to information on matters of public concern, but there is no legislation that defines procedures for such access or penalties for officials who fail to disclose lawfully available data. Denial of such information has occurred, especially when related to an irregularity in government transactions. Several government departments posted contracts and bid documents online for public viewing, but overall, little government information was available during the year.

On July 26, the Supreme Court denied an appeal seeking reversal of the court's decision declaring unconstitutional the creation of the Philippine Truth Commission that had been established in 2010 to investigate presidential corruption.

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

U.N. and Other International Bodies.—A number of 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. According to the government, 14 U.N. special rapporteurs submitted visit requests, and four visits were scheduled for 2012.

Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from areas in which incidents under investigation took place. On December 21, the U.N. special rapporteur on the situation of human rights defenders noted that defenders in the Philippines faced a high risk of harm when working on problems connected with land and the environment, including killings, assaults, ill treatment, and threats.

Government Human Rights Bodies.—The CHR continued to fulfill its mandate to protect and promote human rights; investigate all human rights violations, including those requested by NGOs; and monitor government compliance with international human rights treaty obligations. Nonetheless, according to the CHR, its monitoring and investigation of alleged violations continued to face difficulties due to insufficient resources: Its nationwide 2011 budget of approximately 267 million pesos (\$6.2 million) was 6 percent less than in 2010.

Approximately three-quarters of the country's 42,000 villages have human rights action centers, which coordinated with CHR regional offices. Nevertheless, the CHR believed that it lacked sufficient funding and staff to investigate and follow up all cases presented to its regional and subregional offices.

The Office of the Ombudsman is an independent agency with jurisdiction to handle complaints regarding all public officials and employees. In March the House of Representatives impeached the ombudsman, Merceditas Gutierrez, and on May 6, three days before a Senate trial, she resigned. Gutierrez had been criticized for inefficiency and inability to prosecute high-profile cases, and she also suffered from low public confidence due to her perceived close ties to the family of former president Gloria Macapagal-Arroyo. Retired Supreme Court associate justice Conchita Carpio-Morales became ombudsman in July. Although many human rights NGOs perceived the appointment of the new ombudsman as a welcome development, concerns remained regarding the office's administrative and institutional weaknesses.

The House of Representatives and the Senate have committees on human rights and justice. Credible NGOs reported that both lacked effectiveness and were unable to attain final passage of laws aimed at minimizing domestic human rights abuses. Many human rights bills passed by the two committees remained stagnant in the Senate and House during the year.

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

The constitution and law prohibit discrimination against women, children, persons with disabilities, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

Women.—Rape and Domestic Violence.—Rape, including spousal rape, is illegal, with penalties ranging from 12 years' imprisonment to a 40-year sentence with no option for pardon or parole until 30 years have been served (reclusion perpetua) plus a lifetime bar from political office. Penalties for forcible sexual assault range from six to 12 years' imprisonment. The NGO Tanggol Bayi (Defend Women) criticized the government for failing to protect rape victims adequately and provide a safe environment for cases to be filed. During the year the PNP received 1,059 rape cases: 1,038 were filed in court, four were under investigation, and 17 were referred to other agencies for further investigation. Statistics were not available on prosecutions, convictions, and punishments during the year for cases filed by the PNP, although the BuCor reported that its prisons and penal farms held 6,967 prisoners convicted of rape, 5,381 of whom were serving 40-year sentences, while another 30 were serving life sentences. There continued to be 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—including allegations of rape perpetrated by PNP officials.

Domestic 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. During the year the PNP reported 8,332 cases of domestic violence against women and children: 7,997 were filed in court, 54 were under investigation, 159 were settled, and 122 were referred to other agencies for further investigation. Statistics were not available on prosecutions, convictions, and punishments during the year for cases filed by the PNP. The Department of Social Welfare and Development (DSWD) extended assistance to 760 victims of wife beating from January to September—statistics that likely significantly underreported the level of violence against women and children. 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 DSWD both maintained help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, the CHR, and the Philippine Commission on Women (PCW)—a government agency—officers received gender-sensitivity training to deal with victims of sexual crimes and domestic violence. The PNP maintained a central women and children's unit and 1,823 women and children's desks throughout the country to deal with these matters.

Sexual Harassment.—The law prohibits sexual harassment, but it remained widespread and underreported in the workplace due to victims' fear of losing their jobs. Women in the retail industry worked on three- to six-month contracts and were often reluctant to report sexual harassment for fear their contracts would not be renewed.

Sex Tourism.—Although prostitution was illegal, sex tourism—with clients from domestic sources, the United States, Europe, Australia, the Middle East, and other East Asian countries—continued during the year.

Reproductive Rights.—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 birth-control supplies by government-run health facilities in some localities reduced the availability of family-planning resources for impoverished women. During the year several village authorities proposed or issued ordinances limiting the use of contraceptives. For instance, in January Ayala Alabang Village, an exurb of Metro Manila, and in March seven villages in Bataan Province issued ordinances banning condoms and other forms of modern contraceptives without a medical prescription. While artificial contraception could be purchased on the open market in most areas, it remained unaffordable for many of Manila's poorest residents.

Social hygiene clinics in urban areas 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. According to the 2008 National Demographic Health Survey, 91 percent of pregnant women had at least four prenatal care visits, 44 percent of births were facility based, and 62 percent of births were attended by skilled birth attendants.

Discrimination.—By law but not always in practice, women have most of the rights and protections accorded to men. Women are accorded the same rights as men regarding the ownership, acquisition, management, administration, enjoyment, and disposition of property and assets. Married women generally have property ownership rights equal to married men. However, in Muslim and indigenous communities, property ownership law or tradition grants married males more property ownership rights than married females.

No law mandates nondiscrimination based on gender in hiring practices, and women in the labor force reportedly earned 37-47 percent less than men. Some labor unions claimed female employees suffered age discrimination and punitive action when they became pregnant. Although women faced workplace discrimination, they continued to occupy positions at all levels of the workforce. In a July labor-force survey, 58 percent of government officials, corporate executives, managers, and supervisors were women. The survey also revealed that of the 2.8 million unemployed persons, 37.4 percent were women.

The law does not provide for divorce, although courts generally recognized the legality of divorces obtained in other countries if one of the parties was a foreign national. Marriage may be terminated through a legal annulment, but the cost precludes annulment as an option for many families. Many lower-income couples simply separated informally without severing their marital ties. The law provides that in child-custody cases resulting from annulment, illegitimacy, or divorce in another country, children under age seven are placed in the care of the mother unless there is a court order to the contrary. Children age seven and older normally also remain with the mother, although the father may dispute custody through the courts.

The PCW, composed of 10 government officials and 11 NGO leaders appointed by the president, is the primary policy-making and coordinating body on matters of women and gender equity. During the year the PCW continued to advocate for passage of the reproductive health and domestic helper's bills, both of which were pending in Congress, and stepped up its campaign against violence against women.

Children.—Birth Registration.—Citizenship is derived by birth within the country's territory or from one's parents. The government continued to promote birth registration; health facility-based births were immediately registered, while those occurring outside facilities were less likely to be registered immediately, if at all. Credible NGOs confirmed their previous estimates that there were more than two million unregistered children in the country, primarily among Muslim and indigenous groups. Children could be deprived of education if they lacked required documents, such as birth certificates. The DSWD continued working closely with local governments to address this deficiency.

Education.—Elementary and secondary education is free and compulsory through age 11, but the quality of education remained poor, and access was not universal. The Department of Education's 2011 education sector assessment showed approximately six million out-of-school youth. According to the 2008/2009 Philippines Human Development Report, the Autonomous Region in Muslim Mindanao had the highest percentage of illiterate and out-of-school youths in the country (17 percent, compared with 6 percent nationally), mainly due to poverty; insufficient access to information and opportunity; and a lack of peace, order, and security.

Child Abuse.—Child abuse remained a problem. From January to September, DSWD offices served 5,095 victims of child abuse, 64 percent of whom were girls. Approximately 38 percent of the girls were victims of sexual abuse. UNICEF praised the country's laws protecting children in its Annual Country Report 2010 but noted that enforcement "remain[ed] a challenge." Several cities ran crisis centers for abused women and children. Foreign and domestic pedophiles abused and exploited children, and the government continued its efforts to prosecute accused pedophiles and deport foreign ones.

Sexual Exploitation of Children.—The minimum age for consensual sex is 12 years. 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. The maximum penalty for child rape is reclusion perpetua plus a lifetime bar from political office. Child pornography is illegal, and penalties range from one month to life in prison plus fines from 50,000 to five million pesos (approximately \$1,150 to \$115,000), depending on the gravity of the offense. Despite these penalties, law enforcement agencies and NGOs reported that minors continued to be used unlawfully in the production of pornography and in cybersex activities.

Child prostitution continued to be a serious problem, and the country remained a destination for child sex tourism. Of the 5,095 victims of child abuse whom DSWD offices served from January to September, approximately 3 percent were victims of sexual exploitation. The National Bureau of Investigation and the PNP worked

closely with the Department of Labor and Employment (DOLE) to target and close facilities suspected of prostituting minors. During the year DOLE closed six establishments that had recruited 31 minors; trials continued at year's end.

Displaced Children.—UNICEF estimated in 2009 that there were 250,000 street children, many of whom appeared abandoned and engaged in scavenging or begging. During the year the DSWD provided services to 617 street children nationwide. NGOs alleged that vigilantes with ties to government authorities were responsible for killing street children engaged in petty crime in Davao and other major cities (see section 6, Other Societal Violence). Displacement affected children in central Mindanao, but generally they had access to government services (see section 2.d.).

Institutionalized Children.—The law and executive orders provide for the welfare and protection of institutionalized children. Police stations have child- and youth-relations officers to ensure that child suspects are treated appropriately, but procedural safeguards often were ignored in practice. According to the BJMP, as of November 501 minors were held in “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, although there were three DSWD detention centers for children in Manila. During the year government agencies and NGOs transferred 446 minor prisoners to DSWD rehabilitation centers, of which there were 11, and continued to work to secure the release of minors wrongfully imprisoned or younger than age 15. NGOs believed that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other mistreatment.

International Child Abductions.—The Philippines is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

An estimated 400 to 1,000 mostly foreign nationals of Jewish heritage lived in the country. There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The constitution prohibits discrimination against persons with physical, sensory, intellectual, and mental 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, but in practice many barriers remained.

The National Council for the Welfare of Disabled Persons formulated policies and coordinated 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. DOLE's Bureau of Local Employment maintained registers of persons with disabilities that indicate their skills and abilities, monitored private and public places of employment for violations of labor standards regarding persons with disabilities, and promoted the establishment of cooperatives and self-employment projects for persons with disabilities. One reliable NGO reported that the government continued to have 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. From January to September, the DSWD provided services to 2,684 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, but many stops continued to have 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 them 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, although persons with mental disabilities are disqualified from voting. Persons with physical disabilities may have the assistance of a person of their choice in order to vote. In practice many persons with disabilities did not vote because of the physical barriers described above.

Indigenous People.—Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and 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 the NGO Alliance of Indigenous Peoples' Organizations in the Philippines (KAMP), only a few government units in the country complied with the longstanding legal requirement for the mandatory representation of indigenous persons in policy-making bodies and local legislative councils.

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 actively recruited them. The Task Force for Indigenous Peoples' Rights (TFIP) continued to lobby for an appropriate mechanism through which indigenous people could be recognized as an official party and represented in peace talks between the government and MILF. The TFIP and KAMP reported a number of killings of indigenous persons opposed to mining interests and lobbied against encroachment by mining companies on indigenous land.

From January to August, the National Commission on Indigenous People (NCIP) reported five cases of human rights violations due to land conflict, including the May 17 killing of Agta tribal leader Armando Maximino in Casiguran, Aurora Province. The violations included harassment, intimidation, and displacement of indigenous people by government security forces in Tanay, Rizal Province; Iriga City; and Bayog, Zamboanga del Sur Province. The NCIP referred these cases to the CHR, PNP, and OPAPP; all were under investigation at year's end. Other NGOs reported the use of security forces to protect mining and other private interests in indigenous areas.

The NCIP, staffed by tribal members, implemented constitutional provisions to protect indigenous people, including the awarding of Certificates of Ancestral Land and Ancestral Domain Titles covering more than 458,000 acres of land claimed by indigenous people from January to August. It awarded such "ancestral domain lands" based on communal ownership, stopping sales of the lands by tribal leaders. In addition, the NCIP considers "ancestral sea" claims, since some indigenous groups—such as the Sama-Bajau, which customarily resided in fishing areas of western Mindanao, Malaysia, and Indonesia—traditionally practiced migratory fishing. Approvals have been limited, and a large number of the Sama-Bajau have been displaced from western Mindanao by continuing conflict, poverty, and lack of access to ancestral seas.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—A coalition of lesbian, gay, bisexual, and transgender (LGBT) NGOs submitted a midyear report to the U.N. Universal Periodic Review that criticized the government for the absence of law and policy to protect persons from discrimination based on sexual orientation and gender identity. From January to August, the NGO Philippine LGBT Hate Crime Watch recorded 29 killings of LGBT individuals, linked the killings to prejudice or hate crimes, and referred them to the CHR and PNP for investigations, which were pending at year's end. LGBT NGOs reported societal discrimination based on sexual orientation and gender identity, including in employment and education.

Other Societal Violence or Discrimination.—Vigilante groups, including some with suspected ties to state actors, were suspected of summary killings of alleged adult criminals and minors involved in petty crime in the six major cities of Metro Manila, Cebu, Cagayan de Oro, Tagum, Davao, and General Santos. For example, the NGO Coalition Against Summary Execution recorded 71 cases of suspected vigilante killings in Davao City from January through September.

The law prohibits discrimination against persons with HIV/AIDS and provides for basic health and social services for them. However, there was some evidence of discrimination against HIV/AIDS patients in the government's provision of health care, housing, and insurance services.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides for the right of most Filipino workers, with the exception of the military and police, to form and join trade unions. Laws also prohibit organizing by short-term contract and foreign-national workers, unless a reciprocity agreement exists between the countries. Labor laws apply uniformly throughout the country, including in the Special Economic Zones (SEZs).

Strikes in the private sector are legal, although unions are procedurally 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 law provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to three years, although there has never been such a conviction.

Government workers are prohibited from joining strikes under threat of automatic dismissal. Instead, government workers may file complaints with the Civil Service Commission, which handles administrative cases and arbitrates disputes between workers and their employers.

Law and regulations provide for the right to organize and bargain collectively in both the private sector and in corporations owned or controlled by the government. Similar rights are afforded to most government workers. Use of short-term contractual labor, particularly by large employers, continued to be prevalent. Some employers choose to employ such workers, who are not permitted to organize with long-term, "regular" workers, as a means of minimizing unionization.

By law antiunion discrimination, especially in hiring, constitutes an unfair labor practice and can carry criminal or civil penalties. There is no explicit provision to provide for reinstatement.

DOLE has general authority to enforce laws on freedom of association and collective bargaining. 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 reached the NLRC, DOLE provided mediation services through a board, which settled most of the unfair labor practice disputes. Through the mediation board, DOLE also worked to improve the functioning of labor-management councils in companies that already had unions.

The DOLE secretary—and in some special cases, the president—may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if either official determines that the strike-affected company is vital to the national interest. Labor rights advocates criticized the government for intervening in labor disputes in sectors that they contended were not vital to the national economy. During the year DOLE reported two strikes involving 3,828 workers in the industry and services sector.

Collective bargaining was practiced, but it was subject to hindrance by employers, and union leaders were subject to reprisal. In the public sector, collective bargaining was limited to a list of terms and conditions of employment that could be negotiated between management and public employees. Nonnegotiable items were those that required appropriation of funds, including healthcare and retirement benefits, and those that involved the exercise of management prerogatives, including appointment, promotion, compensation, and disciplinary action.

Created in 2010, the National Tripartite Industrial Peace Council (NTIPC) serves as the main consultative and advisory mechanism concerning labor and employment. It functions primarily as a forum for tripartite advice and consultation among organized labor, employers, and government in the formulation and implementation of labor and employment policies. It also serves as the central entity to monitor recommendations and ratifications of International Labor Organization (ILO) conventions. DOLE, through the NTIPC, is charged with coordinating the investigation, prosecution, and resolution of cases pending before the ILO concerning allegations of violence and harassment directed at labor leaders and trade union activists. During the year DOLE assumed jurisdiction in five labor dispute cases.

In practice trade unions were independent of the government. Unions have the right to form or join federations or other labor groups, and many join national and international confederations. According to union leaders, however, management frequently threatened union members with dismissal and sometimes illegally dismissed union organizers during the year. Additionally, the military maintained a presence in some workplaces and interfered in labor disputes.

Killings and harassment of labor leaders and advocates continued to be a problem, although to a lesser extent than in the mid-2000s. During the year the Center for Trade Union and Human Rights (CTUHR) documented four cases involving killings of five labor leaders, compared with five killings in 2010. For example, on March 8, unknown assailants killed Cielito Baccay, a union officer and founder of the Maeno-Giken Workers Organization (MAGIKWO) in Dasmarinas, Cavite Province. Some labor groups linked this killing to the continuing dispute between MAGIKWO and the management of Maeno-Giken, Inc. and suspected that the incident was a form of harassment and union busting. Management denied any connection to the killing, and the case remained under investigation as of year's end.

In addition, during the year the CTUHR documented 11 cases of threats, harassment, and intimidation affecting 73 workers and labor advocates, 11 cases of physical assault, and three cases of protests violently dispersed.

On April 1, DOLE reaffirmed its December 2010 ruling in favor of the association representing flight attendants and stewards of Philippine Airlines (PAL), which granted back-salary increases, a compulsory retirement age of 60 years, and other benefits. DOLE has also brokered talks between members of the Philippine Airlines Employees Association (PALEA) and management since December 2010 regarding plans to outsource a number of “non-core” positions, which would reduce the workforce by 2,600. On September 27, four days before the changes became effective, PALEA members walked off the job in protest, effectively shutting down the airline. On November 9, the airline’s management filed criminal complaints against 41 former employees who allegedly harassed airline staff and blocked PAL’s catering services on October 29. By year’s end the criminal cases against the former employees were pending in court, and the majority of the 2,600 non-core positions had been outsourced.

In practice local SEZ directors claimed authority to conduct their own inspections as part of the zones’ privileges intended by the legislature. Hiring often was controlled tightly through SEZ labor centers. For these reasons, and 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, unions had little success organizing in the SEZs.

Unions continued to claim that local political leaders and officials who governed the SEZs explicitly attempted to frustrate union organizing efforts further by maintaining union-free or strike-free policies. Unions also claimed that government security forces were stationed near industrial areas or SEZs to intimidate workers attempting to organize and alleged that companies in SEZs used frivolous lawsuits as a means of harassing union leaders. Finally, labor rights groups reported that some firms used bankruptcy as a reason for closing and dismissing workers attempting to organize. By law bankruptcy is an acceptable reason for closing a firm, unless there is a pattern in which it was falsified and used to deny worker rights. The Philippines Export Zone Authority engaged the NGO Verite on this problem with no marked progress by year’s end.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, but there were reports that forced labor of adults and children (see section 7.c.) continued to occur, mainly in fishing, maritime industries, small-scale factories, domestic service, agriculture, and other areas of the informal sector.

Trade unions reported poor compliance with the law, due in part to the prevalence of forced labor in the informal sector and the inability of the government to inspect labor practices in that sector.

The government did not provide data on the number of victims removed from forced labor during the year but noted that in August it assisted 38 fishermen in filing six cases of qualified trafficking for forced labor and one case of violating the antichild-abuse law involving a recruiter for a fishing company from Negros Oriental Province. At year’s end all cases continued.

During the year credible NGOs also reported incidents of forced labor in domestic service in the country, although most cases focused on Filipino workers abroad.

Also see the Department of State’s Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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, and sets the maximum number of working hours for them at four hours per day and no more than 20 hours per week. Children ages 15-17 are limited to eight working hours per day, up to a maximum of 40 hours per week. The law forbids the employment of persons under age 18 in hazardous or dangerous work.

Child labor remained a common problem, and a significant number of children were employed in the informal sector as domestic workers in the urban economy or as unpaid family workers in rural agricultural areas. NGO and government officials continued to report cases in which family members sold children to employers for domestic labor or sexual exploitation. The April 2010 Philippine Labor Force Survey estimated there were more than 2.4 million working children between the ages of 15 to 17 in the country; the majority were laborers and unskilled workers. There were no recent, reliable estimates of the number of working children below age 15, but UNICEF’s Annual Country Report 2010 noted uneven survey data indicating approximately four million children between the ages of five and 17 worked at least four hours a day, including a million child domestic workers who were almost all

girls. Child workers were often exposed to hazardous working environments in industries such as mining, fishing, pyrotechnic production, domestic service, garbage scavenging, and agriculture, especially sugar cane plantations.

Most child labor occurred in the informal economy, often in family settings. The government, in coordination with domestic NGOs and international organizations, continued to implement programs to develop safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the government devoted additional resources to programs that sought to prevent, monitor, and respond to child labor during the year, resources remained inadequate.

The government imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. DOLE continued its efforts to remove child workers from hazardous situations. From January to September, DOLE conducted four operations involving the removal of 24 child laborers.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—Tripartite regional wage boards of the National Wage and Productivity Commission increased the daily minimum wage rates for agricultural and nonagricultural workers in 10 out of 13 regions during the year. Minimum wages in the nonagricultural sector were highest in the National Capital Region, where the minimum daily wage rate was 426 pesos (approximately \$9.80). The lowest minimum wage rates were in the Southern Tagalog Region, where daily agricultural wages were 199 pesos (\$4.60). The law exempts minimum-wage earners from paying income tax.

Given the overall low minimum wage, coupled with the fact that many workers are not covered by the regulations, several labor groups protested in May that the national minimum wage did not provide adequate worker protection. The government estimate from 2009 claimed that a family of five needed a daily income of 231 pesos (\$5.30) to stay out of poverty. On December 1, the National Statistical Coordination Board reported 3.9 million families living below the poverty line.

By law the standard 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. There is no legal limit on the number of overtime hours that an employer may require.

The law provides for a comprehensive set of occupational safety and health standards. However, workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

Most labor laws apply to foreign workers who must obtain work permits and may not engage in certain occupations. Typically, their work conditions were better than those faced by citizens, as they were generally employed in the formal economy and were recruited for high-paying, specialized positions.

DOLE's Bureau of Working Conditions is mandated to monitor and inspect compliance with labor law in all sectors, including workers in the formal sector, non-traditional laborers, and informal workers, and to conduct inspections of SEZs and businesses located there. The department employed 254 labor inspectors nationwide to monitor and enforce all aspects of the law, including by conducting inspections of compliance with core labor and occupational safety standards and minimum wages.

There were gaps and uneven applications of law. For example, regional wage board orders covered all private sector workers except domestic servants and others employed in the service of another person; as the law allows, these individuals were frequently paid less than the minimum wage for other occupations. Boards also 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. As a result of these exemptions, the law did not cover a substantial number of workers. During the year the boards granted minimum wage exemptions to 137 establishments, about which unions filed complaints.

DOLE acknowledged that insufficient inspection funds impeded its ability to investigate labor law violations effectively, especially in the informal sector and the 66,360 companies with 10 to 199 workers. These midsized companies, unionized establishments, and those with collective bargaining agreements were permitted to file voluntary self-certifications to verify law compliance. DOLE provided training and advisory services for enterprises with less than 10 workers to help them with compliance and allowed establishments with more than 200 workers to undertake voluntary self-assessments of compliance.

DOLE also acknowledged that a shortage of inspectors made law enforcement difficult. Penalties for noncompliance with increases or adjustments in the wage rates

as prescribed by law are a fine of 25,000 pesos (\$580) to 100,000 pesos (\$2,300) and/or two to four years' imprisonment at the court's discretion. In addition to fines, the government used administrative procedures and moral suasion to encourage employers to rectify violations voluntarily.

DOLE conducted only sporadic inspections to enforce limits on workweek hours. During the year labor inspectors made 1,843 checks on company compliance with general labor and working standards and found 140 to have violations.

DOLE has responsibility for policy formulation and review of standards for working conditions, but with too few inspectors nationwide, local authorities often must accomplish enforcement. DOLE continued a campaign to promote safer work environments in small enterprises.

Violations of minimum wage standards and the use of contract employees to avoid the payment of required benefits were common, including in government-designated SEZs. During the year the Bureau of Working Conditions inspected 30,727 firms: 10,049 were found to have violated core labor standards, 6,066 of which were found to be out of compliance with minimum wage rates. Many firms hired employees for less than minimum apprentice rates, even if there was no approved training in their production-line work. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

During the year DOLE's Occupational Safety and Health Center provided training and information dissemination to 13,726 participants involving 3,716 companies to reduce accidents and illnesses at work. The NGO Institute for Occupational Health and Safety Development, which conducts research on occupational health and safety issues, recorded 90 deaths and 76 injuries due to work. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. For example, on March 25, DOLE imposed double indemnity penalties and fines totaling 6.95 million pesos (\$160,000) on the general contractor and 13 subcontractors of the Eton construction project in Makati City who were involved in a January 27 accident that killed 10 workers.

The government and several NGOs worked to protect the rights of the country's overseas citizens, most of whom were temporary or contract workers. Although the Philippine Overseas Employment Administration (POEA) successfully registered and supervised domestic recruiter practices, authorities often lacked sufficient resources to ensure worker protection overseas. The government continued to place financial sanctions on, and bring criminal charges against, domestic recruiting agencies found guilty of unfair labor practices. For example, in May the POEA cancelled the recruitment license of Great World International Management, Inc., and in August the Justice Department filed cases against three suspected recruiters from the firm who reportedly recruited women illegally to work as domestic workers in Kuwait. Applicants had paid the agency placement fees, but the promised work never materialized.

SAMOA

EXECUTIVE SUMMARY

Samoa is a constitutional parliamentary democracy that incorporates traditional practices into its governmental system. 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 of the heads of extended families (matai). The most recent parliamentary elections were held in March and were marred by charges of bribery, treating, and gifting during the campaigns. Security forces reported to civilian authorities.

The principal human rights problems were poor prison conditions and domestic violence against women.

Other human rights problems included police abuse, abuse of children, and discrimination against women and non-matai.

The government took steps to prosecute officials who committed abuses, whether in the security services or elsewhere in the government.

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.

Two police officers were charged with inflicting bodily harm after a woman alleged she was assaulted and beaten with a stick by female officers while being questioned in January. In November the two officers were convicted. One was sentenced to two years' imprisonment. The second did not receive a prison sentence but was discharged from the police force.

In August the Supreme Court ordered the government to pay restitution and damages of WST\$103,048 (\$46,004) to a Nigerian national in a lawsuit claiming compensation for assault, battery, and false imprisonment that occurred in January. While in police custody, the Nigerian national was assaulted three times for refusing to depart on an ordered deportation flight. He had refused to board the flight after claiming police and immigration officials did not return his passport and bankbook, which were lost during investigations.

Prison and Detention Center Conditions.—Prison conditions improved but overall remained below international standards. Although the government built new facilities and improved cell conditions, these actions were insufficient to provide for the increasing prison population. There were a total of approximately 427 inmates in the prison system, including 28 women and 37 juveniles. The Tafaigata men's prison, the country's most congested, had 23 cells of various sizes, including eight century-old concrete cells that measured approximately 30 feet by 30 feet and held 26 to 30 inmates each. Only basic provisions were made with respect to food, water (including potable water), and sanitation. Cell lighting and ventilation remained poor; lights remained on only from dusk until 9 p.m. All cells had one toilet and one shower facility each, which were shared communally. There were approximately 290 inmates and another 45 held separately in three holding cells awaiting trial.

The separate Tafaigata women's prison had five cells that were approximately 15 feet by nine feet, and each held four to six inmates. There was also one separate holding cell for female inmates awaiting trial and one security cell. Physical conditions, including ventilation and sanitation, generally were better in the women's prison than in the men's prison. There were 28 inmates at the women's facility.

Juveniles (under 21 years) were housed at the Olomanu Juvenile Center, where physical conditions generally were better than in adult facilities. The 37 juveniles were housed in three separate homes and lived as a community in a 300-acre compound.

At the Tafaigata men's prison five new cells were built to hold at least 10 inmates. In July the Vaiaata Corrections Facility completed refurbishment of two homes that were used as communal holding facilities for the 27 inmates.

Prisoners were permitted escorted hospital visits for medical checks as necessary. A room at the police officers' headquarters served as a medical clinic, but no doctor or nurse was assigned to the facility.

Prisoners at all facilities including the juvenile facility are required to do manual labor approximately 40 hours per week. This labor generally consists of agricultural work and cooking to provide food for the inmates and prison staff. The government permitted family members and church representatives to visit prisons weekly. This was often on Sundays, when families were allowed to bring food parcels and clothing for inmates.

Overnight detainees were held at two holding cells at police headquarters in Apia and one cell at Tuasivi. The cells had good lighting, sanitation, and ventilation.

Prisoners and detainees were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities and request investigation of allegations of inhumane conditions, and authorities investigated such allegations and documented the results in a publicly accessible manner. The government investigated and monitored prison and detention center conditions.

The government permitted monitoring visits by independent human rights observers, including the Red Cross and other diplomatic missions. The Office of the Ombudsman is legally mandated to receive and investigate complaints of prisoners and detainees on issues of inhumane overcrowding; status and circumstances of juvenile offenders; and improvement of pretrial detention, bail, and recordkeeping procedures. The Ombudsman's Office received no complaints or reports by prisoners during the year. Prisoners also could lodge complaints with the Professional Standards Unit (PSU) within the Police Department. The PSU received approximately three to five complaints during the year. Most prisoner complaints were lodged with the PSU because many inmates were not aware they could file complaints with the Ombudsman's Office.

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 national Samoan Police Force (SPF) maintains internal security. Enforcement of rules and security within individual villages is vested in the fono (council of matai). The country has no standing military force. Civilian authorities maintained effective control over the SPF, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the SPF during the year. A lack of resources and capacity-building efforts limited police effectiveness.

Arrest Procedures and Treatment While in Detention.—The Supreme Court issues arrest warrants based on compelling 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 bail system. Detainees were allowed prompt access to a lawyer of their choice. The government provides a lawyer for indigent detainees upon request at court.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Due to staff shortages, some Supreme Court and district court judges faced a backlog of pending cases. Pretrial detainees at the Taifagata compound were on average detained for six months or more.

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 except for trials of juveniles, which only immediate family members may attend. Juries (also known as assessors) are used only for the most serious offenses, such as murder, manslaughter, and rape. Defendants have the right to be present and to timely consultation with an attorney, at public expense if required. 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.

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. The Supreme Court has ruled that the fono may not infringe upon villagers' freedom of religion, speech, assembly, or association. The government began a review of the Village Fono Act to determine whether it gives the fono excessive authority to limit individual rights under a broadly defined "public order" exception. In September the government consulted villages nationwide on this question, but no conclusions were reached by year's end.

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 privacy in villages, where there can be substantial societal pressure on residents to grant village officials access without a warrant. There were reports of some village fonos having banished individuals or families from villages (see section 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The law provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning political system combined to ensure freedom of speech and press. 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 credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events.—The government generally did not restrict 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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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, 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. There are also reports of villages banning religious activities of villagers who do not belong to the "designated" village faith. In some cases civil courts overruled banishment orders. Some banished persons were accepted back into the village after performing a traditional apology ceremony.

Protection of Refugees.—Access to Asylum.—The country's laws provide for the granting of refugee status, but the government has not established a system for providing protection to refugees. No such requests arose during the year.

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 generally fair elections based on universal suffrage.

Elections and Political Participation.—Recent Elections.—General elections were held in March and generally considered fair. The Human Rights Protection Party retained government for the seventh consecutive term. For the first time in the country's independent history, a second party, the Tautua Samoa Party, received enough votes to form an official opposition. Following the elections eight electoral petitions were filed on various grounds of bribery, treating, and gifting during a campaign. Of the eight electoral petitions submitted to the Supreme Court, one was withdrawn, three were dismissed, and four resulted in orders to conduct by-elections as the four winning candidates were found guilty of various charges of bribery, treating and gifting during a campaign. All by-elections took place in July.

Political Parties.—General election electoral amendments restricted some members of the opposition from registering as candidates. The amendments required candidates to obtain the signature and approval of a government-paid village representative, mayor, or church minister in their respective candidate applications. Two opposition candidates were refused these approvals when the village fonos agreed to have only one candidate run, waiving the need for elections. On appeal the Supreme Court upheld the electoral amendments.

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, who are selected by family agreement. Although both men and women may become matai, only 8 percent were women. Matai control local governments through the village fono, and their titles are determined by appointment rather than direct election.

Participation of Women and Minorities.—Despite various government, nongovernmental organization (NGO) and political party initiatives to increase female candidate participation in the general elections, only two women were elected to the 49-member parliament: one was named minister of justice and the other associate minister of women, community, and social development. One woman served as head of a constitutional office, one woman as governor of the central bank, five 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 reserving two parliamentary seats for at-large members of parliament, known as "individual voters" seats. One at-large cabinet minister and parliamentarian 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.

In July the cabinet ordered a performance audit of the Electricity Power Corporation as well as the suspension of two senior management officials and the non-renewal of the contract of the then general manager. The cabinet order came after revelations regarding large payments made as cash gifts to various villages, vendors, and police officers. The audit revealed many questionable purchases, unauthorized bonuses, and other unaccounted-for monies.

Although public officials were not subject to financial disclosure laws, 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.

By law government information is subject to disclosure in civil proceedings, unless the information is considered privileged or its disclosure would harm the public interest. In the case of other information requests, petitioners had to navigate a cumbersome 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.

Government Human Rights Bodies.—The Office of the Ombudsman was generally considered effective and operated free from government or political party interference. The government usually adopted its recommendations.

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

The constitution prohibits discrimination based on race, gender, 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 possessed some advantages.

Women.—Rape and Domestic Violence.—Rape is illegal, but there is no legal provision against spousal rape. The penalties for rape range from two years' to life imprisonment, but a life sentence has never been imposed. 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 constitution prohibits abuse of women, but common societal attitudes tolerated their physical abuse within the home. Such abuse was common and 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 (that is, 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 investigated and 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 specifically on domestic abuse but acknowledged the problem as one of considerable concern. The Ministry of Police has a nine-person Domestic Violence Unit, which worked in collaboration with NGOs that combated domestic abuse. NGO services for abused women included public antiviolenace awareness programs, confidential hotlines, in-person counseling and other support, and shelters.

Sexual Harassment.—There is no law specifically prohibiting sexual harassment, and there were no reliable statistics concerning its extent. It likely was underreported, due to the lack of sexual harassment legislation and a cultural constraint against publicly shaming or accusing someone, even if justifiable. There was little incentive for victims to report instances of sexual harassment, as they could jeopardize their career or family name by going forward with such complaints.

Reproductive Rights.—Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the infor-

mation and means to do so free from discrimination. The National Health Service, private hospitals, the Ministry of Health's public awareness programs, general practitioners, and various health care centers provided information and access to contraception and access to maternal health services, which included skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care.

Discrimination.—Women have equal rights under the constitution and statutory law, and the traditionally subordinate role of women was changing, albeit slowly, particularly within the more conservative segments 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 and training programs for those who did not complete high school.

A labor law provision prohibits employment of women between midnight and 6 a.m. unless the commissioner of labor grants special permission. This regulation was generally observed.

Children.—Birth Registration.—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. Births are not always registered immediately, and some are not registered until many years later. Legally children without a birth certificate are not allowed to attend primary schools, but this was not strictly enforced.

Child Abuse.—Law and tradition prohibit the 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.

Sexual Exploitation of Children.—The minimum age for consensual sex is 16 years; 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 material. The maximum penalty is imprisonment for two years.

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 promote human rights awareness.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The country had no organized Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—During the year there were no confirmed reports that persons were trafficked to, from, or within the country.

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, including physical, sensory, intellectual, and mental 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 "indecentcy 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 same-sex sexual activity between adults. Although there were no reports of societal violence based on sexual orientation or gender identity, there were isolated cases of discrimination.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law protects the rights of workers to form and join independent unions, to conduct legal strikes, and to bargain collectively. However, there were certain restrictions on the right to strike for government workers, imposed principally for reasons of public safety.

Workers legally have unrestricted rights to establish and join organizations of their own choosing.

The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions, and workers exercised this right in practice. Although workers in the private sector have the right to strike, there were no private sector strikes during the year.

The government effectively enforced applicable laws, and in practice freedom of association was respected. The Public Service Association functioned as a union for all government workers, who made up approximately 8,000 of the approximately 25,000 workers in the formal economy. Unions generally conducted their activities free from government interference.

Workers exercised the right to organize and bargain collectively in practice. The Public Service Association 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 were no known instances of antiunion discrimination during the year.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and the government generally enforced laws in this regard. There is an exception in the constitution for service required by Samoan custom. A key feature of the matai system is that non-matai men perform work within their village in service to their families and the village as a whole. Most persons did so willingly; however, the matai may compel those who do not.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits employing children under the age of 15 except in “safe and light work.” 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 law prohibits any student from being engaged in light or heavy industrial activity within school hours of 8 a.m. to 2 p.m. The law, however, does not ban vending by children under age 14 altogether. The law prohibits children under 15 from work that could harm their physical or moral health.

The Ministry of Commerce, Industry, and Labor refers complaints of illegal child labor to the attorney general for enforcement, but no cases were prosecuted during the year.

There were no reliable statistics available on the extent of child labor. Children frequently were seen vending goods and food on Apia street corners. The government has not definitively determined 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. The extent to which children were required to work on village farms varied by village, although anecdotal accounts indicated the practice was quite prevalent. Work performed by younger children was confined primarily to household chores, yard work, and light work gathering fruits, nuts, and plants. Some boys began working on plantations as teenagers, helping to gather crops such as coconuts and care for animals. Some children reportedly were employed in domestic service.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—There were two minimum wages: WST \$2.00 (\$0.89) per hour for the private sector, and WST \$2.65 (\$1.18) for the public sector. 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. Approximately three-quarters of the working population worked within the subsistence economy and had no formal employment, and according to the Samoan Census Bureau’s 2008 poverty report, 26.9 percent of the population resided below the basic needs poverty line.

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 workweek of no more than 40 hours, or eight hours per day (excluding meal times), and prohibit compulsory overtime. 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 over-

time, but compensatory time off is given for overtime work. There generally are nine paid public holidays per year.

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. Safety laws do not generally apply to agricultural service rendered to the matai or to work done within individual families' homes.

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.

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. Information was not available on specific government investigations during the year. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.

SINGAPORE

EXECUTIVE SUMMARY

Singapore is a parliamentary republic in which the People's Action Party (PAP), in power since 1959, overwhelmingly dominates the political scene. Opposition parties actively participated in the May 7 parliamentary elections and the August 27 presidential election, which were generally free and fair; however, the PAP continued to benefit from procedural obstacles in the path of political opponents. Security forces reported to civilian authorities.

The government has broad powers to limit citizens' rights. While the 2011 general and presidential elections generally were seen as open, free, and fair, the government benefitted from the use of legal restrictions that handicap the political opposition. The Internal Security Act (ISA) permits preventive detention without warrant, filing of charges, or normal judicial review; in recent years it has been used against alleged terrorists and was not used against persons in the political opposition.

The following human rights problems also were reported: mandated caning as an allowable punishment for some crimes, infringement of aspects 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, and some limited restriction of freedom of religion.

The government prosecutes officials who commit human rights abuses, although there were no instances of such prosecutions reported during the year. There were no reports of impunity involving the security forces during the year and therefore impunity did not appear to be a problem.

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. 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, men sentenced to death whose sentences have not been commuted, and persons determined medically unfit are exempt from punishment by caning. During the year 2,318 convicted persons were sentenced to judicial caning, and 98.9 percent of caning sentences were carried out.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards.

During the year the total number of prisoners and detainees in custody of the authorities was 12,376, of whom 9.1 percent were women. Female prisoners were held in a separate facility from male prisoners. In 2010, 94 inmates, ages 17 and 18, comprised the juvenile prison population, which included drug rehabilitation center inmates. The designed capacity of the prison system was 16,254.

The frequency and type of visitors allowed was determined by the category of the inmate. In general, family members and close relatives were allowed to visit inmates. The Prison Authority must approve nonrelatives who wish to visit. Most inmates were allowed visits twice a month. Prisoners awaiting trial were allowed visits every weekday. Most inmates were allowed up to three visitors in a visit session. The prison system also uses televisits. There were nine teleconference centers located throughout the city-state, including one specifically for visits by children under age 21.

Religious services within the prison system were provided by volunteers from religious organizations such as the Prison Fellowship, the Buddhist Federation, the Roman Catholic Prison Ministry, SANA (Muslim), and the Sikh Welfare Council.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. The Board of Visiting Justices, made up of justices of the peace appointed by the minister for home affairs, is responsible for the basic welfare of the prisoners and conducts prison inspections. All inmates have access to the visiting justices. Prisoners had access to potable water. Nonviolent offenders may be offered the option of paying a fine or being placed on probation in lieu of incarceration.

Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions. The Institutional Discipline Advisory Committee renders an opinion to the director of prisons on whether corporal punishment ordered by a superintendent on any inmate for committing an institutional offense in penal institutions or drug rehabilitation centers is excessive.

The government did not allow human rights monitors to visit prisons; however, diplomatic representatives were given regular, frequent 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.—The national police, under the direction of the Ministry of Home Affairs, maintains internal security and the armed forces, under the direction of the Ministry of Defense, is responsible for external security.

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 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.

Arbitrary Arrest.—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. 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 such threats have come from 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.

During the year three men were detained under the ISA for alleged involvement with regional terrorist organizations. Jumari Kamdi and Samad Subari were identified as members of the Jemaah Islamiya (JI) terrorist network, and Abdul Majid Kunji Mohammad was a member of the Philippine-based Moro Islamic Liberation Front (MILF).

At year's end 16 detainees, including persons detained in previous years, were held under the ISA as suspected terrorists. The majority was suspected of belonging to JI; two were suspected of self-radicalization, and two were detained for suspected involvement with the MILF.

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 Restrictive Orders (ROs). The authorities stated that all of the detainees released cooperated in investigations and responded positively to rehabilitation.

At year's end 47 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. There is also a category of Suspension Direction (SD), which prohibits association with militant or terrorist groups or individuals as well as travel outside the country without the prior written approval of the government. During the year one person was subject to an SD. Detainees released on ROs and SDs were monitored by the authorities and required to report to authorities on a regular basis.

On September 1, authorities released one Singapore JI detainee, Mohamed Khalim bin Jaffar, being held under the ISA, on a RO. On December 5, Muhammad Zamri bin Abdullah, who was self-radicalized, was released from detention and placed on an RO.

The CLA comes up for renewal every five years and was last renewed in 2009. 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 at the end of 2008.

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 in an approved institution for the purpose of the treatment and rehabilitation of drug addicts. 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. During the year 1,280 persons were held in drug rehabilitation centers while eight persons were held in the Inhalant Treatment Center. Under the Intoxicating Substances Act, the CNB director may order treatment for up to six months of a person believed to be an inhalant drug abuser.

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 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.

Unlike in past years there were no instances of government leaders using defamation suits against political opponents or critics.

Some commentators and representatives of international nongovernmental organizations (NGOs) said that the LSC's authority to rotate subordinate court judges and magistrates and its and the chief justice's discretion with regard to extending the tenure of Supreme Court judges beyond the age of 65 undermined the independence of the judiciary.

Trial Procedures.—The law provides all defendants with 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, under the state administered Legal Assistance Scheme for Capital Offenses, anyone facing a capital charge is eligible to be assigned counsel; no eligibility criterion is imposed.

Defendants also have the right to question opposing witnesses, provide witnesses and evidence on their own behalf, and 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 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. 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 attempts to use legal action against the government for alleged 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. 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 Bureau, 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.—Status of Freedom of Speech and Press.—Freedom of Speech 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 with regard to criticism of the government. Government intimidation and pressure to conform resulted in self-censorship among many journalists; however, there was increased debate in newspapers and on the Internet on many public issues such as the institution of a minimum wage, public transportation, immigration policy, salaries of elected officials, and the role of the president. The government-linked media extensively covered opposition parties and candidates.

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. During the 2011 parliamentary elections, opposition parties held rallies as often as the ruling party.

The government effectively restricted 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 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." Subject to obtaining a police permit, permanent residents and foreigners may also speak or participate in or organize activities at the Speakers' Corner.

On January 20, the High Court rejected appeals by Singapore Democratic Party Secretary-General Chee Soon Juan and party supporter Yap Keng Ho against convictions for speaking in public without a permit on four occasions. The court decided that because Chee did not apply for a license, there was no decision for the court to review. Chee was fined S\$5,000 (\$4,167) on each of the four charges against him, while Yap was fined S\$2,000 (\$1,667) on each of the four charges. Both men served jail time in default of paying their fines.

Freedom of Press.—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 against political opponents of the government since 1998.

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.

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 numerous foreign television news channels and many entertainment channels. International news channels are not censored but entertainment programs are censored to remove coarse language, representations of homosexuality, and explicit sexual content.

Censorship or Content Restrictions.—The Media Development Authority (MDA), a statutory board under the Ministry of Information, Communications, and the Arts (MICA), continued to regulate heavily broadcast and print media, and 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 \$153,000) bond, and name a person in the country to accept legal service. The requirements for offshore newspapers apply to nine foreign newspapers, of which, three are exempted.

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 \$76,500) for failing to comply.

Libel Laws/National Security.—In past years 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 such defamation cases during the year.

The attorney general may bring charges for contempt of court, and he used this power during the year to charge at least one author who published criticisms of the judiciary.

On May 27, the Singapore Court of Appeal dismissed freelance journalist and author Alan Shadrake’s appeal against his conviction for contempt of court. The author of the antideath penalty book *Once a Jolly Hangman: Singapore Justice in the Dock* was sentenced to six weeks in jail and a fine of S\$20,000 (\$15,300). Shadrake was immediately deported following the completion of his jail term in July.

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. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. During the national elections, both the ruling and opposition parties made extensive use of the Internet to air their views and publicize their platforms and candidates. 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 social media posts, 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 a gov-

ernment-appointed review panel recommended the government cease banning 100 specific Web sites that the government considered pornographic, inciting racial and religious intolerance, or promoting terrorism and extremism, the ban remained.

In February the Registry of Political Donations classified The Online Citizen (TOC), a sociopolitical blog, as a political association. On the advice of the Attorney General's Chambers, TOC, with activities related mainly to politics in Singapore, met the definition of a political association as defined in the Political Donations Act. TOC may not receive foreign donations or anonymous donations over S\$5,000 (\$4,167).

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.

Under the Films Act the MICA minister is authorized to ban any film, whether political or not, that in his opinion is “contrary to the public interest.” 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.

Certain films barred from general release may be allowed limited showings, either censored or uncensored, with a special rating. Films, including banned films, were available through YouTube and other Web sites.

During the year the government-funded National Arts Council provided S\$5.19 million (\$3.99 million) in grants under the Major Grants Scheme. Artists are said to self-censor to preserve access to these grants.

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 an act passed in 2009 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. Police also have the authority to order a person to “move on” from a certain area and not to return to the designated spot for 24 hours.

On August 3, six members of the Singapore Democratic Party (SDP) appealed their conviction and sentences for taking part in an illegal assembly on National Day in 2008. Authorities fined the six between S\$900 (\$750) and S\$1,000 (\$833) in October 2010 after being found guilty of assembling without a permit. The gathering was held to publicize SDP’s “Tak Boleh Tahan” (Malay for “cannot take it”) campaign against high ministerial salaries, the goods and service tax, and the cost of living. They did not apply for a permit citing a previous event in 2008 that was not deemed to be an unlawful assembly. The court’s decision was pending at year’s end.

The government closely monitored political gatherings regardless of the number of persons present.

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 216 registration applications. Of these 149 were approved, two were denied, and 65 were pending at year’s end.

The government prohibits organized political activities except by groups registered as political parties or political associations. 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 associations 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 non-political organizations such as religious groups, ethnically oriented organizations, environmental groups and providers of welfare services.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 certain circumstances. The government cooperated with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to asylum seekers and other persons of concern.

In-country Movement.—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 age 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 47 suspected terrorists subject to such restrictions.

Foreign Travel.—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 age 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. Males 13 years of age or older who have not completed national service obligations are required to obtain exit permits for international travel if they intend to be away for three months or more. To obtain the required permit, a prospective traveler must in certain cases post a bond equal to S\$75,000 (approximately \$57,350) or 50 percent of the combined gross annual income of both parents for the preceding year, whichever is greater. The bond requirement applies to male travelers age 16⁺ years and above for travel exceeding three months, and to male travelers age 13 to 16⁺ for travel lasting two years or more.

Emigration and Repatriation.—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 exchange for allowing former members of the Communist Party of Malaya (CPM) residing outside the country to return to Singapore, the government requires that they renounce communism, sever all links with the CPM, and agree to be interviewed by the Internal Security Department about their past activities. Some former CPM cadres accepted these conditions and returned, but some observers estimated that approximately 30 alleged CPM members have not.

Protection of Refugees.—Access to Asylum.—The country's 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.

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. 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.—Recent Elections.—The national elections held in May were free, fair, and open to a viable opposition. The general elections operate under the first-past-the-post system. Following the May elections, the PAP (having captured 60.1 percent of the vote) held 81 of 87 elected constituency seats in parliament. Six opposition parties combined for 39.8 percent of the vote and one of them, the Workers' Party (WP), won six elected seats, including their first ever Group Representation Constituency (GRC). A constitutional provision assures at least nine opposition members in parliament; there are three non-constituency mem-

bers of parliament (NCMP) in the 12th parliament, two from the WP and one from the Singapore People's Party. NCMPs are chosen from the highest finishing runners-up in an election.

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 circumscribing political discourse and action; however, restrictions were relaxed during the campaign period. 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.

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 August Tony Tan was elected president in the first contested presidential election since 1993. In the four-way race, Tan won with 35.2 percent of the vote.

Voting is compulsory, and 93 percent of eligible voters voted in the most recent general election.

Political Parties.—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, and benefited from weak opposition parties. Often the PAP's methods were fully consistent with the law and the normal prerogatives of a parliamentary government, but the overall effect was to perpetuate PAP supremacy. The constitutional requirement that members of parliament resign if expelled from their party helped ensure backbencher discipline. Since 1988 the PAP changed all but 12 single-seat constituencies into GRCs of four 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 opposition fielded candidates in 26 of the 27 constituencies in the 2011 general elections.

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 28 registered political parties in the country, but only seven of these were active. Six opposition parties contested the 2011 general elections. Political organizations are 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.

Participation of Women and Minorities.—There is no legal bar to the participation of women in political life; women held 19 of the 87 elected parliamentary seats. There was one female senior minister of state and three female ministers of state. Three of the 17 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 13 percent of the general population and held approximately 14 percent 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 17 members of the Supreme Court were ethnic Indian; there were no Malays on the court.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively.

On October 28, a court convicted two former Singapore Land Authority (SLA) employees for their roles in cheating government agencies of S\$12.5 million (\$10 million) in the nation's biggest public-sector fraud since 1995. The court sentenced

James Koh Seah, former deputy director at SLA, to 22 years' imprisonment for cheating and money laundering, while his subordinate, Christopher Lim Chai Meng, received 15 years in jail for the same offenses.

Although the salaries of senior officials are public information and political parties must report donations, 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.

No laws specifically provide 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 human rights groups generally operated without government restriction and these organizations investigated and published their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. 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.

The government did not prevent 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, migrant workers' rights, and freedom of assembly. The government generally ignored such criticisms or published rebuttals.

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 numerous measures to ensure racial, ethnic, religious, and cultural non-discrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or gender.

Women.—Rape and Domestic Violence.—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. 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 23 persons were prosecuted for rape; four were convicted, one accused was given a discharge not amounting to acquittal, and 18 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. A 2009 survey by a local NGO found that 9 percent of respondents reported having experienced some form of sexual or physical violence in their lifetime. Several voluntary welfare organizations provided assistance to abused women. During the year there were 2,871 applications for personal protection orders, 54 percent of which were filed by wives for protection against their husbands.

Sexual Harassment.—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 (\$3,800). A 2008 survey by a local NGO found that 54 percent of respondents (58 percent of women and 42 percent of men) 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.

Reproductive Rights.—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.

Discrimination.—Women enjoy the same legal rights as men, including civil liberties, employment, commercial activity, and education. They accounted for 56.8 percent of civil service employees. There are no laws that mandate nondiscrimination in hiring practice on the basis of gender, prohibit employers from asking questions about a prospective employee's family status during a job interview, provide for flexible or part time work schedules for employees with minor children, or establish public provision of childcare.

For the most part, Muslim marriage falls under the administration of the Muslim Law Act, which empowers the Sharia (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 marriage of which seven were approved. The rest were rejected, withdrawn, or remained pending at the end of the reporting period. Polygynous marriages constituted 0.4 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 55 percent of the labor force and were well represented in many professions. During the year the employment rate for women between the ages of 25 to 54 was 73 percent. However, women held few leadership positions in the private sector and following the most recent cabinet reorganization held no cabinet-level positions in the government. Women were over-represented 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.

Children.—Birth Registration.—Citizenship is derived from one's parents, and birth registration was essentially universal.

Child Abuse.—The Children and Young Persons Act criminalizes the ill-treatment of children, which includes physical, emotional, and sexual abuse. The government enforced the law against child abuse and provided support services for child abuse victims.

Child Marriage.—By law minors are defined as under age 18, and children are defined as those under 14. Individuals under 18 wishing to marry must obtain a license from the Ministry of Youth, Sports, and Community Development (MCYS). Couples in which one person is under 18 or where both people are between 18 and 21 are required to attend a marriage preparation program before they can be issued a marriage license.

Harmful Traditional Practices.—A non-invasive form of female genital mutilation is prevalent among the Muslim population. Normally involving nicking the prepuce, the procedure is performed by female doctors at Muslim clinics, usually on female infants or prepubescent girls. It is markedly different from more severe forms of genital mutilation.

Sexual Exploitation of Children.—Some child prostitution occurred. During the year authorities identified 27 girls under the age of 18 who were involved in prostitution-related activities; nine persons were convicted of crimes relating to commercial sexual exploitation of persons under 18; and 68 persons were under investigation at year's end.

The age of consent to noncommercial sex is 16. Sexual intercourse with anyone under 16 is punishable by up to 10 years in prison, or with a fine, or with both. The authorities may detain persons under 18 who are believed to be engaged in prostitution (such persons are not prosecuted), as well as 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.

Institutionalized Children.—The Children and Young Persons Act created a juvenile court system and established protective services for children orphaned, abused, "troubled," or with disabilities. 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.

International Child Abductions.—The country is a party to the 1980 Hague Convention on the Civil Aspects of international Child Abduction.

Anti-Semitism.—The size of the Jewish community was approximately 800 to 1,000 persons. There were no reports of anti-Semitic acts, and synagogues held regular Sabbath services.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

Persons With Disabilities.—The MCYS is responsible for protecting the rights of persons with disabilities. MCYS' Enabling Masterplan 2007-11 outlined a five-year policy roadmap for the programs and services in the disability sector.

Electoral law allows those voters who, incapacitated by blindness or other physical cause, are unable to vote in the manner described by law to receive voter assistance by other authorized citizens to mark and cast their ballots.

The government maintained a comprehensive code on barrier-free accessibility; it 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. A tax deduction of up to S\$100,000 (approximately \$76,500) 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 trains, but the laws do not cover buses and taxis. During the year 100 percent of public trains and 47 percent of buses were wheelchair accessible. All major pedestrian thoroughfares have curb cuts.

Informal provisions permit university matriculation for those with visual or hearing impairments or other physical disabilities. Approximately 10,200 children with intellectual disabilities attended mainstream schools during the year. There were 20 special education schools that enrolled 4,854 students. All primary and secondary schools were equipped with basic handicap facilities such as handicap toilets and first-level wheelchair ramps. Approximately 22 percent of all primary and 19 percent of secondary schools were equipped with full-handicap facilities.

The government provided funds for two distinct types of early education programs for children with special needs. The Early Intervention Program for Infants and Children (EIPIC) provides educational and therapy services for children up to age six who have handicaps or special needs. There were 1,485 children enrolled in the 12 EIPIC programs. At the 18 Integrated Child Care Program Centers (ICCPs), special needs children engaged in the same group activities as the other children while also receiving enhancements of the normal child care curriculum. During the year, 95 special needs children were enrolled in the ICCPs.

National/Racial/Ethnic Minorities.—Ethnic Malays constituted approximately 13 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 socio-economic 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, applicable for all ethnic groups, for publicly subsidized housing.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—After failure of a 2007 attempt to repeal the section of the

penal code criminalizing sex between men, Prime Minister Lee stated that the authorities would not actively enforce the statute.

In the campaign for the May elections, a government minister was accused of having played “the gay card,” hinting that his opponent supported a “gay agenda.” Although the minister ultimately won reelection, this was widely believed to have hurt his campaign.

The Media Development Authority rated the film “Courage Unfolds” as R21. Produced by the Campaign of the International Gay and Lesbian Human Rights Commission’s Asia program, the 30-minute documentary highlighted issues faced by lesbian, gay, bisexual, and transgender (LGBT) persons in Asia and how the Yogyakarta Principles were a tool that LGBT activists could use in their human rights advocacy. The R21 rating restricts the location of screenings and the viewing audience of the film. Additionally, films rated R21 may not be released on home video formats and may not be advertised on television.

In February Singapore’s Board of Film Censors upheld its decision to impose a one-print release on the film “The Kids are All Right,” which had already been rated R21. This was the first time a single-screen release has been imposed. The board responded to Cathy-Keris Films’ appeal by stating that “one-print serves as a signal to the public at large that such alternative lifestyles should not be encouraged.”

Other Societal Violence or Discrimination.—Some individuals with HIV/AIDS claimed that they were socially marginalized and faced employment discrimination if they revealed their condition. 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. Freedom of Association and the Right to Collective Bargaining.—The constitution provides all citizens the right to form associations, including trade unions. Workers have the legal right to strike. Collective bargaining was a normal part of labor-management relations in the industrial sector and is provided for in the Industrial Relations Act.

Parliament may impose restrictions on the right of association 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 (see section 2.b.). 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, but restricts organization 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 government also has broad powers to refuse to register a union, to cancel a union’s registration, and to approve a new union’s rules or changes to an existing union’s rules.

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.

Almost all of the unions were affiliated with the National Trade Union Congress (NTUC), an umbrella organization with a close relationship with the government and the ruling PAP, and bolstered by dual roles of Lim Swee Say as both NTUC secretary-general and cabinet minister. NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. While the NTUC was financially independent 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 three sectors: water, gas, and electricity. No specific laws prohibit retaliation against strikers. The law provides that before striking, more than 50 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. 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 practice, collective bargaining was a normal part of labor-management relations in the industrial sector. Because almost all unions were affiliated with the NTUC, it almost has an exclusive authority to exercise collective bargaining power. 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.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. There were reports of practices indicative of forced labor. The Ministry of Manpower, as part of the Inter-agency Trafficking in Persons Taskforce, is responsible for combating labor trafficking and improving labor conditions for workers. There were approximately 2,500 workplace safety and health officers working for the Ministry of Manpower.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. 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.

d. 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 were 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 2009 the median income among all households headed by a citizen or permanent resident was S\$58,200 (\$44,530); among employed households headed by a citizen or permanent resident, the median income was S\$64,776 (\$49,560).

The Employment Act sets the standard legal workweek at 44 hours and provides for one rest day each week. For employees covered by the Employment Act, the overtime rate is at least 1.5 times the basic hourly rate of pay. An employee is permitted to work up to a limit of 72 hours of overtime in a month. Employers that require their employees to work more than 72 hours of overtime a month are required to apply for overtime exception from the Ministry of Manpower. The act does not cover managerial or executive positions nor does it include foreign domestic workers.

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. Starting in 2009, the ministry tightened the factory registration scheme for some 8,000 higher-risk factories. The new scheme strengthens the requirements for implementation of risk management and safety and health management system in these higher-risk factories, including construction worksites, shipyards, metal working factories, and petrochemical plants. While workers have the right under the Employment Act to re-

move themselves from a dangerous work situation, their right to continued employment depended upon an investigation by the ministry.

Because of a domestic labor shortage, the number of foreign work permit holders in 2009, including foreign household workers, was 856,000. 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. In 2009 the Ministry of Manpower removed 18,800 foreign workers from unacceptable housing. Although the great majority of the approximately 196,000 foreign domestic workers (mainly from the Philippines, and Indonesia) worked under clearly outlined contracts and reported no complaints against their employers or employment agencies, there were regular reports of employers arrested for abuse or mistreatment of their household workers. The authorities fined or imprisoned employers who abused maids. In 2009 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 Labor Relations and Workplaces Division of the ministry provided free advisory and mediation services to foreign workers experiencing problems with employers. Foreign household workers are assisted by the Foreign Manpower Management Division. The government allowed complainants to seek legal redress and operated a hotline for maids. In 2009 the hotline received approximately 3,456 calls, 95 percent of which were general inquiries.

In April legislation came into effect that significantly increased the safeguards for foreign domestic workers (FDWs). Among other things it capped the fees payable by FDWs to employment agencies in the country at one month's salary per year of the employment contract. Observers believed the law effectively eliminated concerns about FDWs falling into debt bondage, although unscrupulous agencies in sending countries could charge exorbitant fees.

SOLOMON ISLANDS

EXECUTIVE SUMMARY

The Solomon Islands is a constitutional multiparty parliamentary democracy. Parliamentary elections held in August 2010 were considered generally free and fair, although there were incidents of vote buying. In August 2010 Parliament elected Danny Philip as prime minister. Philip resigned on November 11 ahead of a vote of no-confidence and Gordon Darcy Lilo was elected prime minister. Security forces reported to civilian authorities. The Regional Assistance Mission to the Solomon Islands (RAMSI), a multinational police-centered force organized by the Pacific Islands Forum, continued its assistance during the year.

Human rights problems during the year included lengthy pretrial detention, government corruption, and violence and discrimination against women.

The government with assistance from RAMSI took steps to prosecute officials who committed abuses.

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.

In January the parole board released Member of Parliament (MP) and Fisheries Minister Jimmy Lusibaea, convicted in November 2010 of assault and sentenced to

two years and nine months' imprisonment. The board stated that his release was for good behavior and for having undergone rehabilitation. One week later Minister for Police James Tora reduced his sentence to one month using his discretion under Section 30 of the Correctional Services Act, and Lusibaea resumed office as a member of parliament.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

At year's end there were 179 convicted prisoners and 83 pretrial detainees in the country. Of these, six were juveniles. There were no female prisoners during the year.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints and request investigations of credible allegations of inhumane conditions. Complaints and requests were screened by the respective prison commanders. The Professional Standards Unit of the Correctional Service and the Office of the Ombudsman investigated credible allegations of inhumane conditions and documented the results in a publicly accessible manner. The government, through the judiciary and Office of the Ombudsman, investigated and monitored prison conditions.

The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

Although the Office of the Ombudsman has authority to investigate complaints of inhumane prison conditions, it does not have specific legal authority to consider on its own initiative such matters as alternatives to incarceration for nonviolent offenses or improving pretrial detention, bail, and recordkeeping procedures.

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 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 Royal Solomon Islands Police (RSIP), and the government has effective mechanisms to investigate and punish corruption. There were no reports of impunity involving the security forces during the year. A commissioner, who reports to the minister of police, heads the RSIP force of 1,134 members, including 159 women. The RSIP force is unarmed and had no access to weapons or non-lethal means of coercive force during the year.

This force was supported by 250 RAMSI Participating Police Force officers, who served in line positions and in logistical and financial support. The RAMSI Participating Police Force and the RAMSI Military Contingent were the only armed security forces in the country. Peter Marshall, a New Zealander, who was appointed police commissioner in 2008, ended his secondment in February to return to New Zealand. Walter Kola, a local, was appointed acting police commissioner on February 7 and continued in that position at year's end.

While 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. Officials found to have violated civil liberties are subject to fines and jail sentences.

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. 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 had 10 legal advisors from Australia, New Zealand, and the Pacific islands: four worked with the Office of the Director of Public Prosecutions and six with the Public Solicitor's Office. The advisors helped to build the expertise of the government's lawyers and contributed to reducing 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 rights to access govern-

ment-held evidence, confront witnesses, and appeal convictions. The law extends these rights to all citizens. 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.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech including for members 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.

Actions to Expand Press Freedom.—The Solomon Islands Media Strengthening Scheme (SOLMAS), which RAMSI initiated in 2008, continued during the year. SOLMAS worked with the Media Association of Solomon Islands, Solomon Islands Broadcasting Corporation, and 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 credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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 U.N. 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.

Protection of Refugees.—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.

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.—*Recent Elections.*—The August 2010 national parliamentary elections were regarded as generally free and fair, although there was evidence of vote buying. The report of the Commonwealth Observer Group stated that people spoke explicitly to them about the distribution of gifts and money by political parties and candidates to influence voter behavior. In 2010, Parliament elected Danny Philip as prime minister. Philip resigned on November 11 and Parliament elected Gordon Darcy Lilo as prime minister.

Political Parties.—Political parties could operate without restriction, but they were institutionally weak, with frequent shifts in political coalitions and unstable parliamentary majorities.

Participation of Women and Minorities.—Male dominance in government limited the role of women. There were no women in the 50-member Parliament. In July the government replaced two of the five women who served as permanent secretaries in 2010. Unlike in 2009, there were no female judges on the High Court.

There was one minority (non-Melanesian) MP.

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.

Police corruption was not a serious problem 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.

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, it sends the matter to the Department of Public Prosecution, which may then proceed with legal charges. The LCC chairman and two part-time commissioners constitute a tribunal that has the power to screen certain cases of misconduct and apply fines of up to SI \$5,000 (approximately \$665) for MPs or senior civil servants. The Office of the Ombudsman is responsible for investigating public complaints of government maladministration.

No law provides for public access to government information. In practice the government generally was responsive to inquiries from the media during the year.

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.

U.N. and Other International Bodies.—The government cooperated with international governmental organizations and permitted visits by U.N. representatives and other organizations. There were a number of visits from U.N. representatives during 2011 including a visit by U.N. Secretary General Ban Ki Moon in September; however, no public reports were released.

Government Human Rights Bodies.—The Guadalcanal Peace Building and Reconciliation Committee, formed in 2007 to plan the reconciliation and peace process on Guadalcanal, continued to work with the Malaita Peace and Reconciliation Committee in consultation with the government. The Committees in consultation with the Guadalcanal and Malaita Peace Desks at the Ministry of National Unity, Reconciliation and Peace facilitated the work of the Truth and Reconciliation Commission (TRC) by liaising with impacted persons to encourage them to come forward and testify at the public hearings conducted by the TRC. They also assisted the TRC with its exhumation program during the year. Four out of 205 missing persons were found and identified, and their remains were returned to their respective families.

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 and operated without governmental or political party interference during the year, it was limited by a shortage of resources.

During the year the Truth and Reconciliation Commission (TRC) continued to conduct hearings and take statements regarding the ethnic crisis. In May the TRC conducted the first public hearings of former militants, and during the year public hearings included both victims and former militants. Hearings done in 2010 were only for the victims of the crisis. At year's end the TRC was in the process of compiling all of its reports in preparation to submit its final recommendations to the prime minister per its mandate.

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.—Rape and Domestic Violence.—Violence against women, including rape and domestic abuse, remained a serious problem but was underreported. 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, and police confirmed that domestic violence complaints were received every week.

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. In cases in which charges were filed, the time lapse between the charging of an individual and the subsequent court hearing could be as long as two years. The magistrates' courts dealt with physical abuse of women as with any other assault, but prosecutions were rare.

Nongovernmental organizations (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.

Sexual Harassment.—Sexual harassment is not illegal and was a widespread problem.

Reproductive Rights.—Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. Contraception and adequate prenatal, obstetric, and postnatal care were accessible at all government hospitals and rural health clinics, and all nurses were trained to provide family planning services. According to indicators published by the Population Reference Bureau, an estimated 35 percent of married women ages 15-49 used some form of contraception and an estimated 27 percent used modern contraceptive methods. The U.N. Population Fund estimates one hundred maternal deaths per one hundred thousand live births. An estimated 86 percent of births were attended by skilled health personnel. Women and men had equal access to diagnosis and treatment of sexually transmitted infections, including HIV.

Discrimination.—The law accords women equal legal rights, including the right to own property. However, most women were limited to customary family roles, which prevented them from taking more active roles in economic and political life. A shortage of jobs also inhibited the entry of women into the workforce. Employed women 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 Women's Development Division within the Ministry of Women, Youth, and Children's Affairs also addressed women's issues.

Children.—Birth Registration.—Citizenship is acquired through one's parents. The country's laws do not allow dual citizenship for adults, and persons who acquire dual citizenship at birth must decide by age 18 which citizenship they wish to retain. Births frequently were not registered immediately due to lack of infrastructure, but the delays did not result in denial of public services to children.

Education.—Education was not free or compulsory, and the high cost of school fees severely limited attendance at secondary and higher institutions. School attendance rates were lower for girls than for boys, and the dropout rate was higher for girls.

Child Abuse.—The law grants children the same general rights and protections as adults. 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.

Child Marriage.—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.

Sexual Exploitation of Children.—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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community was very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—There were reports that persons were trafficked to, from, or within the country.

See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—There is no law or national policy protecting persons with physical, sensory, intellectual, or mental disabilities, and no legislation mandates access to buildings for such individuals. In practice very few buildings were accessible to persons with disabilities. There were no special accommodations for persons with disabilities to ensure access to information and communications. 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 in previous years the Peace and Reconciliation Ministry organized reconciliation ceremonies. However, underlying problems between the two groups remained, including issues related to jobs and land rights.

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 was societal stigma toward persons with HIV/AIDS, but there were no specific reports of disownment by families as reported in the past and no reports of violence targeting persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The constitution implicitly recognizes the right of workers to form or join unions, conduct legal strikes, and bargain collectively. The law protects workers against antiunion activity but does not specifically provide for reinstatement.

While public sector workers were able to organize, the law did not provide for organizing by workers in the informal sector.

The law permits strikes in both the public and private sectors. A notice to the government 28 days prior to a strike is required for strikes to be legal.

In 2009 the government issued an official notice prohibiting strikes by civil servants in essential services. There were procedures in place designed to provide these workers due process and protect their rights. The government defines essential services to include but not be limited to the health, public security, aviation, marine, immigration, and disaster relief sectors.

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 Trade Disputes Panel (TDP) for arbitration, either before or during a strike. Employees are protected from arbitrary dismissal or lockout while the TDP is deliberating. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral. The TDP's decisions are binding on the parties.

In practice, workers exercised their rights to associate freely and bargain collectively. However, the small percentage of the workforce in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly.

In July the government formed a three-member committee to settle the long-standing standoff between the Solomon Islands National Union of Workers (SINUW) and the Russell Islands Plantation Limited (RIPEL), which resulted in a settlement proposal with RIPEL mortgages. On August 26, RIPEL and the government signed an agreement for the government to take over land and properties in Yandina Russell Island and pay RIPEL SB \$34 million (approximately \$4.6 million). Former RIPEL workers, the majority of whom are members of the SINUW who went on strike in 2003, are shareholders in RIPEL and agreed to the government's takeover of RIPEL. On November 25, the Court of Appeal dismissed SINUW's appeal of a March High Court judgment which had ordered SINUW to pay RIPEL SB \$7.3 million (\$1 million) in compensation for damages caused by the strike.

b. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, except as part of a court sentence or order; however, the law contains no penalties for violators. There were no consistent methodologies or techniques to enforce the law. The government basically relied on labor inspectors to report on any instances of forced or compulsory labor during regularly scheduled routine inspections. However, there was a lack of manpower and resources to effectively enforce the laws. There were unconfirmed reports of forced domestic servitude and persons forced to work in logging camps. During the year the Division of Labor made a submission for the government to set up a Labor Advisory Board to review certain labor laws including those relating to forced labor to establish effective mechanisms for implementation and include penalties for violators. At year's end the submission was with the Attorney General's office for vetting and gazetting.

Also see the Department of State's Trafficking in Persons report at <http://state.gov/jtip>.

c. 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 law does not limit the number of hours a child could work. The commissioner of labor is responsible for enforcing child labor laws, but few resources were devoted to investigating child labor cases.

Given the 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.

Also see the U.S. Department of Labor's annual Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The minimum wage was SI \$4.00 (\$0.53) per hour for all workers except those in the fishing and agricultural sectors, who received SI \$3.50 (\$0.47).

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. The Labor Act prohibits excessive compulsory overtime.

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.

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.

According to the president of the Council of Trade Unions, authorities did not effectively enforce the health and safety law provisions. He also noted that during the year, there were numerous violations of the occupational safety and health laws.

At year's end the Labor Division recorded 243 work-related accidents including 12 fatalities; 11 workers in the logging industry were killed on the job, while one worker in the manufacturing industry was killed. Accidents were largely due to negligence of failure to adhere to safety practices by both employees and employers. Workers in the logging, construction and manufacturing industries were subject to hazardous and exploitative working conditions.

TAIWAN

EXECUTIVE SUMMARY

Taiwan is governed by a president and a parliament selected in multiparty elections. In March 2008 voters elected as President Ma Ying-jeou of the Kuomintang Party (KMT) in an election that international observers considered free and fair. Security forces report to civilian authorities.

Principal human rights problems reported during the year were corruption and violence against women and children.

During the year the authorities indicted more than 400 officials, including 54 high-ranking officials, on corruption charges. There were no reports of impunity.

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 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 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 and detention center conditions generally met international standards. Prisoners had access to potable water, and authorities permitted visits by independent human rights observers. As of July there were 58,247 adults (53,368 men and 4,879 women) and fewer than 1,000 juveniles imprisoned. Prisons operated at 122.2 percent of designed capacity.

All prisoners and detainees have access to visitors. During the active investigation phase of their cases, a small number of detainees, on a court order, may be deprived of the right to have visitors. All prisoners and detainees are permitted religious observance. Prisoners are able to meet with religious leaders, who visit on a regular basis, and may request additional meetings with religious leaders as well.

Authorities permit prisoners and detainees to submit complaints to prison appellate committees comprised of wardens, anticorruption officials, and outsiders, or to judicial authorities without censorship, although in practice all correspondence is screened entering and leaving the facilities. Nonviolent offenders may be fined or given suspended sentences as an alternative to prison sentences.

When a prisoner makes allegations of inhumane conditions, prison authorities investigate the claims and release the results of their investigation to the judicial authorities and occasionally to the press. Authorities investigate and monitor prison and detention center conditions. The authorities also allow independent nongovernmental monitors to investigate prison conditions.

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. Civilian authorities maintained effective control over the NPA, and the authorities have 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 warrant or summons is required by law, except when there is ample reason to believe the suspect may flee, or in urgent circumstances, as specified in the Code of Criminal Procedures. 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. Prosecutors may 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 in order to protect better defendants' rights. Currently courts may request pretrial detention in cases in which the potential sentence is five years or more and when there is a reasonable concern that the suspect could flee, collude with other suspects or witnesses, or tamper or destroy material evidence.

While courts are required to appoint counsel after an indictment is filed, the law does not specify what lawyers could or should do to protect the rights of indigent criminal suspects during initial police questioning. The Judicial Yuan (JY) and the NPA operate a program to provide legal counsel during initial police questioning to qualifying indigent suspects who have a mental disability or have been charged with a crime punishable by three or more years in prison. Detained persons may request the assistance of the Legal Aid Foundation (LAF), which provides professional legal assistance through its 21 branch offices to persons who would not otherwise have legal representation. The LAF is a nongovernmental organization that is funded by the JY, in accordance with the Legal Aid Act of 2004. The LAF provided these services to all individuals. During regular consultations with police and when participating in police conferences, LAF officials constantly remind police of their obligation to notify suspects of the existence of such counseling. Whether a suspect should be detained incommunicado or held under house arrest is proposed by the prosecutor and decided by the court. Suspects and prisoners may be prohibited from receiving visitors, but they are entitled to meet and consult with their legal counsel.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; however, the judicial system suffered from some corruption. 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. In June the Legislative Yuan (LY) passed the Judges' Act, which had been pending for 20 years, to create a new mechanism that includes the participation of experts and other nonjudicial representatives to assess the performance of judges and to select out incompetent ones. While the law has been passed, it will not come into effect until 2012 and thus has not yet led to any tangible changes. The 2009 trial of former president Chen Shui-bian and his wife Wu Shu-jen heightened public scrutiny of preindictment and pretrial detention, prosecutorial leaks, other possible prosecutorial misconduct, and transparency in judicial procedures (see section 4).

Trial Procedures.—The constitution establishes the right to a fair trial, and an independent judiciary generally enforced this right. Judges, rather than juries, decide cases; all judges are appointed by and answer to the JY. A single judge, rather than a defense attorney or prosecutor, typically interrogates 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.

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.

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.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech including for members of the press, and the authorities generally respected these rights in practice. The independent media were active and expressed a wide variety of views without restriction, but they were often criticized for lacking rigorous journalistic standards.

In June the Taipei Prison barred inmate and former president Chen Shui-bian from writing a special column for Next Magazine. The prison said its review had found Chen's article to be politically provocative and therefore damaging to the prison's reputation. The prison's decision sparked criticism that Chen's freedom of speech was being suppressed. Later the same month, the prison partially reversed its decision and allowed the magazine to publish Chen's later articles.

Freedom of Press.—In January the LY passed an amendment to the Budget Act to ban governing agencies, state-run enterprises, and state-funded institutions from placing advertisements packaged as news reports and programs into television programming. The amendment came in response to public criticism of the authorities' actions, as critics and activists said the authorities' placement of ads had deterred some media outlets from criticizing policy. The authorities denied having used advertising revenue from government ads to manipulate the media.

Censorship or Content Restrictions.—In July the Council of Grand Justices ruled it was constitutional for police to impose a fine on an Apple Daily reporter for following a model and her husband for two months in 2008 on tips that the husband was having an extramarital affair. The couple claimed the reporter's moves constituted harassment. The court ruling noted that the constitution protected both individual freedom and freedom of the press, but found that the reporter had violated the law because news gathering should be done on issues and individuals of public interest. Local media criticized the ruling, saying it had seriously hurt press freedom in Taiwan. Critics charged that limiting the types of issues journalists could follow amounted to censorship.

In July the National Communications Commission (NCC) approved the application of Next TV (a unit of Next Media Group) to launch a news channel on cable, after the NCC had earlier rejected two applications from the company. The NCC said Next TV had improved its content and Next Media Group Chairman Jimmy Lai agreed to seven conditions to clean up his animated news service. Lai also promised to set up a cross-media ethics committee and cancel animated news that depicted sex and nudity, the NCC said.

In 2009 the Taipei City Government barred primary and middle schools in the city from subscribing to Apple Daily and added that anyone wishing to borrow Apple Daily from Taipei public libraries must provide identification proving the applicant was 18 years or older. At year's end the ban remained in effect.

Internet Freedom.—There were no official restrictions on access to the Internet. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

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

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—Opposition party legislators and human rights nongovernmental organizations (NGOs) claimed that the law unconstitutionally restricted free speech and assembly and called for it to be amended or abolished. They claimed the law unfairly disadvantaged smaller organizations and was being 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 authorities for permission to hold a demonstration.

In 2009 the authorities charged two professors for organizing "Wild Strawberry" student demonstrations for failing to obtain permits in advance as required by the assembly law. In December the court found one of the professors not guilty as he

was not the architect of the demonstrations. The trial of the other professor remained pending as the Constitutional Court has not yet ruled on the constitutionality of the assembly law. In July a prosecutor indicted three individuals for protesting without a permit at the Taoyuan International Airport against the authorities' condemnation of their land to facilitate the building of a Mass Rapid Transit system line. The case was pending.

Freedom of Association.—The law provides this right and the authorities generally respected it in practice.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

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 authorities generally respected these rights in practice.

Protection of Refugees.—Access to Asylum.—Taiwan law does not provide for the granting of asylum or refugee status. The authorities have not established a system for providing protection to refugees because a bill regarding the handling of refugees is pending in the legislature. All People's Republic of China (PRC) citizens unlawfully present are required by law to be returned to the PRC. As of September the eight PRC nationals who had sought asylum between 2008 and 2010 were still residing in the country with financial assistance and subsidies provided by the National Immigration Agency.

Nonrefoulement.—Throughout the year authorities repatriated undocumented immigrants to their countries of origin. According to the MOI, there were 53 undocumented PRC immigrants deported to the mainland during the year (47 men and six women). At year's end 122 undocumented PRC immigrants and 777 non-PRC undocumented immigrants were awaiting deportation.

Durable Solutions.—Except for a few who failed to produce identity papers, all Tibetans gained legal residence in 2009. There were no new cases of Tibetans being granted legal residence during the year.

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.—Recent Elections.—In 2008 the Kuomintang Party (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. Observers regarded the elections as free and fair.

Participation of Women and Minorities.—There were 33 women in the 113-member LY. Nine of the 48 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 persons 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.

In July the authorities established the Agency against Corruption under the Ministry of Justice (MOJ) to further combat corruption. In addition, in November the legislature passed amendments to the Anti-Corruption Act that expanded its scope and increased the penalties for public servants who are unable to explain the origins of suspicious assets or property, or who lie about the source of such assets.

In June the LY passed amendments to the Anti-Corruption Statute that forbade attempted bribery of public officials, even if the attempts did not result in any illegal activities. Previously, attempted bribery had been a crime only if the bribes could be shown to have influenced public officials in the execution of their duties.

There were allegations of official corruption during the year. Former president Lee Teng-hui was indicted in June for corruption and money laundering. Lee was

accused of collaborating with his aide to embezzle National Security Bureau secret funds totaling NT\$232.5 billion (\$7.79 billion) to finance the establishment and operations of a think tank.

The Taiwan High Court retried the cases involving former president Chen Shui-bian and his wife Wu Shu-jen on charges of corruption, money laundering, forgery, and embezzlement. In the verdict handed down in August, Chen and Wu were found not guilty of embezzlement of a special state affairs fund. The court did not alter Chen's previous sentence of two years and eight months in prison for money laundering and forgery. Chen was incarcerated for corruption after he was convicted late in 2010 for his involvement in an industrial zone land procurement scandal and, in a separate bribery case, for accepting bribes to help a friend get a position in a government-invested business entity.

In 2009 the LY amended the Act for the Punishment of Corruption to require civil servants to account for the sources of abnormal increases in their assets and to make failure to do so a punishable offense. All public servants are subject to the Public Servants' Property Declaration Law. The MOJ and its newly established subordinate Agency against Corruption are in charge of combating official corruption.

The Access to Government Information Law stipulates that all government information be made available to the public upon request with the exception of national secrets, professional secrets, personal information, and protected intellectual property. The law provides that registered citizens, companies, and groups may submit information requests and may 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 the views of such groups.

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. The MOI is in charge of protections for persons with disabilities. The authorities enforced these laws effectively.

Women.—Rape and Domestic Violence.—Rape, including spousal rape, is a crime, and violence against women, including rape and domestic violence, remained a serious problem. 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 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, during the year there were 6,568 reports filed for rape or sexual assault. Of these reports, 2,370 persons were indicted and 1,919 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 of cases prosecuted was about 90 percent.

During the year there were 104,315 cases of domestic violence reported. Authorities prosecuted 3,292 persons for domestic violence and convicted 2,469 persons. During the year 36,791 protection orders were issued to domestic violence 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 allows prosecutors to take the initiative in investigating complaints of domestic violence, without waiting for a spouse to file a formal lawsuit.

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, education, and training on a 24-hour basis.

Sexual Harassment.—Sexual harassment in the workplace is a crime, punishable by fines of NT\$100,000 to NT\$1 million (approximately \$3,350 to \$33,500) 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. Women's groups complained that, despite the law and in-

creased awareness of the issue, judicial authorities remained dismissive of sexual harassment complaints.

Reproductive Rights.—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 free from discrimination, coercion, and violence. Unmarried persons, however, are prohibited by law from obtaining fertility treatments. Access to contraception and skilled attendance during childbirth and the postpartum period were widely available. Women and men were given equal treatment for diagnosis and treatment for sexually transmitted infections.

Discrimination.—The law prohibits discrimination based on gender. The law provides for equal treatment with regard to salaries, promotions, and assignments. The law entitles women to request up to two years of unpaid maternity leave and forbids termination of employment 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. 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 did 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.

Gender-biased Sex Selection.—Taiwan's ratio of males to females at birth was between 1.085 and 1.108. According to the Control Yuan (CY), women over 35 who already have two children had the highest sex ratio. In 2010 Taiwan banned medical institutions from conducting gender-biased sex selection. Clinics and hospitals with higher rates of imbalance were put under surveillance and doctors who facilitate gender-biased sex selection can be fined.

Children.—Birth Registration.—Citizenship is derived from one's parents or by birth on the island. The MOI and its subordinate Children's Bureau are responsible for the protection of the rights and welfare of children and the law included provisions to protect them.

Child Abuse.—Child abuse continued to be a widespread problem. A reliable NGO reported that sexual abuse was more prevalent than the public realized and estimated that the number of victims was approximately 20,000 annually. According to the MOI, 22,094 cases, including cases of physical, mental, or sexual abuse or harm due to guardian neglect, were reported during the year. 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.

The law stipulates that 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 are required to appoint guardians for children whose parents are deemed unfit.

Sexual Exploitation of Children.—The minimum age for engaging in consensual sexual relations is 18. Persons who engaged in sex with children under age 14 faced sentences of three to 10 years in prison. September 2010 Supreme Court rulings for offenses involving sexual assault on children under the age of seven resulted in a minimum sentence of seven years in prison. Those who engage in sex with minors between ages 14 to 16 receive a mandatory prison sentence of three to seven years. Solicitors of sex with minors older than 16 but younger than 18 face up to one year in prison or hard labor, or a fine of up to three million New Taiwan dollars (\$100,500). According to the Child Welfare Bureau, 235 minors were rescued from prostitution and placed in shelters during the year.

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. In August the police cracked a large prostitution ring composed of more than 50 high school girls who solicited clients through the Internet.

Advertisements related to prostitution were prohibited, and the law was enforced in practice. Under the law citizens arrested abroad for having sex with minors can also be indicted and convicted of patronizing underage prostitutes in foreign countries, although no such cases have occurred in the past four years. The law also pro-

hibits child pornography, and violators are subject to sentences of up to six months and substantial fines.

At year's end 393 persons had been indicted and 253 persons convicted of violating the Child and Youth Sexual Transaction Prevention Act, which criminalizes child prostitution and the possession and distribution of child pornography. The law requires publication of violators' names in newspapers.

Anti-Semitism.—There were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities and sets minimum fines for violations. The law was enforced.

The MOI and the CLA are responsible for protecting the rights of persons with disabilities. The law stipulates that the authorities must provide services and programs to members of the population with disabilities. Free universal medical care is provided to persons with disabilities. NGOs continued to assert 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, a growing number of which were elderly persons.

In January the LY passed the Protection Act on the Rights of the Disabled to increase job opportunities for the blind. According to the law, blind individuals must account for 10 percent of employees hired by governing agencies and state-run enterprises with more than 10 employees.

The law stipulates that new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. In November, however, a disabilities rights group staged a large protest complaining that transportation equipment still fails to meet the basic needs of disabled persons in most areas of Taiwan.

National/Racial/Ethnic Minorities.—As of 2010, foreign-born spouses, primarily from China, Vietnam, Indonesia, or Thailand, accounted for 3 percent of the population, and an estimated 8.7 percent of all births were to foreign-born mothers. Foreign spouses were targets of discrimination both inside and outside the home.

In May the National Immigration Agency extended the permitted length of stay for parents of Chinese spouses from two to six months if the purpose of the visit is to take care of pregnant Chinese spouses or those who have suffered a miscarriage.

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.

PRC-born spouses must wait six years to apply for Taiwan residency, whereas non-PRC spouses may apply after only three years. PRC spouses are also permitted to work in Taiwan immediately on arrival.

Indigenous People.—There are 14 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 persons. The Indigenous Peoples Basic Act stipulates that the authorities should provide resources to help indigenous individuals 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. In January the Amis aboriginal group staged a rally in front of the presidential office in protest of the takeover of their lands by the authorities. Asserting that a people without lands would eventually become extinct, they called on the authorities to apologize and to return their lands. In March several aboriginal activists called on the LY to pass an antidiscrimination law that would penalize discriminatory remarks against the aboriginal peoples.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws prohibiting consensual same-sex sexual activity. According to lesbian, gay, bisexual, and transgender (LGBT) rights activists, violence against LGBT persons with HIV and AIDS was a problem, but instances of police pressure on LGBT-friendly bars and bookstores continued to decrease during the year. LGBT rights activists alleged that restrictions on doctors providing fertility treatments to unmarried persons unfairly resulted in discrimination against LGBT persons, who are not permitted to marry. Employers convicted of discrimi-

nating against job seekers on the basis of sexual orientation face fines of up to NT\$1.5 million (\$50,250).

Plans to begin teaching LGBT issues in the elementary and junior school curriculums, in accordance with the 2004 Gender Equity Education Act, were canceled due to “lack of social consensus.”

Other Societal Violence or Discrimination.—There was reported discrimination, including employment discrimination, against persons with HIV/AIDS. In February an AIDS activist group accused the local authorities in Taipei of a person with HIV/AIDS from taking part in a vocational training program and of disseminating discriminatory remarks against persons with HIV/AIDS in the program’s online brochure. The discriminatory Web page was removed, and the person was referred to another vocational training center where he could receive better care. An amendment of the AIDS Prevention and Control Act allows a foreign spouse with HIV to remain in Taiwan, if he/she can show the infection came from the spouse or from medical treatment received in Taiwan. The amended law, renamed the HIV Prevention and Patients’ Rights Protection Act, also stipulates that citizens with HIV cannot be denied access to education, medical services, housing, or other necessities.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The right to unionize is protected by the constitution but is regulated under the Labor Union Act (LUA) and other laws. The right to strike is provided by law but is highly regulated. The law gives workers the right to bargain collectively, although some workers are excluded.

Although the law previously had prohibited teachers, civil servants, and some defense industry employees from forming unions, an amendment to the LUA effective in May relaxed restrictions on teachers’ right to associate, although they still are prohibited from striking. As of August teachers had formed 23 unions and one federation of teachers’ unions. The amended LUA also offered additional categories under which workers could form unions. For example, workers in the same industry can form industrial unions.

In addition to expanding the right to associate, the amended LUA also offers protections for associated labor. The LUA prohibits discrimination, dismissal, or other unfair treatment of workers for union-related activities. Violators face fines of NT\$30,000-NT\$150,000 (\$1,005-\$5,025). There were several examples of employers being fined for retaliation during the year. The amended LUA also allows foreign workers more freedom to form unions, including the right to assume leadership in a union. Although labor unions may draw up their own rules and constitutions, labor union registrations still require the approval of the CLA, and the authorities have the power to order unions to cease part or all of their operations if they break a law or violate their charter.

At the end of March approximately 29 percent of the 11.1 million-person labor force belonged to one of the 4,495 registered labor unions. Many of these members were also members of one of the 10 island-wide labor federations.

Under the LUA teachers and defense industry employees are not afforded the right to strike. Workers in industries such as utilities, hospital services, and telecommunication service providers are allowed to strike only if they promise to maintain basic services during the strike period. The amended Labor Dispute Settlement Law (LDSL) took effect on May 1. The LDSL stipulates that authorities may prohibit, limit, or break up a strike during a disaster.

The LDSL divides labor disputes into two categories: “rights disputes” and “adjustment disputes.” Workers are only allowed to strike in adjustment disputes, which include issues such as compensation and working schedules. The law forbids strikes in rights disputes, which could include collective agreements, labor contracts, regulations, and other issues. Rights disputes must be settled through arbitration or judicial process. The law requires mediation of labor disputes when the authorities deem disputes to be sufficiently serious or to involve unfair practices. The law also prohibits labor and management from disturbing the “working order” while mediation or arbitration is in progress. On average, the mediation process takes 20-50 days and arbitration takes 45-80 days.

Labor unions charged that during employee cutbacks, labor union leaders were sometimes laid off first or dismissed without reasonable cause. Despite this practice, according to the Taiwan Confederation of Trade Unions and other labor groups, the amended labor law regulations—including the LUA, the LDSL, and the Collective Agreement Law—have had a positive effect on workers’ rights in association, collective bargaining, and dispute resolution.

Continued improvement in the economy and employment led to a decrease in the number of labor disputes. There were 20,824 labor disputes in the first 11 months

of the year, a 5.9 percent decrease from the same period in 2010. Of these, 13,880 cases were related to wage and severance disputes.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor. However, there were reports that such practices occurred. There was evidence of forced labor in such sectors as household care giving, farming, fishing, manufacturing, and construction (see section 7.d.).

The 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.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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. Children under 16 years of age are not permitted to do heavy or hazardous work, and their working hours are limited to eight hours per day on normal working days only.

County and city labor bureaus effectively enforced minimum-age laws by ensuring the implementation of compulsory education. There were no documented cases of violations of these laws. Labor inspectors did find 17 cases in 2010 of 15-year-olds being asked to work overtime or night shifts. Statistics were not available that would show the disposition of these specific cases, but Council of Labor Affairs officials said that in most cases the employers were fined up to NT\$20,000 (\$670).

d. Acceptable Conditions of Work.—The LSL provides standards for working conditions and health and safety precautions. As of June an estimated 6.6 million of the 8.3 million salaried workers held jobs covered by the LSL. Those not covered included management employees, health-care workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, local government contract workers, employees of farmers' associations, and domestic workers. An increase in the minimum wage to NT\$17,880 per month (\$600), or NT\$98 per hour (\$3.28), took effect in January.

The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher. The average monthly wage increased 5.3 percent to NT\$44,430 (\$1,488) in 2010. According to labor statistics, however, workers' real wages were lower than they were 10 years ago in spite of an average 4 percent annual economic growth rate over the past decade. Labor experts and scholars attribute this decline in wages to increased competition for jobs due to the migration abroad of many industries. The poverty income level is estimated by the authorities to be 60 percent below the average disposable income of the median households in a designated area. By this definition, the poverty income level is NT\$14,794 (\$496) per person in Taipei, NT\$11,832 (\$396) per person in New Taipei City, NT\$10,244 (\$343) per person in Taiwan province, and NT\$11,146 (\$373) per person in Kaohsiung City.

Foreign household caregivers and domestic workers are covered by the Employment Services Act, which does not provide for a minimum wage or overtime pay, set limits on the workday or workweek, or provide for minimum breaks or vacation time. At the end of July, 194,000 of the 409,000 foreign household caregivers and domestic workers had applied for coverage under the Employment Services Act.

Legal working hours were 336 hours per eight-week period (for an average of 42 hours per workweek). A five-day workweek was mandated for the public sector, and, according to the CLA, more than half of private sector enterprises also implemented a five-day workweek. According to local labor laws, only "authorized specialists" approved by the CLA were exempt from the five-day workweek. In practice, however, violations of the five-day workweek maximum were common. After several high-profile "death by overwork" cases led the authorities to conduct an inspection of common workweek practices, the CLA found that approximately 700,000 employees had been asked to work overtime without pay. Approximately 400,000 employees were told by their company that they were "authorized specialists" who were exempt from workweek maximums, while in fact the CLA had approved only 100,000 employees to work in the authorized specialist category. The survey also found that in 2010, 27 percent of surveyed employees had been asked to work in excess of the 12-hour-per-day maximum. To address this issue, the LY in June passed an amendment to the Labor Standards Law raising by 500 percent the fine for violating legal work maximums, from NT\$60,000 to NT\$300,000 (\$2,010 to \$10,050) for violations, and mandated that the name of the offending company would be broadcast to the public.

The law provides standards for health and safety and gives workers the right to remove themselves from dangerous work situations without jeopardy to their continued employment. There was widespread criticism, however, that the CLA did not effectively enforce workplace health and safety laws and regulations. In the first

half of the year, the CLA's 292 inspectors conducted 41,891 inspections, a decrease of 3.6 percent from the same period of 2010. Those 292 inspectors were responsible for inspecting approximately 310,000 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, especially for labor in small and medium factories. Labor groups repeatedly urged the CLA to strengthen its inspection regime.

Regulations require intensified inspection and oversight of foreign labor brokerage companies. NGOs reported that some labor brokers and employers regularly collected high fees or loan payments from foreign workers, using debts incurred in the source country as a tool for involuntary servitude. At the end of July, there were 409,434 documented migrant workers in Taiwan; of these, 168,188 were from Indonesia, 80,620 from the Philippines, 71,457 from Thailand, and 89,164 from Vietnam. The CLA estimated there were 30,000 undocumented workers. NGOs asserted that foreign workers were often unwilling to report employer abuses for fear the employer would terminate the contract and deport them, leaving them unable to pay back debt accrued to brokers or others.

An employer may deduct only 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 NT\$300,000 (\$2,010 to \$10,050) and loss of hiring privileges. Critics, however, complained that violations continued and that the CLA did not effectively enforce statutes and regulations intended to protect foreign laborers from unscrupulous brokers and employers.

The CLA operated a Foreign Worker Direct-Hire Service Center that allowed local employers to rehire their foreign employees, especially caregivers, without a broker. NGOs, however, argued that complicated procedures and restrictions on eligibility to use the service prevented widespread implementation, and they advocated lifting restrictions on transfers between employers.

The service center also permitted the direct rehiring of foreign workers engaged in manufacturing, fisheries, construction, and other industries. 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 National Immigration Agency is responsible for all immigration-related policies and procedures for foreign workers, foreign spouses, immigrant services, and repatriation of undocumented immigrants. The CLA is responsible for work permits and services related to occupation. The CLA also provides mediation services and may permit the transfer of employees in situations where the employee has suffered exploitation or abuse.

Except for victims of trafficking in persons or employer abuse, foreign workers deemed to have worked illegally faced heavy fines, mandatory repatriation, and a permanent ban on reentering Taiwan.

THAILAND

EXECUTIVE SUMMARY

Thailand is a constitutional monarchy with a revered king who has traditionally exerted strong influence. A coalition government led by Yingluck Shinawatra and her Puea Thai (For Thais) Party came to power in August following national elections on July 3 for the National Assembly lower house that were generally viewed as free and fair. Security forces reported to civilian authorities.

The most persistent human rights problems included the following: a number of abuses by government security forces and local defense volunteers in southern Thailand in the context of the continuing Muslim separatist insurgency; the continued reported use at times of excessive force by security forces, including police killing, torturing, and otherwise abusing criminal suspects, detainees, and prisoners; and continued government limits on freedoms of speech and press.

Other human rights problems included poor, overcrowded, and unsanitary prison and detention facility conditions; occasional arbitrary arrests and detention; government limits on freedom of assembly; insufficient protection for vulnerable populations, including refugees; violence and discrimination against women; sex tourism; sexual exploitation of children; trafficking in persons; discrimination against persons with disabilities, minorities, hill tribe members, and foreign migrant workers; child labor; and some limitations on worker rights.

Authorities occasionally dismissed, arrested, prosecuted, and convicted security force members who committed abusive behavior, but official impunity continued to

be a serious problem, especially in provinces where the 2005 Emergency Decree, the 2008 Internal Security Act, and martial law remained invoked.

In the southernmost provinces, the great majority of victims of the violence associated with the separatist insurgency were civilians not taking an active part in hostilities.

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

a. Arbitrary or Unlawful Deprivation of Life.—There were reports that security forces at times used excessive and lethal force against criminal suspects and committed or were connected to extrajudicial, arbitrary, and unlawful killings. According to the Ministry of Interior's Investigation and Legal Affairs Bureau, security forces—including police, military, and other agencies—killed 72 suspects during the arrest process between October 2010 and September 2011. The police department with jurisdiction over the location of the killings investigated each case, although no details were available. For example, on April 27, Royal Thai Army (RTA) soldiers and forestry officials reportedly killed two suspects and wounded six in Phrae Province while raiding suspected illegal loggers; an investigation of the incident continued at year's end (see also section 2.d., Refugee Abuse).

While there were no confirmed reports that the government or its agents committed politically motivated killings during the year, there were at least five deaths linked to attacks suspected of being politically motivated. For example, on June 16, assailants shot and killed Suban Chirapanvanit, a major Bhum Jai Thai Party canvasser and aide to the de facto party leader, and also shot his wife in Bangkok in what was widely believed to be a politically motivated incident. Police arrested three suspects, one of whom had previously faced charges in a politically motivated shooting; charged them with premeditated murder; and continued at year's end to seek a fourth suspect. Additionally, there was an unconfirmed report that Democrat Party candidate Thaengkun Chit-issara accused a member of parliament and an air force officer of possible involvement in the killing of Chutidet Suwannakoet, a canvasser, near Bangkok on December 10. As of year's end, no charges had been filed.

There were reports of killings during the year in connection with the conflict in the southernmost provinces (see section 1.g.).

At year's end commissions continued to investigate the April and May 2010 clashes between security forces and antigovernment protesters in Bangkok and the Northeast that resulted in the deaths of 79 civilians, 11 security force members, and two foreign journalists. The Truth for Reconciliation Commission of Thailand—which released its first interim report in April, recommendations to the government in September, and its second interim report in December—found that 16 of the deaths resulted from security force action. On September 19, on instructions from Deputy Prime Minister Chalerm Yubamrung, the Department of Special Investigations transferred the investigation of these 16 deaths, suspected to have been caused by security forces, to the Metropolitan Police. It remained unclear how many were killed by security forces, armed factions associated with the protests, or accidentally, and no one had been charged with illegal or excessive use of force for any protest-related deaths as of year's end.

At year's end there were no developments in the National Human Rights Commission (NHRC) investigation of the May 2010 death of Sulaiman Naesa, whose body reportedly showed signs of torture, at the Inkhayuthboriharn Army Camp.

After investigation, authorities in May closed the case of police killing suspected drug trafficker and killer Manit Toommuang, while he was in custody in June 2010; police claimed self-defense.

There were no developments by year's end in the case of Makhoseng Pohtae, a suspected militant who died in custody in August 2010 due to injuries reportedly received while being tortured by Yala Province police. An internal investigation by the Southern Border Provinces Police Command found the abusing officers guilty of misconduct, but there were no developments in the subsequent National Counter-Corruption Commission (NCCC) investigation.

On July 20, the Ministry of Defense and the RTA settled a 2009 civil suit regarding the case of Imam Yapa Kaseng, who died after interrogation while in army custody in 2008, by paying his family 5.2 million baht (approximately \$173,000) and expressing regret. A potential NCCC criminal proceeding against five RTA suspects, under consideration since 2008, remained pending.

There were several clashes reported between Thai security forces and illegal cross-border loggers throughout the year. Most occurred in Sisaket Province and involved Cambodian citizens suspected of crossing into Thailand. For example, six Cambodians were reportedly killed in four separate incidents in border areas of Sisaket Province in October.

In addition there were clashes and artillery fire reported between Thai and Cambodian security forces in early February and late April in the area of the Preah Vihear temple/border dispute and in Surin and Sisaket provinces that resulted in unconfirmed reports of at least one Thai civilian killed and thousands of Thai and Cambodian villagers temporarily displaced.

b. Disappearance.—There were no confirmed reports of politically motivated disappearances, although nongovernmental organizations (NGOs) sympathetic to the cause of antigovernment protesters reported that at year's end the whereabouts of up to 18 individuals remained unknown following their dispersal in April-May 2010. There also were multiple media reports of numerous protesters having fled to Cambodia. (Also see the April possible forced disappearance case in Yala Province in section 1.g., Abductions.)

On March 11, the Court of Appeals acquitted the five police officers charged with the 2004 disappearance of Muslim attorney and human rights activist Somchai Neelaphaijit, who had been representing suspects allegedly tortured by high-ranking police. However, at year's end the case remained before the NCCC. In addition on August 29, an assailant or assailants shot and killed Jehrohane Yusoh, the wife of Abduloh Abukaree, who had disappeared in 2009. He was a key witness in the Department of Special Investigations case against the high-ranking police allegedly connected to the disappearance of Somchai Neelaphaijit.

In June the U.N. Working Group on Enforced or Involuntary Disappearances requested a visit, but one had not been arranged by year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution specifically prohibits such practices. There is no law that specifically prohibits torture, although it is punishable as an offense against the person. Additionally, Section 17 of the April 2010 Emergency Decree effectively provides immunity from prosecution to security officials for actions committed during the performance of their duties.

Credible NGOs and legal entities continued to report that police and military members occasionally tortured and beat suspects to obtain confessions, and newspapers continued to report numerous cases of citizens accusing police and other security officials of brutality. By year's end there had been one prosecution, although no conviction, of a military official for alleged torture; there also were criminal actions being pursued against Royal Thai Police (RTP) officers.

On March 1, a court sentenced Police Senior Sergeant Major Suraphat (formerly known as Phairat) Sibuasong of Phlap Phla Chai 1 Police Station, Bangkok, to six years' imprisonment for abuse of power after he arrested a female Burmese migrant worker and forced her to have sex with him in exchange for being freed without charge in 2009.

The NHRC, in a September 2010 report, found that torture occurred widely and systematically in the southernmost provinces. The study, which examined 35 alleged torture cases since 2006, found that state officials widely used beating and intimidation tactics. Torture tactics included covering the victims' heads with plastic so they were unable to breathe, applying lit cigarettes to body parts, beating victims with a wooden stick covered by a sponge, and using electric shocks. According to the report, most of the abusers were members of the armed forces or police who arrested and detained suspects under special laws including martial law, the Internal Security Act, and the Emergency Decree. The report was submitted to the government (the armed forces, police, and Interior Ministry), and at year's end the NHRC was awaiting a response.

In January and February, two prominent NGOs filed a petition protesting the use of brutality by RTA Task Force 38 in Narathiwat against suspected southern Muslim militants and alleging that Task Force 38 was secretly assigned as the preliminary interrogation unit to question suspects. The petitioners claimed to have evidence of at least seven torture cases involving the Task Force.

On August 10, the Criminal Court in Bangkok convicted Suderueman Malae, a 2004 torture victim, of maliciously giving false information to inquiry officers and sentenced him to two years' imprisonment. At year's end the case was under appeal, and Suderueman was released on bail. Suderueman had been a client of disappeared attorney and human rights activist Somchai Neelaphaijit (see section 1.b.) and had claimed that Police Major General Chakthip Chaijinda had been involved in the torture of Suderueman and others.

Prison and Detention Center Conditions.—Prison conditions were poor. Most prisons and detention centers were overcrowded. There were approximately 250,000 prisoners in prisons and detention facilities designed to hold 150,000. Sleeping accommodations were insufficient, medical care was inadequate, and communicable diseases were widespread in some prisons, although prisoners generally had access

to potable water supplied as tap water treated by water purification. Seriously ill prisoners at times were transferred to provincial or state hospitals.

According to the Ministry of Interior Investigation and Legal Affairs Bureau, 1,122 persons died in official custody from October 2010 to September 2011. Authorities attributed most of those deaths to natural causes. On February 17, guards shot and killed two prisoners during a riot in Ratchaburi Provincial Prison.

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; 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 possibly dangerous to other prisoners.

More than 27 percent of the prison population consisted of pretrial detainees, who were not segregated from the general prison population, although those detained under the Emergency Decree in the southernmost provinces often were held in military camps or police stations rather than prisons. Men, women, and children rarely were held together in police station cells pending indictment. Separate detention facilities for juvenile offenders were available in all provinces. Conditions for women were typically better than for men, in large part because much of the maintenance and cleaning was managed and implemented by the prisoners themselves.

Prisoners and detainees had access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees or their representatives to submit complaints without censorship to ombudsmen but not directly to judicial authorities. The Ministry of Justice, through its Department of Corrections, was responsible for investigating and monitoring prison and detention facility conditions, but authorities rarely investigated complaints and did not make public the results of such investigations.

Recordkeeping was generally substandard, infrequent, and out of date, with prisoners tracked through letters and phone calls rather than a modern online data-sharing system. Authorities often gave nonviolent offenders, minors, and convicts with disabilities alternative penalties rather than imprisonment, such as probation, suspended sentences, fines, or restrictions on movement. Official 2009-10 statistics showed fewer than 17 percent of convictions resulted in prison sentences served.

Conditions in immigration detention centers (IDCs) remained poor. The Immigration Police Bureau, reporting to the RTP, administered the IDCs, which were not subject to many of the regulations that govern the regular prison system. Overcrowding and a lack of basic medical care continued to be serious problems. Juveniles above the age of 14 were detained with adults in IDCs. There also continued to be complaints of inadequate and culturally inappropriate food, especially by Muslim detainees. There were reports that detainees, including children, were not permitted sufficient exercise at some facilities. There were two unconfirmed reports that guards physically abused IDC detainees.

The government permitted visits to prisons and IDCs by independent human rights observers, and International Committee of the Red Cross (ICRC) representatives were allowed to meet prisoners without third parties present, made repeated visits, and also received access to all police facilities in the southernmost provinces. However, the military continued not to approve ICRC requests to visit prisoners detained in military detention facilities in the four southernmost provinces, where detainees allegedly were mistreated. For example, there had been no observer visits to the Inkayuth Military Camp, Pattani Province, since 2008 (and there was unverified information that the camp's detention center was closed in November). Representatives of the Office of the U.N. High Commissioner for Refugees (UNHCR) had access to some detainees at the Suvarnabhumi Airport IDC in Bangkok, but it varied on a case-by-case basis. UNHCR officials were able to interview detainees in Suan Phlu IDC, and access continued for third countries to process recognized refugees for resettlement.

Ombudsmen may consider and investigate complaints and petitions received from prisoners and provide recommendations to the Department of Corrections. However, they are not empowered to act on a prisoner's behalf, nor may they involve themselves in a case unless an official complaint is received (see also section 5).

Individuals who use drugs may be detained in compulsory rehabilitation centers (there were 86 such centers in 2010), and it was government policy to use these facilities to convert drug addicts into "decent citizens." The law requires no informed consent before drug users are sent to such centers, no individual clinical assessment of the severity of an individual's drug dependence, no due process, and no follow-up for those treated. Media reports catalogued abuses of addict detainees, including physical abuse, and the absence of some health services, such as medically assisted detoxification; HIV prevention, treatment, care, and support; and evidence-based

drug dependence treatment. The individuals operating rehabilitation centers were generally military personnel with no medical background. Additionally, civil society groups operating harm-reduction projects faced barriers to delivering their services to drug users, and there were reports that law enforcement officers arrested and harassed outreach workers acting within this government-approved project.

d. Arbitrary Arrest or Detention.—The constitution specifically prohibits arbitrary arrest and detention, although government forces occasionally arrested and detained persons arbitrarily. The Emergency Decree, which gives the government authority to detain persons without charge for up to 30 days in unofficial places of detention, remained in effect in the three southern provinces of Yala, Pattani, and Narathiwat. The decree was in addition to martial law, which continued in 31 border-region and southernmost provinces and allows for detention without charge for a maximum of seven days.

Emergency Decree provisions make it very difficult to challenge a detention before a court. Under the decree detainees should have legal access to counsel, but in practice there was no assurance of prompt access to legal counsel or family members, nor were there transparent safeguards against the mistreatment of detainees. Additionally, the decree effectively provides broad-based immunity from criminal, civil, and disciplinary liability for officials acting under its provisions.

On August 16, the Udon Thani Court granted bail of one million baht (approximately \$33,000) each to 22 detained protesters from the United Front for Democracy Against Dictatorship (UDD or “Red Shirts”) charged with rioting and arson in Udon Thani Province when authorities violently dispersed the Bangkok protest in May 2010. Lawyers affiliated with the UDD movement continued to pursue bail for the remaining red-shirt detainees jailed in Bangkok, Udon Thani, Ubon Ratchathani, Mukdahan, Chiang Rai, and Chiang Mai provinces. At year’s end 41 of the original 422 remained in detention pending investigation or trial, and 10 had been sentenced and were imprisoned.

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 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 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 ISOC director. The ISOC is considered an interagency monitoring body, with both civilian and military representation. The ISA also authorizes broad powers for the military. On January 17, as an exception, the government maintained the ISA in Mae Lan District, Pattani Province, without using the Emergency Decree or martial law, as a pilot project to study the effectiveness of the ISA alone in maintaining security and decreasing violence in the South. The experiment resulted in a similar or reduced incidence of violence in the district, which is small and historically has had a low incidence of violence compared with the region. An additional four districts in Songkhla Province were under both the ISA and Emergency Decree. The Emergency Decree provides the government greater powers than the ISA and therefore takes precedence. The ISA was lifted in Bangkok on May 24. Human rights organizations and academics criticized the government for using the ISA to respond to alleged threats to national security by restricting fundamental rights.

There were reports that police abused prisoners and detainees, generally with impunity. Complaints of police abuse may be filed directly with the superior of the accused police officer, the Office of the Inspector General, or the police commissioner general. The NHRC, Lawyers’ Council of Thailand (LCT), NCCC, Supreme Court of Justice, Justice Ministry, and Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsman. The NHRC received 84 complaints of police abuse during the year.

When police receive a complaint, an internal investigation committee first takes up the matter and may temporarily suspend the officer involved in the complaint during the investigation. Various administrative penalties exist, and serious cases can be referred to a criminal court.

At year’s end the joint NCCC-Office of the Attorney General (OAG) committee investigation into the April 2009 attempted killing of People’s Alliance for Democracy leader Sondhi Limthongkul continued, and the police officer and two soldiers for whom arrest warrants were issued remained free.

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 continued not to be followed much of the time. 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.

Under a cabinet mandate, the Ministry of Defense requires that service members receive human rights training. Routine training occurred at various levels, including for officers, noncommissioned officers, enlisted personnel, and recruits. Additionally, military service members deploying in support of counterinsurgency operations in the South also received specific human rights training, including training for detailed, situation-specific contingencies.

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 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 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. In the southern provinces, lawyers reported that under the Emergency Decree they were denied adequate access to detained clients, and some individuals reported they were denied permission to visit detained family members. Foreign detainees sometimes were pressured to sign confessions without the benefit of a competent interpreter/translator. The Justice Ministry and OAG were authorized to provide an attorney to indigent detainees at public expense, but there was no definitive data available as to the extent of provision.

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 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 not uncommon.

The law provides defendants the right to request 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 request bail or refused to recommend bail after a request was submitted, particularly in drug arrests and cases involving violence in the southernmost provinces.

Under martial law the military has the authority to detain persons without charge for a maximum of seven days, and under the Emergency Decree, a person may be detained for up to 30 days without charge.

In February a public prosecutor dismissed criminal charges against Suthachai Yimprasert, assistant professor of history at Chulalongkorn University, who was arrested in May 2010 under the Emergency Decree for distributing leaflets critical of the government and detained without charge at a military camp in Saraburi Province for two weeks.

In January a public prosecutor dismissed charges against Amornwan Charoenkij, whom police had arrested in October 2010 under the Emergency Decree for selling flip-flop shoes printed with the faces of the prime minister and deputy prime minister (along with a statement authorities deemed to be criticism of the two) and released on bail.

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 police and military abuse diminished the public's trust in the justice system and discouraged some victims of human rights abuses (or their families) from seeking justice.

Trial Procedures.—The law provides for the presumption of innocence. 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.

In ordinary criminal courts, defendants enjoy a broad range of legal rights, including access to a lawyer of their choosing; however, indigent defendants are not automatically provided with counsel at public expense. The LCT budget was reduced by

more than 12 percent from 2010, following a 15 percent decrease from 2009. Legal aid often was provided on an intermittent, voluntary, public-service basis and was of low standard. Some NGOs reported that legal aid lawyers pressured their clients into paying additional fees directly to them, but the LCT's Lawyer Etiquette Division explained that clients must pay expenses, such as travel, incurred by their attorney. 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 trial. The law provides for access to courts or administrative bodies to appeal or seek redress, and the government generally respected this right.

Several NGOs continued to express concern over the lack of adequate protection for witnesses, particularly in cases involving alleged police wrongdoing. The Justice Ministry 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 also 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, in force in three provinces, expressly exclude scrutiny by the Administrative Courts 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 and the Emergency Decree give government security forces authority to conduct warrantless searches, and this authority was used in the southernmost provinces and border areas. There were complaints during the year from persons 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.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—The internal conflict in the ethnic Malay, Muslim-majority, southernmost provinces (Narathiwat, Pattani, Yala, and portions of Songkhla) continued throughout the year. As a result of frequent bombings and other attacks by suspected insurgents and as a result of government security operations, tension between the local ethnic Malay Muslim and ethnic Thai Buddhist communities remained high, alongside a distrust of security officials. The Emergency Decree in effect in this southern area gives military, police, and civilian authorities significant powers to restrict certain basic rights and delegates certain internal security powers to the armed forces. The decree also provides security forces broad immunity from prosecution. Moreover, martial law imposed in 2006 remained in effect in Narathiwat, Pattani, and Yala provinces, giving a wide range of powers to security forces. (See also section 1.d., Role of the Police and Security Apparatus, concerning a pilot project of maintaining only the ISA without the Emergency Decree or martial law in one district.)

Killings.—Human rights groups accused government forces of extrajudicial killings of individuals suspected of involvement with separatists. For example, NGOs reported that on February 11 and 26, RTA task forces assigned to the southernmost region shot and killed five suspected insurgents while investigating a January 19 weapons theft in which four soldiers were killed.

According to statistics from the NGO Deep South Watch, separatist violence throughout the year resulted in 489 individuals killed and 1,044 injured in 905 incidents, similar to 2010 figures. As in previous years, separatists frequently targeted government representatives, including teachers and district and municipal officials as well as military personnel in bombings, shootings, and kidnappings. Separatists also killed and injured both Buddhist and Muslim civilians from many walks of life.

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 security forces. Human rights organizations expressed concerns about vigi-

lantism against ethnic Malay Muslims by these defense volunteers and other civilians.

Abductions.—There were no confirmed reports that individuals disappeared after being questioned by security officials in the southern provinces. However, reputable NGOs reported the possible forced disappearances of two men (Ibbroheng Kahong and Dunhami Marae) who had been missing since April when they requested the return of their boat, which the Border Patrol Police (Neresuan Camp) in Amphoe Bannang Sata, Yala Province, had seized. Police told the missing men's relatives they had not seen the two men.

Physical Abuse, Punishment, and Torture.—The government continued to arrest suspected militants, some of them juveniles, and in some cases held them for a month or more under Emergency Decree and martial law provisions. Human rights organizations considered the arrests arbitrary, excessive, and needlessly lengthy, and they expressed concerns about detention facility overcrowding. Civil society groups accused the army of torturing some suspected militants at detention facilities.

Martial law allows for detention without charge up to seven days without court or government agency approval in the provinces of 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 may begin holding suspects under normal criminal law. Unlike under martial law, these latter detentions require the consent of a court, although human rights NGOs complained that courts did not always exercise their right to review these detentions. In some cases a suspect was in fact held first under martial law for seven days and then detained for an additional 30 days under the decree. The Southern Border Province Police Command stated that its personnel arrested 143 persons under the decree during the year. It was unclear whether anyone was detained under martial law alone.

Child Soldiers.—Regulations prohibit formal recruitment of children under age 18 to serve as Territorial Defense Volunteers, and in practice volunteers generally joined at age 20 or older, but there was anecdotal information that a small number of children were involved informally in such groups. There were no reports of youth under age 18 conscripted or recruited into governmental armed forces. Regarding separatist groups, however, there were reports of recruitment of children under age 18 to carry out attacks.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

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 claimed that villagers who attended these training sessions were, in the past, subjected to interrogations and collection of biometric data (fingerprints, DNA samples, and photographs), but this practice has become less common and may have completely ended. Nonetheless, the military continued to use written and verbal demands to require attendance at these events.

During the year insurgents burned two schools in the southernmost provinces. The Ministry of Education reported that since 2004, insurgents had burned more than 330 schools in the South, 40 of them more than once. The government frequently armed ethnic Thai Buddhist and ethnic Malay Muslim civilians, fortified schools and temples, and provided military escorts to monks and teachers. In some cases the military has used schools as barracks. According to the ministry, 187 teachers, students, and education staff were killed and 307 others injured due to separatist violence since 2004. During the year 13 students were injured and five were killed and 20 school personnel were injured and 13 were killed due to separatist violence—all increases from 2010. Separatist violence included attacks on medical facilities. According to the Ministry of Public Health, 86 public health volunteers had been killed, 58 health volunteers injured, and 25 community health centers burned or bombed in the South since 2004. According to the NGO Deep South Watch, separatists killed one public health official, compared with two public health officials killed and two injured in attacks on three facilities in 2010.

While official statistics were not available, there were reports—such as the November 15 report of the NGO Internal Displacement Monitoring Center—that more than 30 percent of Thai Buddhists and 10 percent of ethnic Malay Muslims have fled violence-affected areas in the South to other provinces since 2004 (see section 2.d.). In August a member of the Southern Border Provinces Administration and Development Advisory Council stated to the media that almost all Buddhists had left

remote rural areas and that approximately 60,000 of the original 200,000 Buddhists remained in urban areas of the southernmost provinces, but this data was unverified.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Status of Freedom of Speech and Press.—The constitution and law specifically provide for freedom of speech and press with some exceptions, although the government used Emergency Decree authority to limit these rights during the year in southern provinces. The government continued to monitor television and radio broadcasters and exert pressure on broadcast media to cooperate in disseminating constructive and “balanced” news. 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 its senior-level officials and carried interviews with opposition figures.

The international and independent media operated freely, except in coverage of matters deemed a threat to national security or offensive to the monarchy. By law the government may restrict freedom of expression to preserve national security, maintain public order, preserve the rights of others, protect public morals, and prevent insults to Buddhism. The law also 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.

Freedom of Speech.—Criminal Code Article 112, the so-called lese-majeste law, makes it a crime—punishable by up to 15 years’ imprisonment for each offense—to criticize, insult, or threaten the king, queen, royal heir apparent, or regent. The law also allows citizens to initiate lese-majeste complaints against each other, and there were several cases in which private citizens did so. Trials may be conducted in secret, and the content of the alleged offenses may be prohibited from public disclosure; human rights organizations and academics expressed concern over the chilling effect these factors may have on freedom of expression. On December 9, the Office of the U.N. High Commissioner for Human Rights in Thailand expressed concern about continuing lese-majeste trials and the harshness of resulting sentences.

Significantly increased prosecutions for lese-majeste offenses started in 2006 and continued through 2011. Official statistics varied by agency, but in the decade before 2006, there were approximately five new lese-majeste charges on average annually, compared with 478 new charges involving Article 112 in 2010 that the Office of the Judiciary reported. In 2011 through October, the Office of the Judiciary reported 85 new charges. The overall conviction rate remained nearly 100 percent.

On April 30, authorities arrested publisher and labor organizer Somyot Phruksakasemsuk on lese-majeste charges based on two articles published in *Voice of Thaksin* magazine in 2010. The court denied bail, and his trial began on November 21 and continued at year’s end.

On December 8, a court sentenced dual national Joe Gordon (also known as Lerpong Wichaikhammat) to two-and-a-half years’ imprisonment for lese-majeste offenses. Authorities had arrested Gordon in May for involvement, while living in a foreign country, with a Web site that linked to the digital, translated version of a banned biography of the Thai monarch entitled, *The King Never Smiles*, and he had pleaded guilty.

On July 24, the Constitutional Court ruled that the secret trial which had convicted political activist Daranee Charnchoengsilpakul (also known as “Da Torpedo”) on three counts of lese majeste—resulting in an 18-year prison sentence in 2009—was not unconstitutional and the original conviction should stand. On December 15, the Criminal Court resentenced her to 15 years in prison, and she stated she would not appeal.

Freedom of Press.—Government entities owned and controlled all radio and broadcast television stations, including the 524 officially registered “regular” AM and FM stations. The armed forces and police 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, a former state enterprise of which the government owned a majority share. Nearly all stations were leased to commercial companies.

The law provides for the regulation of radio and television frequencies and three categories of broadcast licenses (public service, community service, and commercial). The National Broadcasting and Telecommunications Commission (NBTC) allocates broadcast frequencies and regulates broadcast media. Radio stations must renew their licenses every seven years. Radio signals are broadcast via government transmitters. Stations are required by law to broadcast 30-minute, government-produced newscasts twice daily and to register with the NBTC.

On April 28, the police commissioner announced that police had raided 13 community radio stations in Bangkok as well as northern and northeastern provinces on April 26 for illegal possession of transmission equipment and illegal broadcasting. On July 5, police and NBTC officials raided six community radio stations in Nakhon Ratchasima Province.

Violence and Harassment.—A few journalists were subjected to physical attacks due to their reporting. For example, on June 26, two gunmen on a motorcycle shot and killed Sawai Chimpfli, a public school teacher and owner of a community radio station in Ubon Ratchathani Province, while he was on the air. The motive remained unknown at year's end.

In August red-shirt supporters accused Somjit Nawakruasurithorn, a television reporter, of asking the prime minister aggressive questions, protesting her actions, and calling for her dismissal. Three media groups (the Thai Broadcast Journalists Association, the News Broadcasting Council of Thailand, and the Thai Journalists Association) called for an end to intimidation that they stated was designed to gag the press and suppress dissent.

The killings of two foreign journalists, who died while covering antigovernment protests in Bangkok in April and May 2010, remained under investigation by the Department of Special Investigations (see section 1.a.).

On August 18, the Nakhon Pathom Province Court convicted six defendants of involvement in the July 2010 killing of Kongpop Sawasdi, a reporter for the Thai Rath newspaper in Nakhon Pathom who also owned the local newspaper, Pathom Post, and had written about a corruption case involving a local politician. The court sentenced Chanin Leepaiboon, a former Nakhon Pathom Administration Organization member who ordered the killing, and Apirak Timpitak, the gunman, to death and imposed prison terms of 20-50 years for four accomplices (Wien Nitcharoen, Prathip Yotkaew, Naret Saenthet, and Kamphon Misin). At year's end their appeals were pending. Authorities gave a seventh suspect, Prasan Phantei, immunity in exchange for his testimony against the others.

Censorship or Content Restrictions.—By invoking the Emergency Decree in the three southernmost provinces, the government may restrict print and broadcast media, online news, and social media networks there. 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.” It also authorizes the government to censor news considered a threat to national security.

Journalists generally were free to comment on government activities and institutions without fear of official reprisal. Nonetheless, they occasionally practiced self-censorship, particularly with regard to the monarchy and national security. Broadcast media were subject to government censorship, both directly and indirectly, and self-censorship was evident. Nevertheless, broadcast media reported criticism of the government.

Libel Laws/National Security.—Defamation is a criminal offense, punishable by a fine of up to 200,000 baht (approximately \$6,700) and two years' imprisonment. During the year criminal courts made several rulings on defamation and libel cases against political activists and politicians.

At year's end the appeal continued in the case of People's Alliance for Democracy leader Sondhi Limthongkul: A court released him on bail following his conviction in 2009 of defamation for statements criticizing a former deputy prime minister during a 2007 television program. He had been sentenced to two years in prison without probation.

Internet Freedom.—The government imposed some restrictions on access to the Internet and reportedly monitored Internet chat rooms and social media. Individuals and groups generally could engage in the peaceful expression of views via the Internet, including by e-mail, although there were several content limitations, such as lese majeste, pornography, and gambling.

The law establishes procedures for the search and seizure of computers and computer data in certain criminal investigations and gives the Ministry of Information and Communications Technology authority to request and enforce the suspension of information disseminated via computer. A maximum five-year prison sentence and a 100,000 baht (approximately \$3,300) fine may 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 (\$10,000) fine may be imposed if an offense results in the death of an individual. The law also obliges Internet service providers to preserve all user records for 90 days in case officials wish to access them. Any service provider who gives consent to or intentionally supports the publishing of illegal content is also liable to punishment. Most prosecutions continued to be for content-related offenses. By law a court order is required to ban a Web

site, although this requirement was not always applied in practice. Media activists criticized the law, stating that the offenses were defined too broadly and some penalties were too harsh.

Additionally, the government used provisions of the Emergency Decree to block thousands of Web sites and specific URLs without being required to obtain a court order. Web site operators whose sites are blocked under the decree are given no warning, and there is no appeals process. Despite the lifting of the decree in December 2010, Web sites blocked under such provisions remained inaccessible, including popular Internet freedom advocacy blogs such as “Freedom Against Censorship Thailand” and “Thai Political Prisoners.”

There was continued Internet censorship, and use of the law continued to stifle certain areas of freedom of expression. The government closely monitored and blocked thousands of Web sites that criticized the monarchy. Many political Web boards and discussion forums chose to self-censor and monitor discussions closely to avoid being blocked, and newspapers disabled or restricted access to their public comment sections to minimize exposure to possible lese majeste charges.

On November 24, the Minister of Information and Communications Technology stated that authorities had asked Facebook to remove 26,000 URLs of user accounts in August and September and 60,000 in October and November with content deemed offensive to the monarchy. The ministry also stated that those who spread such online content—“either directly or indirectly”—by “liking,” “sharing,” or posting comments on social networking sites could be prosecuted under the Computer Crime Act and lese-majeste laws.

On December 1, the ministry introduced the Cyber Security Operation Center, an office dedicated to monitoring the Internet for “content deemed harmful to the people of Thailand, especially lese-majeste content.” The new center was an expansion of the Internet Security Operation Center and designed to focus more on monitoring social networking sites.

The RTP Electronic Crime Suppression Division reported receiving 776 computer-related complaints during the year that resulted in 442 investigations—a complaint rate markedly greater than the 47 in 2009 or 285 in 2010. Most cases involved alleged defamation, lese majeste, and illegal activity such as gambling and pornography.

On September 2, authorities arrested Suraphak Phuchaisaeng, a freelance computer programmer from Nongkhai Province, for allegedly creating an antimonarchy Facebook page—the first known arrest for lese majeste under the new Puea Thai-led government—and charged him on November 25 without setting bail.

On March 15, the Criminal Court sentenced Thantawut Thaweewarodomkul (also known by his online name, Red Eagle), whom authorities had arrested in April 2010, to 13 years’ imprisonment for his role as webmaster of a UDD Web site.

On November 23, Amphon Tangnoppakhun, age 61, received a 20-year prison sentence—reportedly the lengthiest such sentence ever—for sending four Short Message Service text messages that included lese-majeste content to the private secretary of former prime minister Abhisit Vejjajiva in May 2010. He was arrested in August 2010.

The trial in the first of two lese-majeste prosecutions of Chiranuch Premchaiporn, executive director of Prachatai, an independent online newspaper, began in February and continued at year’s end. Her conviction could result in 20 years’ imprisonment, because unrelated third parties—one of whom had similar charges dismissed on January 31—posted comments on Prachatai.com that authorities deemed offensive to the monarchy, and the comments allegedly were not removed quickly enough. The case could set a precedent for intermediary liability under the law.

Academic Freedom and Cultural Events.—The government restricted academic discussions of the monarchy. For example, on May 11, after RTA officers filed a complaint, Thammasat University professor and noted historian Somsak Jiamthirasakul voluntarily appeared at a police station to be charged with lese majeste for discussing the future of the monarchy. Police did not arrest him, and his case remained pending at year’s end.

Cultural events may be censored, usually for reasons of public decency. By law 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.” The law 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. For example, in May the Ministry of Culture and the Administrative Court upheld the 2010 ban on the film, *Insects in the Backyard*, which told the story of a transgender single father and featured scenes with child prostitutes and same-sex sexual activity.

Additionally, theater owners and broadcasters frequently removed content before submitting films to the board.

b. Freedom of Peaceful Assembly and Association.—There were no developments related to the visit requested by the U.N. special rapporteur on freedom of association and assembly on September 6.

Freedom of Assembly.—The constitution provides for freedom of assembly, and the government respected this right with some exceptions. Martial law, which gives the military authority to restrict freedom of assembly, remained in effect in 31 border region and southern provinces. The Emergency Decree, in effect in three of the southernmost provinces, also provides authority to limit freedom of assembly.

The provinces of Surat Thani, Phuket, and Phang Nga have their own regulations that prohibit migrant workers—specifically individuals from Cambodia, Burma, and Laos—from forming gatherings, while Samut Sakhon Province prohibits gatherings of more than five persons. These provisions continued not to be enforced strictly. Employers and NGOs may 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.

Authorities did not restrict the UDD, which organized the April-May 2010 political protests, from holding gatherings or protests throughout the year, although the Department of Special Investigations, Truth for Reconciliation Commission (see section 5), RTP, NHRC, and RTA continued to investigate those events. These investigations focused on the deaths of UDD demonstrators during the government's response as well as terrorism, lese majeste, arson, robbery, and other charges against UDD members and demonstrators. At year's end up to three dozen of the cases had resulted in convictions, 10 of which remained in force after the December royal proclamation (see section 1.d., Amnesty).

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 a political party with the same name or emblem as that of a legally dissolved party.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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. 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 usually cooperated with the Office of the UNHCR and humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern, although with restrictions. Cooperation with the UNHCR to protect certain groups remained uneven, which limited the UNHCR's ability to provide its protection to all nationalities. Refugees and asylum seekers outside of designated border camps continued to be treated as illegal migrants, subject to arrest and detention. During the year the government regularized the process of bail for detained refugees and asylum seekers and, on May 30, released 96 detainees.

In-country Movement.—The government restricted the free movement of members of hill tribes and other minority groups who were not citizens but held government-issued identity cards. The holders of such cards are prohibited from traveling outside their home districts without prior permission from the district office or outside their home provinces without permission from the provincial governor. Offenders are subject to fines or a jail term of 45-60 days. Persons without cards may 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 residing in the nine camps on the border with Burma were not allowed freedom of movement and were by law confined to refugee camps. A refugee apprehended outside one of the official camps is subject to fines, detention, deregistration, and deportation.

Migrant workers who have undergone nationality verification and have passports are free to travel throughout the country. Those only holding work permits are restricted from traveling outside the province where they work without permission.

Other long-time noncitizen residents, including thousands of ethnic Shan and other non-hill tribe minorities, are required to seek permission from local authorities for domestic travel.

Foreign Travel.—Other long-time noncitizen residents, including thousands of ethnic Shan and other non-hill tribe minorities, are also required to seek permission from local authorities for foreign travel.

Internally Displaced Persons (IDPs).—Unprecedented flooding in late 2011 caused the closure of an estimated 18,000 businesses and the displacement of approximately 650,000 workers in 19 provinces. The government established shelters in temples, universities, and stadiums for flood-affected victims countrywide and provided accommodation, food, and medical services.

The government provided some flood relief to migrant laborers from Burma, Cambodia, and Laos and did not deny relief to individuals based on status. Relief agencies provided information on accessing relief, although the lack of interpreters hindered efforts. The government announced it would not deport flood-affected migrants found outside their permit zone. Nevertheless, immigration officials in the Mae Sot area reportedly arrested and deported migrants lacking passports. In addition, some migrants reportedly turned themselves in and sought assistance in returning to their home countries. Many workers from Burma chose to return home: Officials estimated 50,000-100,000 returned via Mae Sot, Tak Province. NGOs reported that officials on both sides of the border at Mae Sot demanded bribes from migrants. Additionally, the media reported inadequate support overall for migrant flood victims in the border regions.

Official figures were unavailable, but several sources noted the departure of significant numbers of residents from the violence-affected southernmost provinces (see also section 1.g., Other Conflict-related Abuses). Official registration data indicated small net losses in population between 2004 and 2010 in Yala and Pattani provinces, but a small net gain in Narathiwat Province.

Protection of Refugees.—Thailand is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. Nevertheless, authorities continued to host significant numbers of refugees, provide some protection against their expulsion or return, and allow persons fleeing fighting in neighboring countries to cross the border and remain until fighting ceased. In addition, non-Burmese refugees recognized by the UNHCR and registered Burmese refugees residing in official refugee camps were permitted to resettle in third countries.

Access to Asylum.—The law does not provide for the granting of asylum or refugee status. Asylum seekers and non-Burmese refugees who reside outside official refugee camps are by law considered illegal migrants. If arrested, they are subject to indefinite detention at IDCs in Bangkok and other provinces (see section 1.c.).

The results of the pilot screening of Burmese asylum seekers by government-instituted Provincial Admissions Boards (PABs) remained under review by the government, and expansion of the screening process to the remaining five camps did not occur by year's end. An estimated 60,000 Burmese have not registered due to the operationally defunct status of the general PABs.

The UNHCR was limited in its ability to provide its protection mandate to some Lao Hmong and Burmese outside the official camps as well as to all North Koreans. It continued to have access to asylum seekers in the main IDC in Bangkok and at Suvarnabhumi International Airport to conduct status interviews and monitor new arrivals. Resettlement countries were allowed to conduct processing activities in the IDC, and NGOs were able to provide health care, nutritional support, and other humanitarian assistance.

In August the media reported that authorities had arrested a Chinese Uighur male on immigration charges and immediately turned him over to Chinese authorities. The UNHCR was unable to interview the individual to determine if he was seeking asylum before his deportation.

The government continued to allow the UNHCR to monitor the protection situation of the more than 144,000 Burmese refugees and asylum seekers living in the nine camps along the Burmese border but prohibited the UNHCR from having an assistance role in the camps. NGOs, funded by the international community, provided basic humanitarian assistance in the camps, including food, education, shelter, water, sanitation, housing, and other services. Government authorities issued identification cards to registered refugees living in the camps. Outside the camps, government officials did not distinguish between asylum-seeking Burmese and other undocumented Burmese migrants, regarding all as illegal migrants. Generally, authorities took those arrested to the border and deported them.

The government continued to facilitate third-country resettlement of camp refugees, and during the year resettled 9,262 Burmese from camps to other countries.

Refugees residing in the nine camps along the border who were not registered with the government were not eligible for third-country resettlement. When registered refugees resettle, hundreds of unregistered family members have been left behind without reunification prospects. In addition, beneficiaries of foreign-government-approved refugee and asylee family-reunification visas were not permitted to depart Thailand. Although the government agreed in principle to register family members through special PABs, by year's end no special PABs had been initiated.

Nonrefoulement.—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, and during the year thousands of asylum seekers entered the country and its refugee camps. However, NGOs estimated that army border units returned thousands of Burmese asylum seekers—mostly those seeking refuge from border skirmishes—to Burma before they could reach established refugee camps.

Beginning November 2010 through early 2011, more than 30,000 ethnic Karen and other Burmese entered the country at the town of Mae Sot, Phop Phra District, Tha Son Yang, and Three Pagodas Pass to flee fighting between the Democratic Karen Buddhist Army, often aligned with other ethnic armies, and the Burmese army. While active fighting was underway, fleeing populations generally were permitted to remain in the country at designated sites outside the official camps. The UNHCR, NGOs, and community-based organizations provided food, water, shelter, health, and sanitation services to most populations. When the fighting ceased, the RTA facilitated the return of the displaced Burmese to Burma with the promise that they could cross again if fighting resumed. Some NGOs reported coerced or forced returns by the RTA before conditions were safe. At the beginning of the year, approximately 6,000 of these Burmese remained in Thailand. In the spring a few communities consisting of several hundred Burmese lived in hiding with relatives on the Thai side of the border. NGOs reported that fighting in various locations on the Burmese side of the border continued until midyear.

In January the Royal Thai Navy reportedly intercepted three boats carrying Rohingya (a stateless, predominantly Muslim group residing in western Burma) passengers. Thai authorities took the first boat with 91 passengers into custody and, according to the passengers, towed the boat out to sea and set them adrift. On February 6, Indian authorities rescued them off the Nicobar Islands. A number of the passengers reportedly required hospitalization for dehydration and exposure. Thai authorities placed the 135 passengers of the other two boats, of whom 14 were minors, in immigration custody. The national welfare agency took nine of these minors into custody and held them in a shelter while contacting their parents; the other passengers were held in southern Thailand IDCs, and the UNHCR and NGOs had access to them. From September to December, authorities reportedly encountered another five to seven boats at sea, provided humanitarian assistance, and allowed them to continue on. Additionally, authorities reportedly seized other boats carrying 221 Rohingya and Bangladeshi migrants on or near Thai territory, arrested the migrants, took them to the border with Burma, and released them.

Authorities continued to detain 44 Rohingya individuals from the interception of boats in 2009. During 2011 three detainees from the 2009 group reportedly died in custody, including two minors. The UNHCR and NGOs had access to detainees from previous years. During the year authorities released all detained Rohingya at the border with Burma, and at year's end there were no reports of Rohingya detained anywhere in Thailand.

On December 17, the government deported Kha Yang, a Lao Hmong, through an informal mechanism to Laos, where he was in custody at year's end. Authorities had forcibly returned him to Laos in 2009 as part of a group of 158 UNHCR-recognized Hmong refugees, and he had subsequently returned to Thailand.

Immigration Police continued to arrest and detain asylum seekers and refugees in Bangkok, including women and children. Ninety-six were known to be in detention at year's end, primarily from Sri Lanka and Vietnam. Bail agreements in 2011 between the Immigration Police and several registered Thai NGOs resulted in the first-time release of significant numbers of refugees and asylum seekers from indefinite detention upon receipt of bail. By year's end authorities had released 157 refugees and four asylum seekers.

Refugee Abuse.—On September 28, Yang Chao, one of a group of Lao Hmong returnees being irregularly repatriated to Laos near Nong Khai, Thailand, drowned in the Mekong River. Although unsubstantiated, foreign-based elements of the Hmong diaspora alleged that Thai authorities had beaten him, and there was no known investigation.

Employment.—The law prohibits refugees from working in the country. Burmese refugees in the official camps are prohibited from working outside the camps.

The government allowed undocumented migrant workers from neighboring Burma, Cambodia, and Laos to work legally in certain economic sectors if they registered with authorities and began a process to document their status (see section 7.d.).

Access to Basic Services.—The international community provided basic services for refugees living inside closed camps.

A complicated medical referral system hampered the ability of refugees to seek some necessary medical services. On October 3, the NGO Doctors Without Borders—which provided basic medical services to thousands of undocumented migrants and vulnerable populations outside refugee camps—announced its withdrawal from Thailand after 36 years of operation, because of alleged government interference and the NGO's inability to obtain permission to continue providing health care services.

Refugee children generally did not have access to the Thai education system; NGOs provided schooling, with some coordination with the Ministry of Education regarding curriculum.

Temporary Protection.—Throughout the year small groups of individuals fleeing fighting in Shan State, Burma, crossed into Thailand. There were no reports of their forced return to Burma by the government, although persons of Shan ethnicity are not permitted to enter the refugee camps, pursue refugee status, or seek resettlement to third countries.

Stateless Persons.—Since revision of its nationality and civil registration laws in 2008, the government has made considerable progress in identifying stateless individuals, providing documentation to preclude statelessness, and opening paths to citizenship for long-time residents. The government reportedly estimated that 550,000 persons in Thailand could be considered stateless, mainly residing in the northern region. Many are members of hill tribes, also known as highlanders. Others are migrants from Burma who do not have evidence of Burmese citizenship, ethnic minorities who have registered with civil authorities, previously undocumented minorities, and displaced persons (refugees) residing in border camps. A significant percentage of them may be eligible for Thai citizenship under the law, if they file applications.

Citizenship is not automatically conferred by birth within the country. By law citizenship is based on birth to one or both Thai parents, marriage to a Thai man, or naturalization. It may also be acquired by means of special government-designated criteria implemented by the Interior Ministry with approval from the cabinet or as a result of nationality law (see also section 6, Children). The labyrinth of citizenship-related laws and regulations and the existence of substantial gray areas within and among them continued to lead to their uneven application.

The law stipulates that every child born in the country will receive an official birth certificate, regardless of the parents' legal status. In practice many parents did not obtain birth certificates for their children due to the complexity of the process, the need to travel from remote areas to district offices, and a lack of recognition of the importance of the document. There were reports of some local officials charging for the certificate although it is supposed to be free. During the year authorities fully implemented the provision of birth certificates in refugee camps, and as of the end of November, they issued more than 1,700 birth certificates to newborns. In some camps birth certificates were issued only to children of registered refugees.

By law, as noncitizens, stateless highlanders may not vote or own land, and their travel is restricted. Stateless persons are prohibited by law from participating in certain occupations reserved for citizens, including farming, although in practice officials permitted noncitizen highlanders to undertake subsistence agriculture. Stateless persons had difficulty accessing credit and government services, such as education or health care. Many stateless highlanders lived in poverty. Without legal status, stateless persons were vulnerable to various forms of abuse.

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 through periodic, free, and fair elections based on universal, compulsory suffrage. The constitution provides for the election of all members of the 500-seat House of Representatives and 77 members of the 150-seat Senate. It also provides for the appointment of 73 additional Senate members by a selection committee composed of members of the judiciary and other regulatory bodies, last designated on April 12.

Elections and Political Participation.—Recent Elections.—The July 3 national election for the House of Representatives generally was considered free and fair, although there were allegations of vote buying, minor procedural irregularities, and scattered but unconfirmed reports of intimidation by local military and government officials. The Election Commission of Thailand (ECT) reported 590 complaints of fraud in relation to the national election. Among them, the ECT completed 201 investigations—which led to 194 dismissals, two reelections, and five findings of fraud that were referred to the Supreme Court—and 238 complaints were either dismissed by the ECT or withdrawn by petitioners without full investigation; the rest were under investigation at year's end.

During the year officials also held a vote recount for the July 3 national election in Yala Province.

There were several reports of election-related violence during the year (also see section 1.a.). At least five injuries were linked to attacks suspected of being politically motivated, including the March 2 car bombing that injured Anon Charoensuk, a local politician and canvasser for the Social Action Party, and the May 10 shooting of Pracha Prasopdi, a former Puea Thai member of parliament from Samut Prakan Province. At year's end authorities had not charged anyone in the former case but had charged four suspects in the latter. Another dozen such cases involved politicians as victims during the year, but the relationship to elections was not clear.

Participation of Women and Minorities.—The constitution encourages political parties to consider a “close proximity of equal numbers” of both genders. Women have the right to vote and run for positions, but there were relatively few elected female officials. A major exception was the election of Thailand's first female prime minister, Yingluck Shinawatra, during the year. The July 3 national election resulted in 81 women in the 500-seat lower house joining 25 women in the 150-seat Senate. Women chaired six of the Senate's 22 standing committees, but they chaired none in the lower house and held three of the 36 cabinet positions.

Few members of ethnic minorities held positions of authority in national politics. Muslims from the South held significant elected positions at the national level, although they continued to be underrepresented in appointed local and provincial government positions staffed by the centralized national civil service. There were 30 Muslim and seven Christian members of parliament.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. Government implementation of the law was weak, and officials sometimes engaged in corrupt practices with impunity.

Corruption remained widespread among members of the police. There were numerous incidents of police charged with abduction, sexual harassment, theft, and malfeasance plus reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. During the year police officers were arrested for drug trafficking, convicted on extortion charges, and reportedly involved with intellectual property rights violations. For example, a group of four officers was suspected of conspiracy to commit murder, and a police officer was purportedly involved in illegal logging.

At year's end the 2009 warrant for the arrest of former prime minister Thaksin Shinawatra continued in force, and the Supreme Court of Justice's case against him regarding a government bank loan to Burma remained suspended. He continued to reside outside the country.

The NCCC and the Office of the Attorney General (OAG) continued to investigate allegations of corruption committed by members of the government led by Thaksin Shinawatra from 2001-06. The NCCC and OAG findings triggered several cases at the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. The NCCC brought several other cases to court and reported that there were 9,555 cases pending investigation in December. In the 12-month period ending October 1, the NCCC received 3,092 cases and completed 2,040 cases, 186 of which required further action, including disciplinary actions, impeachments, and referrals to the courts, the OAG, or a joint NCCC-OAG committee.

In August the OAG decided not to indict three of seven prominent former government ministers and other high-ranking officials on charges of malfeasance related to a 2004 purchase of fire trucks, and cited insufficient evidence for its decision. The NCCC stated it would pursue cases against the seven accused without going through the OAG. All seven cases were pending at year's end.

In addition to the NCCC and OAG, other entities playing a role in combating corruption included the Anti-Money Laundering Office, Supreme Court, Ombudsman's Office, Administrative Courts, and Justice Ministry.

Public officials were subject to financial disclosure laws.

The constitution provides public access to government information, and there were no reports that government agencies denied citizens' requests for such information that was lawfully available. If a government agency denies 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. Requests for information may be denied for reasons of national security and public safety. According to the commission, the vast majority of petitions were approved. There were 587 petitions received and 247 appeals during the year.

On August 23, the NCCC convicted the former director of the Tourism Authority, Chuthamat Siriwan, and her daughter, Chittisopha Siriwan, for corruption related to a 2010 film festival bribery case. At year's end the case was under OAG examination.

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 or border matters, faced periodic harassment. Human rights workers focusing on 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 their ability to secure adequate funding.

On July 28, gunmen shot and killed Thongnak Sawekchinda, an environmental activist in Samut Sakhon Province, in front of his house. He had protested the transport and use of coal that resulted in water, air, and soil pollution. Police arrested seven suspects, some of whom claimed a local coal transportation company hired them, and the provincial public prosecutor's office continued to examine the case at year's end.

On September 11, assailants shot and killed Thatsakamon Ob-om, former parliamentary candidate and a leader of a Karen ethnic minority movement in Kaeng Krachan National Reserve forest, in Amphoe Ban Lat, Phetchaburi Province. His movement had petitioned and protested the government's destruction of several Karen homes.

On October 11, the Prachuap Khiri Khan Provincial Court announced a Supreme Court decision upholding the conviction of environmental activist Jintana Kaewkhao and her sentence of four months' imprisonment for trespassing against a company building a coal-fired plant in the Hin Krut and Bo Nok areas of the province. She was given a royal pardon in December.

U.N. and Other International Bodies.—According to a December 21 U.N. report, there were no developments regarding the 2010 visit requested by the U.N. special rapporteur on the situation of human rights defenders.

Government Human Rights Bodies.—The constitution mandates an independent NHRC composed of seven members with expertise in the protection of human rights, recruited by a committee, and selected by the Senate. It is tasked with producing an annual report on the human rights situation in the country. During the year the commission received 1,029 petitions, of which 608 qualified for investigation, but modest staffing and resources hampered progress. The government responded to NHRC recommendations with an explanation or action approximately half the time and adopted approximately one in five recommendations. Although a draft report on the April-May 2010 political protests was leaked in July and roundly criticized, no official document was released by year's end. The combined 2010/11 report was scheduled for release in early 2012. Several civil society leaders rated the current NHRC poorly and publicly debated whether the weakness was institutional or simply a result of capacity limitations among commissioners.

The Office of the Ombudsman is an independent agency and has the power to consider and investigate complaints lodged by any aggrieved citizen. Following an investigation, the office may refer a case to a court for further review or provide recommendations for further action to the appropriate agency. All petitions are examined, but the office cannot compel agencies to comply with its recommendations. The office is required to submit annual performance reports to the prime minister and National Assembly. Its 2011 budget was 190 million baht (approximately \$6.3 million), up from 156 million baht (\$5.2 million) in 2010. From October 2010 to September 2011, the office received 2,135 new petitions, continued investigating 1,123 cases from the previous year, and resolved 1,816 cases. More than 80 percent of cases were completed within one year. Surveys in 2010 by the King Prachadhipok Institute concluded that 52 percent of the public trusted the Office of the Ombudsman.

The following two parliamentary committees 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. Human rights advocates generally believed the committees were well intentioned but lacked the enforcement capability required to be effective. They also were described as reactive, difficult to access, and hampered by the political affiliations of their chairmen.

Following the dispersal of the 2010 antigovernment protests, then-prime minister Abhisit Vejjajiva, as part of a proposed national reconciliation plan, formed three commissions to investigate and make recommendations. The chairman of the National Reform Committee dissolved it in July as governing power was about to transfer and before the outgoing government acted on the committee's report. The second, the Assembly for National Reform, which is responsible for mobilizing persons from all sectors of society to participate in national reform, was reportedly still active but had not produced significant results.

The third, the Truth for Reconciliation Commission, established as independent and chaired by Khanit na Nakhorn, received continuing support and resources from the governments of then prime minister Abhisit Vejjajiva and Prime Minister Yingluck Shinawatra to establish causes, document facts, determine appropriate remedies, and recommend steps to prevent a recurrence of large-scale protests. Its April 24 interim report noted that it lacked subpoena power and witness protection capability and that its credibility was "obstructed" since it had been established and was funded by the government (see also section 1.a.).

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. Nonetheless, in practice some discrimination existed, and government enforcement of equal protection statutes was uneven.

Women.—Rape and Domestic Violence.—Rape is illegal, although the government did not always enforce the law effectively. The law permits authorities to prosecute spousal rape, and prosecutions occurred. According to the police, 3,537 rape cases were reported during the year, with one case in which the victim was killed, and police arrested suspects in 1,542 of these cases, including the one that resulted in the victim's death. The Health Ministry reported that 12,554 women older than age 18 (74 percent between the ages of 25 and 45) reported abuse in 2010 and sought assistance from the ministry's One Stop Crisis Center. Of these victims, 75 percent reported physical abuse, and 15 percent reported sexual abuse.

The law specifies penalties ranging from four years' to life imprisonment, as well as fines, for rape or forcible sexual assault, depending on the age of the victim, severity of the assault, and physical and mental condition of the victim afterward. The amount of the fine depends on the severity of injury to the victim and generally varies from 8,000 to 40,000 baht (approximately \$267 to \$1,300). The law also provides that any individual convicted twice for the same type of criminal rape within three years is liable to receive increased penalties for recidivism. According to court statistics, 1,635 cases involving sexual assault were filed with the courts, and 530 were completed. Sentencing information was not available.

NGOs believed that rape continued to be a serious problem. 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 continued to encourage women to report sexual crimes through the use of female police officers in metropolitan Bangkok and three other provinces.

Domestic violence against women continued to be a significant problem. The law imposes a fine of up to 6,000 baht (approximately \$200) 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 also establishes measures designed to facilitate both the reporting of domestic violence complaints and reconciliation between the victim and the perpetrator. Additionally, the law restricts media reporting on domestic violence cases in the judicial system.

Some domestic violence crimes, particularly cases where the victim was seriously injured, were prosecuted under provisions for assault or violence against a person where harsher penalties could be levied. 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 abused women to external organizations when in-hospital services were not available.

The Ministry of Social Development and Human Security (MSDHS) reported that 831 cases of domestic violence were recorded during the year nationwide. In 136 cases the victims chose to pursue criminal charges, while in 367 cases they chose not to, and 141 cases remained in consultation at year's end; the rest of the choices were unknown. At year's end 105 of the criminal cases were under police or public prosecutors' investigation and court mediation, prosecutors dismissed four, eight reached plea agreements, 12 were found guilty, five were dismissed by the court, and two were under appeal. Sentencing information was unavailable. Of the individuals involved, 588 alleged abusers were male and 52 were female, and 604 victims were female and 70 were male; data for the others were unavailable.

The MSDHS continued to develop a community-based system, operating in all regions of the country, to protect women from domestic violence. The program focused on training community representatives from each community on women's rights and abuse prevention to increase community awareness.

Sexual Harassment.—Sexual harassment is illegal in both the public and private sectors. The law specifies fines of not more than 20,000 baht (approximately \$667) for individuals convicted of sexual 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 (\$1,000). The law governing the civil service also prohibits sexual harassment and stipulates five levels of punishment: probation, docked salary, salary decrease, suspension, and termination. NGOs claimed that the legal definition of harassment was vague and prosecution of harassment claims difficult.

Sex Tourism.—Sex tourism was a problem, but sources differed as to its extent. Although there are no laws that specifically address it, laws on prostitution and trafficking in persons contain provisions to combat it.

Reproductive Rights.—Couples and individuals could decide freely and responsibly 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.

According to data from the Population Reference Bureau, approximately 77 percent of married women and girls ages 15 to 49 used modern contraception methods. Although statistics were unavailable, the percentage of unmarried women, men, adolescents, ethnic minorities, and migrant workers who had access to contraception was estimated to be lower. Approximately 98 percent of births were attended by skilled health personnel, and the lifetime risk for death during childbirth was estimated at one in 1,200. Prenatal and postnatal care was estimated to be accessible to more than 90 percent of mothers and babies.

Discrimination.—In general women enjoy the same legal status and rights as men. Nonetheless, women experienced discrimination on occasion.

The law does not mandate nondiscrimination in hiring practices on the basis of gender, and discrimination in hiring was common. For example, it is not illegal to ask a prospective employee for family status during an interview. Women are not allowed to work in all the same industries as men. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, in practice women received lower pay for equal work in many sectors of the economy, and women were concentrated in lower-paying jobs. Women were able to own and manage businesses freely.

Women were unable to confer citizenship on their nonnational spouses in the same way as men.

Military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at those academies were women. According to the Armed Forces Personnel Directorate, 58 women held the rank of general or above across all military branches and within the Ministry of Defense as of December. The Police Cadet Academy for commissioned officers accepts female cadets, and 60 of 240 places in the 2012 cadet class were reserved for women. According to the Office of the Civil Service Commission, women held 24 percent of executive-level civil service positions at year's end.

The government's Bureau of Women's Affairs and Family Development was designed to promote the legal rights of women, notably through the suboffice of the

Bureau of Gender Equality Promotion, but it is not an independent agency. It worked with NGOs and did not take a leading role in women's rights.

Children.—Birth Registration.—Citizenship is not automatically conferred by birth within the country, but all children born in Thailand are entitled to birth registration. By law citizenship is based either on birth to one or two Thai parents, marriage to a Thai man, or naturalization. It may also be acquired by means of special government-designated criteria implemented by the Interior Ministry with cabinet approval or as a result of nationality law. 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 also section 2.d.).

Education.—Education is compulsory, free, and universally provided for 15 years. While this policy is applicable to Thai and non-Thai children, migrant children in practice have more limited access to schooling due to frequent moves and a lack of the Thai language. 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 there. Many NGOs reported that most children of registered migrant workers, particularly in Samut Sakhon and Chiang Mai provinces and Mae Sot District, were permitted to attend public schools, but language barriers, distance from school, and frequent relocations to follow parents to new job sites prevented some migrant children from attending school. These children also 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 to pay often chose to send their children to private nurseries or day-care centers at their own expense.

Child Abuse.—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 \$1,300) for sexual intercourse with a victim under age 13. If the victim is between the ages of 13 and 15, the penalty is four to 20 years' imprisonment and the same range of fines.

The Health Ministry reported that 13,190 children reported abuse in 2010 and sought assistance from the ministry's One Stop Crisis Center. Of these victims, 88 percent were girls; 68 percent reported sexual abuse, and 21 percent reported physical abuse. Police continued their reluctance 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 age 18, and procedures—with a judge's consent—allow children to testify in abuse and pedophilia cases on videotape in private surroundings in the presence of a psychologist, psychiatrist, or social worker. However, many judges declined to use videotaped testimony, citing technical problems and the inability to question accusers and defendants directly in court. Some children's advocates claimed that sexually abused girls received better physical and psychological care than male victims did. Persons accused of pedophilia were charged under appropriate age-of-consent and prostitution laws.

Sexual Exploitation of Children.—Child prostitution remained a problem. According to government officials, academics, and NGO representatives, boys and girls, especially among migrant populations, were sometimes forced, coerced, or lured into prostitution. While it was widely believed there were fewer incidents of citizens forced into prostitution, children from poor families remained vulnerable, and there were some incidents of parents who forced their children into prostitution. Citizens and foreign sex tourists continued to commit pedophilia.

The law imposes heavy penalties on whoever procures, lures, compels, or threatens children under age 18 for the purpose of prostitution and provides that a customer who has sexual intercourse with a prostitute under age 15 shall be subject to two to six years in prison and a fine of up to 120,000 baht (approximately \$4,000). If the prostitute is between the ages of 15 and 18, the prison term is one to three years, and the fine is up to 60,000 baht (\$2,000). Parents who allow a child to enter into prostitution may also be punished and 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 age 15. The law prohibits the production, distribution, import, or export of child pornography. The penalty is imprisonment for not more than three years and a fine of not more than 6,000 baht (\$200). The law also imposes heavy penalties on persons who sexually exploit children, both boys and girls, younger than age 18 and defines punishments for pimping, trafficking for labor exploitation, and human smuggling.

Displaced Children.—Authorities generally referred street children to government-provided shelters, but many, especially foreign illegal migrants, reportedly avoided the shelters due to fear of being deported. Ultimately the government either sent citizen street children to school, to occupational training centers, or to their families with social-worker supervision. Some street children from other countries were repatriated.

Street children were often omitted from national reports on child labor matters, and national statistics on street children often included only citizens. During 2008-09 the MSDHS reported that 15 of 139 human trafficking cases were a result of forced begging. While there are no accurate numbers of beggars, the Bangkok Metropolitan Administration estimated in January 2010 that approximately half of the beggars in Bangkok were migrants, primarily Cambodian, and the other half were Thai. Groups of child beggars included homeless children; kidnapped children; and children who are deployed by parents during school break, evenings after school, or weekends. Some migrants compelled their children to beg to contribute to household income.

International Child Abductions.—The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The Jewish community is very small, and there were no reports of anti-Semitic incidents.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in education, access to health care, or the provision of other state services, but government enforcement was not effective. The law also mandates that persons with disabilities have access to information, communications, and newly constructed buildings, but these provisions were not uniformly enforced. The law allows employment discrimination against persons with disabilities, and activists continued to work for amendments.

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.

The Community Based Rehabilitation Program remained active in all provinces, while the Community Learning Center for People with Disabilities project operated in 30 provinces. A National People with Disabilities Day is observed annually on November 14.

The government maintained 43 special schools for students with disabilities. The Ministry of Education reported that there were 76 centers nationwide offering special education programs for preschool-age children, one in each province. All state schools nationwide, approximately 30,000, are required by law to accept students with disabilities. There also were nine government-operated and at least 23 NGO-operated training centers for persons with disabilities, including both full-time and part-time or seasonal centers. The government operated 111 state shelters specifically for persons with disabilities, including two day care centers for autistic children. 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 them.

Some persons with disabilities who found employment were subjected to wage discrimination. Government regulations require private firms either to hire one person with a disability for every 100 other workers or contribute to a fund that benefits persons with disabilities, but this provision was not uniformly enforced. Government officials estimated that as many as half of all firms complied with the law during the year; the chairman of the Council of Disabled People of Thailand believed the number to be 35 to 45 percent, mostly due to inadequate government follow-up with companies. 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—continued to live under laws and regulations that could restrict their movement, residence, education, and occupation. The Chinese are confined to living in the three northern provinces of Chiang Mai, Chiang Rai, and Mae Hong Son. According to the Interior Ministry, none were granted citizenship during the year.

Indigenous People.—Noncitizen members of hill tribes continued to face restrictions on their movement, could not own land, had difficulty accessing bank credit,

and although protected by labor laws, often were subjected to labor violations. They also were barred from state welfare services such as universal health care.

The law provides citizenship eligibility to certain categories of highlanders who were not previously eligible (see section 2.d.). Although the government supported 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 continued 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.—No laws criminalize sexual orientation. Lesbian, gay, bisexual, and transgender (LGBT) groups were able to register with the government, although there were some restrictions on the language that may be used in registering their group names. They reported that police treated LGBT victims of crime the same as other persons except in the case of sexual crimes, where there was a tendency to downplay sexual abuse or not to take harassment seriously. The law does not permit transgender individuals to change their gender on identification documents.

On September 12, Bangkok's Central Administrative Court ordered the Ministry of Defense to stop describing transgender persons as "permanently mentally disabled" in conscription records, and the military reportedly complied. Some rights advocates considered this a significant step toward reducing the harmful effects on future employment opportunities caused by the policy of relieving gay and transgender persons from duty under the draft because of their assumed detrimental effect on the military's strength, image, and discipline.

There was some continued commercial discrimination based on sexual orientation and gender identity. For example, some life insurance companies refused to issue policies to gay men, although four major insurance companies sold policies to LGBT citizens with provisions for full transfer of benefits to same-sex partners. NGOs alleged that some nightclubs, bars, hotels, and factories denied entry or employment to gay, lesbian, and transgender individuals.

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 and an online campaign may have reduced this stigma in some communities. There were continued 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 8,000 businesses pledged not to require HIV/AIDS tests for employees nor to discharge infected employees and vowed to hold regular awareness campaigns, with 1,505 pledging during the year.

At year's end the NHRC had not issued its final recommendation in the case of the so-called AIDS temple, Wat Phrabat Namphu, which sheltered many dying AIDS patients but also displayed corpses as a cautionary tale—allegedly with patients' consent. A preliminary agreement permitted the temple to display anonymous corpses.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law allows private sector workers to form and join trade unions of their choosing without prior authorization, but it does not allow civil servants, including public schoolteachers, soldiers, and police, to form or register a union. In March the cabinet approved a draft law proposed by the Office of the Civil Service Commission to allow civil servants (excluding soldiers and police) to form or register a union, and as of year's end the draft remained under review by the Council of State. By law civil servants may form and register associations, but these associations do not have the right to bargain collectively.

State-owned enterprise workers by law have the right to form unions. Noncitizen migrant workers, whether registered or illegally present, do not have that right nor the right to serve as union officials, but registered migrants may be members of unions organized and led by Thai citizens. The law restricts affiliations between state enterprise unions and private sector unions.

Antiunion actions by employers are prohibited, although the law also requires that union officials be full-time employees of the company or state enterprise, which makes them vulnerable to employers seeking to discipline workers who served as union officials or who attempted to form unions. The law prohibits permanent union

staff, thus limiting the ability of unions to organize in depth and be politically active. Workers may be dismissed for any reason, provided severance payment is made. The law does not provide for reinstatement but a court decision can allow for the reinstatement of an employee and compensation of salary for losses while absent from work.

The law permits workers to strike after an employee has submitted a demand resulting in a deadlock between the employer and employee. Workers must submit a letter of notification at least 24 hours in advance. 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, but it seldom invoked this provision and did not do so during the year.

The law forbids strikes in “essential services,” which are defined more broadly than under International Labor Organization (ILO) criteria and include sectors such as telecommunications and public transportation. The law prohibits the termination of employment of legal strikers, but employers are 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 obtain strike approval by at least 50 percent of all union members.

The law provided for the right of citizen private sector workers to organize and bargain collectively and defined the mechanisms for collective bargaining plus government-assisted conciliation and arbitration in cases under dispute.

Labor law enforcement was inconsistent and in some instances ineffective in protecting workers who participated in union activities. For example, labor courts ordered reinstatement of employees in some cases where dismissal resulted from union activity and was therefore illegal, but since the process to request reinstatement was lengthy and costly for the employee, most cases were settled out of court through severance payments to the employee with no punishment of employers.

A system of labor courts exercised judicial review over most aspects of labor law for the private sector. The Ministry of Labor reported that 29,638 charges were referred to the Central Labor Court in 2010: most conflicts involved violations of law and working-condition agreements.

Problems of collective labor relations were adjudicated through the tripartite Labor Relations Committee (LRC) and are subject to review by labor courts. Workers may also seek redress through the NHRC. In private sector labor disputes that cannot be resolved through negotiations or voluntary arbitration and may affect the national economy or public order, the Ministry of Labor may refer them to the LRC for settlement, but this legal authority was seldom used. 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 unjustly dismissed union leaders were awarded only back wages with no punitive sanctions against the employer, thus failing to dissuade employers from firing union organizers and activists.

A substantial number of migrants worked in factories near border-crossing points, where there were frequent reports of law violations and few labor inspections. Labor inspectors generally could not speak the languages of migrant workers, which hampered the ability of migrant workers to report violations. In practice the right to organize was exercised. Registered migrants did join unions run by Thai nationals, but language barriers and the segregation of Thai and migrant workers by industry meant that their numbers remained low.

Labor activists and some civil servants interpreted the constitution as broadening the freedom of association to include granting civil servants the right to form a union, and a small number of civil servants attempted to organize a union. Civil servants held a conference in 2011, but there was no additional information on their ability to organize.

The law constrained the capacity and sustainability of unions by allowing only two government-licensed outside advisers to assist a union in collective bargaining. Local-level Ministry of Labor offices reportedly blocked the licensing of labor advisers deemed “too activist.” Furthermore, employers have the right to block any licensed adviser from advising a labor union during collective bargaining negotiations. Unions must use advisers whom the employer deems acceptable. In practice this meant that employers had the freedom to choose their advisers at the collective bargaining table, but labor unions did not. Union leaders and outside observers noted that this interfered with the ability to negotiate, train union members, and develop expertise in collective bargaining and that it contributed to rapid turnover in union leaders.

During 2010 the Department of Labor Protection and Welfare reported 170 informal conflicts between employers and employees involving 110,334 employees: 145 conflicts were resolved without walkouts, eight were referred to a labor court, and

17 continued under the department's process. The department also reported 66 formal labor disputes, a significant drop from the number in 2009, and one lockout with two strikes that involved 2,155 employees. Most disputes were related to wages and other benefits.

Employers reportedly discriminated against workers who sought to organize unions. While the law protects workers who submit demands relating to working conditions, it does not protect workers from employer reprisal for union activities prior to the registration of the union. As a result of late-2011 flooding in industrial park areas in the central region, union activists reported dismissals of union members who claimed losses as a result of flooding. There were also cases reported of workers being dismissed from their jobs for engaging in union activities. In some cases the labor courts ordered workers reinstated if the grounds for their dismissals were proven unlawful. Some of these workers were subsequently reinstated.

In practice severance pay upon dismissal was not always provided despite legal requirements. NGOs reported that some workers who were dismissed during the floods received severance pay lower than the amount legally required.

The requirement for 50 percent union member approval set a high barrier to conducting a legal strike. Some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. According to the ILO, the law provides for penalties, including imprisonment and possible compulsory labor, for strikers in state-owned enterprises.

On July 28, the Central Labor Court ruled legal the request of State Railways of Thailand (SRT) to dismiss seven union leaders, including the president of the State Railway Workers Union of Thailand, Sawit Kaewwan, who had organized a work stoppage to protest unsafe engines after a crash in Prachuap Khiri Khan Province in 2009 resulted in seven fatalities. In addition the court ordered the workers to pay SRT 15 billion baht (approximately \$500 million) plus annual interest for damages incurred. The NHRC, ILO, and local NGOs stated that the strike sought to improve train safety conditions, not damage the company, and that the dismissals constituted an abuse of worker rights. At year's end the case was under appeal in the Supreme Court.

On October 7, the LRC ruled that three workers should be reinstated with compensation since they had been dismissed unfairly from their positions at KFC outlets in Bangkok for advocating better pay and attempting to organize a union. The employer, Yum Restaurants International (Thailand), reinstated the workers but also appealed the court decision. One NGO reported that workers were reinstated but harassed by fellow workers in an attempt to force them to quit.

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. By law businesses must provide contract laborers "fair benefits and welfare without discrimination." Regardless of whether the contract labor employee was outsourced and collected wages from a separate company, by law the contracting business is the overall employer, and equal pay and benefits are required for subcontract and regular employees.

In practice legal provisions that define who can join a union ("employees working for the same employer" or "employees in the same description of work"), coupled with requirements that the union represent a certain percentage of the workforce, could hamper collective bargaining efforts where contract workers are not considered part of the potential bargaining unit but make up a substantial portion of the workforce. Because contract workers are classified as working in the "service industry," as opposed to the "manufacturing industry," they may not join an industrial union. This restriction on joining with full-time employees of industries often diminished the ability to bargain collectively as a larger group.

b. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, except in the case of national emergency, war, or martial law, or to avoid imminent public calamity. Despite efforts by the government to enforce and raise awareness of the law, problems of forced labor of men, women, and children persisted in a small proportion of the economy, particularly in those sectors where foreign migrant labor was common.

Employers often kept possession of migrant workers' registration and travel documents, which restricted their movement outside the work site, despite laws prohibiting this practice. Reportedly, some migrant workers requested that employers hold their documents for safekeeping.

Reports of sweatshops and abusive treatment continued in a few sectors, including seagoing trawlers, garment factories, and shrimp and seafood-processing facilities. The large numbers of migrants from Burma, Cambodia, and Laos in those sectors

created opportunities for abuse (see section 7.d.). For example, workers reported that employers prevented their leaving their work sites.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—Sufficient legal protections generally exist for children in the formal economic sector. The law regulates the employment of children under age 18 and prohibits employment of children under age 15, although 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 as the employers provide a safe work environment.

Employers may not require children under age 18 to work overtime or on a holiday and may not require work between 10 p.m. and 6 a.m. without prior Labor Ministry approval. Children under age 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; work underground or underwater; 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 (approximately \$6,700), or both.

The law provides limited coverage to workers in some informal sectors, such as fishing and domestic employment, and allows for issuance of ministerial regulations to address sectors not therein covered. Such regulations increased protections for child workers in domestic and agricultural sector work.

The Ministry of Labor was the primary agency charged with enforcing child labor laws and policies. Labor inspectors, widely considered to be too few and reactive to complaints rather than proactive, generally could not speak ethnic minority languages, which hampered their ability to communicate with workers, especially migrant workers. In an effort to improve labor law enforcement, the ministry's Department of Labor Protection and Welfare inspection plan for the year prioritized labor inspections of small factories (those with fewer than 50 workers), which were believed to be high risk for the use of child labor. In line with prevailing cultural norms, the inclination of labor inspectors 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.

The Social Security Office under the ministry reported there were 51,139 children ages 15 to 18 formally working and registered in the social security system in 2010. This figure was almost 40 percent less than in 2009; the reduction may have resulted from the constitutional extension of free education from nine to 12 years and government policy that extended free education, including coverage of fees, books, and uniforms, further to 15 years. The Department of Labor Protection and Welfare under the ministry reported that labor inspectors inspected 3,624 working children between ages 15 and 17 in 2010 and found only one case of violation of underage children working in a small factory in Prachuap Khiri Khan Province. The number of working children inspected increased from 2,774 in 2009 and demonstrated increased efforts by the ministry to inspect small facilities (often suspected of employing most child labor).

In practice children (sometimes underage) were found working in agriculture, the garment industry, seafood processing, fishing-related industries, and the informal sector. There was reason to believe that some garments, pornography, shrimp, and sugarcane were produced and processed by child labor in violation of international standards. In urban areas most underage individuals worked in the service sector, including in gasoline stations, small-scale industry, and restaurants. Observers believed that while the prevalence decreased, some children (usually foreign) were exploited in street selling, begging, domestic service, and agriculture work, sometimes in a system of debt bondage. Many of these foreign children, predominantly migrants from Burma, Cambodia, and Laos, were in the country illegally, which increased their vulnerability to exploitation. There continued to be reports of street children who were bought, rented, or forcibly "borrowed" from their parent(s) or guardian(s) to beg alongside women in the street.

Beyond urban areas, children worked in agriculture, garment, and fishing-related industries. Child labor was less evident in larger, export-oriented factories and registered processing facilities. NGOs reported some cases of child labor in garment factories along the Burmese border in Mae Sot District.

The total number of child laborers, legal and illegal, was likely much larger when considering child laborers in the informal sector, including unregistered migrant children. According to a study funded by the ministry and ILO, labor abuse of child citizens continued to decline, and such children made up less than 1 percent of the

workforce. However, there was no comprehensive survey of child labor throughout the country.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The national daily minimum wage ranged from 159 to 221 baht (approximately \$5.30 to \$7.37), depending on the cost of living in various provinces. The national poverty line is 56 baht/person/day (\$1.87). On November 23, the government sought to help flood-affected employers by announcing postponement of the prime minister's promised increase in the minimum wage to 300 baht daily (\$10) from January to April 2012. The government also sets separate wages for state enterprise employees and civil servants with some additional flexibility given to each ministry or department.

The maximum workweek by law is 48 hours, or eight hours a day over six days, 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, may work a maximum of 42 hours per week and are not permitted overtime. Petrochemical industry employees may not work more than 12 hours per day and may work continuously only for a period not exceeding 28 days. Legal protections do not apply to all sectors. For example, the law does not completely cover household domestic workers.

The Ministry of Labor promulgated the Occupational Safety, Health, and Environment Act in January regarding work conditions.

The law prohibits pregnant workers from working on night shifts, overtime, and holidays, with dangerous machinery, or on boats. In some cases a pregnant employee who works in an office position that is not physically demanding may work overtime, if the employee consents. Despite the law's prohibition against dismissing pregnant workers, there continued to be reports that employers laid off workers who became pregnant. There is no law affording job protection to employees who remove themselves from dangerous work situations.

The ministry is responsible for ensuring that employers adhere to minimum wage requirements in the formal sector, but enforcement was mixed. Some formal sector workers nationwide received less than the minimum wage, particularly in rural provinces. The ministry reported that 26 percent of inspected workplaces did not pay the minimum wage, especially small enterprises. Labor protections also apply to undocumented workers, but many unskilled and semiskilled migrant workers worked for wages that were at times significantly less than the minimum wage.

The ministry also enforces laws related to occupational safety and health. In 2010 it employed 678 inspectors for an estimated 387,000 workplaces, and according to ministry statistics, they inspected 16,867 workplaces during the year and found 1,372 workplaces (9 percent) in violation of health and safety regulations, most involving fire accidents, failure to establish safety committees, and inappropriate levels of heat, light, and noise.

The law imposes minor penalties and fines on employers that violate it, which one NGO considered insufficient. The new Occupational Safety, Health, and Environment Act went into effect on July 16, but its impact on worker safety was unclear at year's end. According to the Department of Labor Protection and Welfare, the incidence of legal violations regarding workers' safety was highest in consumer goods production, hotels, restaurants, and the construction industry.

During 2010 there were 146,511 reported incidents of diseases and injuries from industrial accidents, including 103,813 minor disabilities (resulting in no more than three days' work missed) and 42,698 disabilities resulting in more than three days' work missed (including permanent disabilities and deaths). The rate of incidents occurring in the informal and agricultural sectors and among migrant workers was believed to be higher but underreported. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. Many young migrant women employed along the border with Burma had limited, substandard medical-care options. In medium- and large-sized factories, government health and safety standards often were applied, but overall enforcement of safety standards was lax. In the informal sector, health and safety protections continued to be substandard.

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.

The government worked toward regularizing migrant labor to help promote safe work conditions and reduce migrants' vulnerability to abuse. Authorities required migrants to register and undergo nationality verification. Those who register are permitted to work and live temporarily in Thailand for two years and have access

to social security and healthcare benefits. Children of registered migrants are entitled to register for residential permits if their parents have such permits.

Migrants without documentation remained vulnerable and without recourse to law. Threatened and actual deportation remained a problem. Credible NGOs reported migrants often paid additional fees to police and immigration officials if caught without documentation in order to avoid deportation. NGOs complained that a June 2 order by former prime minister Abhisit to deport undocumented migrants exacerbated the situation. In response to criticism, the Ministry of Labor requested that Immigration Police refrain from deportation during the registration period. As of November the government reported that the total number of registered migrant workers in Thailand from Burma, Cambodia, and Laos reached an estimated 1.9 million. The government announced that another registration round was scheduled to occur in 2012 to help register the remaining unregistered population, which may number as high as one million but fluctuated due to regular cross-border travel.

As part of a broader policy to facilitate legal status for migrants, the government implemented process improvements in 2011, including the establishment of one-stop service centers in Bangkok and 16 provinces, a clear outline and detailed information on the registration process and fees, a hotline for migrant communities, a pamphlet designed to reassure relatives of migrants and border-crossing workers, and a Web site in Thai and other languages. The government also examined ways to permit migrant workers flexibility to change employers if one mistreats migrants or violates the law.

Migrant workers who complete nationality verification have access to Social Security Office funds. The government recruited private insurance companies to establish a separate Workers' Compensation Fund for migrant workers, but at year's end the fund had not been established due to lack of funding. NGOs reported several cases of registered migrants who had not passed nationality verification and were denied accident compensation.

NGOs reported poor working conditions for both documented and undocumented migrants. Labor inspectors had limited resources, and NGOs noted concerns about the practice of giving advance warning of planned labor inspections. Migrants reportedly received well below the minimum wage, worked long hours in unhealthy conditions, and lived with the fear of arrest and deportation if unregistered. Civil society observers continued to criticize the government's handling of vulnerable migrant workers. In the Thai/Burma border area of Mae Sot, brokers often shadowed workers at Thai deportation centers, flagging their arrival at the Burmese border to procure additional fees from migrants.

Exploitive labor supply agencies charged Thai citizens working overseas large, illegal recruitment fees which frequently equaled their first- and second-year earnings. In many cases recruited workers did not receive promised benefits and incurred significant debt. NGOs noted that local moneylenders, mostly informal, contributed to this practice by offering loans at exorbitant interest rates so workers could pay recruitment fees, some of which were as high as 500,000 baht (approximately \$16,700). The Ministry of Labor's Department of Employment issued regulations limiting the maximum charges for recruitment fees, but effective enforcement of the rules was difficult. On May 25, the ministry signed a two-year agreement to draw on ILO technical support to improve the recruitment and protection of Thai and foreign workers.

During the year the Department of Employment reported investigating labor fraud by migrant labor recruitment agencies and suspending two licenses, compared to nine suspensions in 2010. Authorities also identified 377 individuals in 321 cases as subject to criminal investigation for possible violation of the law.

TIMOR-LESTE

EXECUTIVE SUMMARY

Timor-Leste is a multiparty parliamentary republic. President Jose Ramos-Horta was head of state. Prime Minister Kay Rala Xanana Gusmao headed a five-party coalition government formed following free and fair elections in 2007. National security forces reported to civilian authorities, but there were some problems with discipline and accountability.

Principal human rights problems included police use of excessive force during arrest and abuse of authority; arbitrary arrest and detention; and an inefficient and understaffed judiciary that deprived citizens of due process and an expeditious and fair trial.

Other human rights problems included gender-based violence, violence against children including sexual assault, corruption, uneven access to civil and criminal justice, warrantless search and arrest, and poor prison conditions.

The government took concrete steps to prosecute members of the security services who used excessive force or inappropriately treated detainees. However, public perceptions of impunity persisted.

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 14, a Falintil Defense Forces (F-FDTL) soldier beat an elderly woman to death for engaging in witchcraft. The soldier was convicted of murder and was dismissed from the F-FDTL following a disciplinary process.

The investigation into the 2010 case of F-FDTL soldiers who beat a civilian to death in Laivai, Lautem, remained ongoing.

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), the U.N. Integrated Mission in Timor-Leste (UNMIT), and the Office of the Ombudsman for Human Rights and Justice received complaints about the 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.

In August, members of the National Police of Timor-Leste (PNTL) were accused of beating a woman in their custody in the district of Baucau. The PNTL denied the accusation, but an official investigation opened by the Ministry of Justice continued at year's end.

In 2010 the police detained individuals who were alleged members of the Popular Council for the Defense of the Democratic Republic of Timor-Leste (CPD-RDTL), as part of a larger operation against “ninjas” in the Bobonaro and Covalima Districts. Accusations that some of the detained were beaten were not investigated.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. Despite some improvements in 2010 and 2011 with regard to access to food and potable water, police station detention cells generally did not comply with international standards and lacked sanitation facilities and bedding.

The authorities ran two prisons, located in Dili (Becora) and Gleno. Together the two prisons held 260 individuals and had an estimated capacity of 420 inmates. About half of the inmates were pretrial detainees charged with homicide, robbery, or sexual assault. Eight of the prisoners were women, and 17 were juveniles. Although there were no separate facilities for women and youth offenders, all female inmates were housed in a separate block of the Gleno prison. Conditions were the same for male and female prisoners. Alternative sentences for nonviolent offenders were not available.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions; the results of such investigations were shared with NGOs and the U.N. The government investigated and monitored prison and detention center conditions.

UNMIT and NGO 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.

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. It was not clear whether an ombudsman could serve on behalf of prisoners and detainees more broadly, could address the status of juvenile offenders, or could improve pretrial detention, bail, and record-keeping procedures.

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 to issue warrants or make determinations on detentions.

Role of the Police and Security Apparatus.—The law designates the PNTL as the body with responsibility for law enforcement and maintenance of order within the

country. The Border Police Unit, Immigration Unit, and Maritime Police Unit of the PNTL also have some responsibility for external security as it relates to the border, in coordination with the F-FDTL. By law, the F-FDTL has no role in internal security unless specifically requested and approved by the government, the president, and parliament but it may be used to support the police in joint operations. In practice, the roles and relationship between the PNTL and F-FDTL were still evolving. The prime minister also serves as minister of defense and security. Civilian secretaries of state for security and defense oversaw the PNTL and F-FDTL, respectively. 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. The police commissioner handles the day-to-day operations of the PNTL and answers to the secretary of state for security.

The PNTL, with UNMIT assistance, continued efforts to reform, restructure, and rebuild in the wake of its collapse during the political crisis of 2006. During the year UNMIT returned executive policing authority to the PNTL after UNMIT determined the PNTL demonstrated the ability to perform policy responsibilities adequately in the remaining three districts under UNMIT authority. More than 460 International Stabilization Force personnel from Australia and New Zealand supported the police and security forces.

When UNMIT returned executive policing authority to the PNTL in March, 199 officers had not been screened for integrity and past crimes or misbehavior. Following the handover, the Office of the Secretary of State for Security completed its review of these officers, with criminal and/or disciplinary action recommended against 121 officers. At year's end the cases were still pending referral to the Office of the Prosecutor-General or further internal disciplinary investigation.

In spite of improvements, the PNTL remained poorly equipped and undertrained, subject to numerous credible allegations of abuse of authority, mishandling of firearms, and corruption. During the year an opposition parliamentarian and an international NGO continued earlier criticism of 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.

Efforts were made to strengthen the PNTL's internal accountability mechanisms. At year's end the Professional Standards and Discipline Office (PSDO) had only 67 cases, down from 456 cases the previous year. 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 2009 does not provide for guaranteed participation from the civilian sector in police oversight.

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 to 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 because 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 post some sort of collateralized bail (whether financial or property based) and 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 never saw their lawyer, and there were concerns that some low priority cases were delayed indefinitely while suspects remained in pretrial detention. Detainees were not held incommunicado, and when lawyers were available they did not have issues accessing their clients.

Pretrial Detention.—Pretrial detainees comprised approximately 50 percent of the total prison population. Trial delays were most frequently caused by judicial inefficiency and staff shortages. In many cases the length of pretrial detention equaled

or exceeded the length of the sentence upon conviction. 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. The 30-day review deadline was also missed in a large number of cases involving less serious crimes, exacerbating the pretrial detention problem.

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, judicial independence did not exist in practice. Access to justice was constrained by a wide array of challenges in the judicial system, including: concerns about the impartiality of some judicial organs, a severe shortage of qualified personnel, a complex legal regime and a legal regime that is based on different legal sources, including Portuguese-era, Indonesian-era, and interim U.N. administration-era law and regulation in addition to laws enacted since independence. A major challenge is the fact that laws were written and courts operated in Portuguese, a language not spoken by the majority of the population.

Trial Procedures.—Defendants enjoy a presumption of innocence, trials are before judges, and defendants do not have a right to trial by jury. Defendants have the right to consult an attorney, and the government provides attorneys to indigent defendants. Defendants can confront hostile witnesses and present other witnesses and evidence; however, immediate family members cannot be compelled to testify. Defendants and their attorneys have access to government-held evidence and have a right of appeal to higher courts.

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 Office of 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. Some residents of land defined as public property were evicted during the year, and many of those evictions were criticized by some local human rights groups.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—*Status of Freedom of Speech and Press.*—The law provides for freedom of speech and press, and the government generally respected these rights in practice.

Freedom of Press.—The independent media were active and expressed a wide variety of views without restrictions.

Violence and Harassment

In June 2010, PNTL officers at the Government Palace beat a journalist from *Diario Nacional*. The journalist later withdrew his complaint, so no investigation was conducted.

Internet Freedom.—There were no government restrictions on access to the Internet or credible 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.

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.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

Freedom of Assembly.—The law on assembly and demonstrations establishes guidelines on obtaining permits to hold demonstrations, requires police be notified four days in advance of any demonstration or strike, and establishes set-back requirements at some buildings. However, in practice demonstrations were allowed to take place without the requisite advance notification, and the set-back requirement was rarely observed.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice. However, in 2010 there were accusations that during the anti-”ninja” activities, the PNLT intimidated members of CPD-RDTL, trying to force their resignations from the organization.

c. Freedom of Religion.—See the Department of State’s International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

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 U.N. 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.

Protection of Refugees.—Access to Asylum.—The laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government granted refugee status; 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 relating to the Status of Refugees. These advocates also expressed concern that no written explanation is required when an asylum application is denied.

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. Citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation.—Recent Elections.—The president and parliament were separately elected to five-year mandates in generally free and fair national elections in 2007. The government headed by Prime Minister Gusmao is a five-party coalition controlling 37 seats in the 65-seat parliament.

Participation of Women and Minorities.—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. In May, the president approved changes to the election law that included a provision requiring that women make up at least one third of the candidates on each political party’s list for parliamentary elections.

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 with impunity. By law the Anticorruption Commission is charged with leading national anti-corruption activities and has the authority to refer cases for prosecution. The Anti-corruption Commission was established in 2010, taking responsibility for corruption cases from the Office of the Ombudsman for Human Rights and Justice.

The Anti-Corruption Commission transferred to the Prosecutor General’s Office several high-profile corruption cases, including accusations against two cabinet ministers. Charges were pending in both cases.

There were accusations of police corruption in the country. Some of the accusations involved bribes accepted by the border police along the extensive land borders with Indonesia, and bribes accepted by police from brothels that engaged in trafficking in persons.

The country does not have financial disclosure laws. In 2009 Prime Minister Gusmao demanded that all cabinet officials in his government complete financial disclosure documents, but during the year only the vice foreign minister completed the disclosure.

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 the law requires publication in Tetum as well.

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 usually cooperated with these organizations, but during the year there were instances of security authorities preventing or resisting efforts to monitor human rights compliance.

Government Human Rights Bodies.—The independent Office of the Ombudsman for Human Rights and Justice is responsible for the promotion of human rights and good governance and has its own budget and dedicated staff. It has the power to investigate and monitor human rights abuses and governance standards, and to make recommendations to the relevant authorities. The Ombudsman's Office was located in Dili, with satellite offices in Same, Bobonaro, Oecussi, and Baucau. It had limited ability to conduct outreach or activities in other districts. The Human Rights Monitoring Network, made up of ten NGOs, closely cooperated with the ombudsman. There were no reports of government interference in Ombudsman activities.

Based on recommendations from the Indonesia-Timor-Leste Commission on Truth and Friendship (CTF), parliament debated a national reparations program and creation of an "Institute for Memory" during the year, but at year's end no legislation implementing the CTF recommendations had been passed.

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.—Rape and Domestic Violence.—Gender-based violence remained a serious concern. Although rape is a crime, punishable by up to 20 years in prison, 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 penal code appears broad enough to make spousal rape a crime, although that definition had not been tested in the courts. An UNMIT report released in September described a lack of accountability in the cases of nine women with disabilities who were raped during the year. The UNMIT report suggested the women were targeted for attack because of their disability.

In May 2010, parliament passed the Law against Domestic Violence. The law was enacted to provide protection and defense to vulnerable groups including women, children, the elderly, and persons with disabilities, against all forms of violence, exploitation, discrimination, abandonment, oppression, sexual abuse, and mistreatment. During the year, the authorities received 210 reports of domestic abuse. The Ministry of Justice was investigating 81 cases, the police were investigating 16 cases, the court was processing 20 cases and two people were convicted of domestic abuse.

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 (VPU's). Women's organizations assessed VPU performance as variable: Some officials actively pursued cases and others preferred 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 PNTL disciplinary code allows the PNTL to impose disciplinary sanctions on police who commit domestic violence in their own homes. The government actively promoted awareness campaigns to combat violence against women, including rape.

Sexual Harassment.—No law prohibits sexual harassment, which was reportedly widespread, particularly within some government ministries and the police.

Reproductive Rights.—The government recognized the 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'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. The results of a demographic and health survey released in 2010 indicated significant improvements in mortality rates, but adult women continued to suffer from higher mortality than men, and 42 percent of such deaths were associated with pregnancy and childbirth. According to 2010 estimates by the U.N. Population Fund, the maternal mortality rate in the country was 370 deaths per 100,000 live births. Thirty percent of women had skilled attendance during childbirth, 61 percent of mothers received antenatal care from a medical professional, and only 32 percent of mothers received postpartum care. Women and men had equal access to diagnostic and treatment services for sexually transmitted diseases, including HIV/AIDS. An UNMIT report released in September described a woman with disabilities who was sterilized without consent after giving birth.

Discrimination.—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 also occurred. Women were also disadvantaged in pursuing job opportunities at the village level.

The constitution guarantees equal rights to own property, but in practice traditional inheritance systems tended to exclude women from land ownership. Parliament debated a national land law, which included more specific rights for women's ownership of land, but at year's end no land law legislation had passed.

The secretary of state for the promotion of equality 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 NGOs worked under an umbrella organization called Rede Feto (Women's Network). Rede Feto coordinated the work of NGOs working on women's issues and provided input to draft legislation on women's issues, such as the recent Law on Domestic Violence. The secretary of state for the promotion of equality and the advisor to the prime minister for civil society coordinated and supported the work of Rede Feto.

The Ministry of Social Solidarity and 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.—Birth Registration.—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.

Education.—The constitution stipulates that primary education shall be compulsory and free. Legislation has been adopted requiring compulsory education until 14 years of age; however, no system has been established to enforce compulsory education, nor has a system been established to ensure provision of free education. According to U.N. statistics, approximately 20 percent of primary-school-age children nationwide were not enrolled in school; the figures for rural areas were substantially higher than those for urban areas. In the aggregate, male children were more likely to attend school than were female children.

Child Abuse.—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 could also demand any dowry payment normally owed to the girl's parents.

Sexual Exploitation of Children.—There is no clearly defined age below which sex is by definition nonconsensual. Violence against children and child sexual assault were significant problems. Some commercial sexual exploitation of minors occurred. The penal code describes a vulnerable victim for purposes of rape as a "victim aged 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 aged 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 aged 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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no indigenous Jewish population, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—Although the constitution protects the rights of persons with disabilities, the government has not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with physical, sensory, intellectual, and mental 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 incarcerated with the general prison population and were denied needed psychiatric care. An office in the Ministry of Social Solidarity was responsible for protecting the rights of persons with disabilities. Persons with disabilities are eligible for monthly special monetary stipends through the Ministry of Social Solidarity.

National/Racial/Ethnic Minorities.—Tensions between persons from the eastern districts (Lorosae) and persons from the western districts (Loromonu) appeared to be greatly reduced, and no specific incidents were observed during the year.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law makes no reference to homosexual activity. Gay men and lesbians were not highly visible in the country. There were no formal reports of discrimination based on sexual orientation or gender identity, due in part to limited awareness of the issue and a lack of formal legal protections.

Other Societal Violence or Discrimination.—According to the East Timor Law and Justice Bulletin (ETLJB), the principal international NGO that runs an HIV/AIDS transmission reduction program excludes gay men from its program.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law permits workers to form and join worker organizations without prior authorization, provides for the right to strike, and allows for collective bargaining. 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. By year's end the government had begun compiling data on the percentage of unionized workers in the formal sector.

Freedom of association and collective bargaining rights were respected in practice. While the law prohibits dismissal for union activity, it also allows for financial compensation in lieu of reinstatement, thus partially weakening the protection against employers' interference. The law prohibits foreigners from participating in the administration of trade unions, although there was no evidence that this prohibition was enforced.

The law on assembly and demonstrations could be used to inhibit strikes but was not used in this way.

In practice workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations. The Ministry of Social Solidarity is the government agency charged with labor dispute settlement.

b. Prohibition of Forced or Compulsory Labor.—Government regulations prohibit forced or compulsory labor, although there were reports that such practices occurred. The placement of children in bonded labor by family members in order to pay off family debts occurred during the year.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law generally prohibits children under age 15 from working. However, there are circumstances under which work for children between the ages of 15 and 18 is re-

stricted and circumstances under which children under 15, can work legally. 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.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The law does not stipulate a minimum wage. The law provides for a standard work week of 40 hours, standard benefits such as overtime and leave, and minimum standards of worker health and safety. The Ministry of Social Solidarity is responsible for enforcing the labor code. 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. The official national poverty income level is \$0.88 per day. (The U.S. dollar is the local currency.) An estimated 41 percent of the population lived below the poverty line.

TONGA

EXECUTIVE SUMMARY

The Kingdom of Tonga is a constitutional monarchy under King Siaosi (George) Tupou V. Political life is dominated by the king, the nobility, prominent commoners, and democratic reform figures. The most recent parliamentary elections, held in November 2010, were deemed generally free and fair, and in December 2010 Parliament elected a nobles' representative, Lord Tu'ivakano, as prime minister.

Domestic violence, discrimination against women, and government corruption were the most prevalent human rights problems.

The privileged status enjoyed by the royal family and nobility contributed to a lack of government transparency and socioeconomic mobility. The government also at times restricted media coverage of certain political topics. A state of emergency imposed after a 2006 riot in the capital of Nuku'alofa was in effect at the beginning of the year but was lifted in early February.

There were no reports that government officials committed human rights abuses during the year.

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. Prisoners had access to potable water. The government permitted monitoring visits by international human rights observers, but there were no such visits during the year.

At year's end the country's four prisons and other detention facilities—located on the main islands of Tongatapu, Vava'u, Ha'apai, and 'Eua—held a total of 158 inmates, including three pretrial detainees. Of the total, four were women and 17 were juveniles (defined as under age 20). The maximum total prison capacity was 222. Prisoners had access to visitors and were permitted religious observance. The authorities permitted prisoners to submit complaints without censorship to the prison officer-in-charge, who then forwarded them to the commissioner of prisons for review and action. At least once every quarter, a group of three to five persons called "visiting officers," chosen by the cabinet and normally including a police magistrate, a physician, and a member of the clergy, visited the prisons to hear any prisoner complaints or grievances. Prisoners also are permitted to submit complaints to judicial authorities.

The country does not have an ombudsman who can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for non-violent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; or improving pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. However, overcrowding was not a problem during

the year, and the authorities maintained a tracking system to ensure that prisoners were not held beyond the maximum sentence for their offense.

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 national police, under the minister of police and prisons, maintain internal security. The Tonga Defense Services (TDS), under the minister of defense (a position held by the prime minister during the year), is responsible for external security. In emergency situations the TDS also shares domestic security duties with the police. The king is the commander in chief of the TDS. Civilian authorities maintained control over the TDS and police, and the government has effective mechanisms to investigate and punish security force abuse and corruption. There were no reports of impunity involving the security forces during the year. Complaints against police are referred to the Police Employment Committee, which determines the severity of the complaint and refers it to the Police Board. The committee may take disciplinary action against police officers, but refers serious breaches to the board. The board has the power to determine the action that should be taken in response to a serious breach of discipline, including dismissal from the force. 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 the 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, although the system has been modified to increase the king's judicial appointment power. In 2010 the king transferred authority to appoint judges to the lord chancellor, appointed by the monarch, from the Judicial Services Commission, which he disbanded. The lord chancellor also has authority to investigate complaints against judges, a responsibility that previously rested with the Judicial Services Commission. The change ostensibly was made to insulate judicial appointments from parliamentary influence, but opponents asserted it would compromise the independence of the judiciary.

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, have access to government-held evidence, and may present witnesses, question witnesses against them, and appeal convictions. They have the right to be present at their trials and 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.

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.—*Status of Freedom of Speech and Press.*—The constitution provides for freedom of speech and press, but the government did not always respect these rights in practice.

Freedom of Press.—Media outlets reported on political developments and high-profile court cases but exercised self-censorship regarding high-profile individuals. The government-owned Tonga Broadcasting Commission's board directed that all programming be reviewed by board-appointed censors prior to broadcast, including coverage of the 2010 election campaign.

Beginning in late 2010, parliamentary debates were made accessible to both private and publicly owned media. The debate minutes were available publicly online within days after the debates.

Libel Laws.—In a May civil case, a court ruled that the newspaper Kele'a had defamed Clive Edwards, an unsuccessful candidate for Parliament in the 2010 elections, and fined the newspaper 14,275 pa'anga (\$8,100). The day before the elections, the newspaper published a list of candidates, including Edwards, that it claimed had been assembled and supported by the government. The editor stated the list was obtained from the then government. Government witnesses stated the government did not provide any such information. Edwards had sued the newspaper, alleging that the article was false and adversely affected his candidacy.

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

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. In February the government lifted a state of emergency that had been in effect since a 2006 riot in the capital of Nuku'alofa.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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.

Exile.—The law does not prohibit forced exile, but the government did not employ it in practice.

Protection of Refugees.—Access to Asylum.—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. However, during the year the government granted refuge and Tongan citizenship to former Fijian army officer Ratu Tevita Roko Uluilakeba Mara, who fled to Tonga after being charged with sedition in Fiji. Mara had claimed the charges were politically motivated, and Tonga denied Fiji's extradition request.

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

Elections and Political Participation.—Recent Elections.—Parliament has 26 elected members. Of these, 17 are popularly elected and nine are nobles elected by their peers. Parliament elects the prime minister, who appoints the cabinet. Up to four cabinet members may be selected from outside Parliament; they then also are seated in Parliament during their tenure in the cabinet. The most recent parliamentary elections, held in November 2010, were deemed generally free and fair.

Although the majority of members of Parliament are chosen by popular vote, the king retains significant powers, such as those to withhold his assent to laws and dissolve Parliament.

Political Parties.—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, although during the year only two were active.

Participation of Women and Minorities.—There were no women elected to Parliament. One woman joined the government and Parliament by direct appointment to the cabinet. A woman may become queen, but the constitution forbids a woman to inherit hereditary noble titles or become a chief.

There were no members of minorities in the government or Parliament.—Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. The government sometimes implemented the law, but officials engaged in corrupt practices with impunity, and corruption remained a serious problem. Since 2008 the Office of the Auditor General has reported 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. Incidents of bribe taking and other forms of corruption in the police force reportedly occurred. 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.

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 and Domestic Violence.—Rape is punishable by up to 15 years' imprisonment. The law does not recognize spousal rape. The incidence of rape appeared to be infrequent, although there were no reliable statistics. Rape cases reported were investigated by the police and prosecuted under the penal code. According to the police, there were three cases of rape reported in 2011. Nongovernmental organizations (NGOs) often reported higher figures than the police.

The law does not address domestic violence specifically, but it can be prosecuted under laws against physical assault. The Police Domestic Violence Unit has a "no drop" policy in complaints of domestic assault, and these cases proceed to prosecution in the magistrates' courts. The no drop policy was introduced in 2009 because many women were reluctant to press charges against their spouses due to cultural constraints. During the year there were approximately 300 cases of domestic violence reported to the Police Domestic Violence Unit. Following reports of abuse, victims received counseling from the unit's officers. Perpetrators were also provided counseling. 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.

The Police Domestic Violence Unit, together with various NGOs, including the National Center for Women and Children, the Women and Children Crisis Center, and the Salvation Army, conducted public awareness and prevention campaigns against domestic violence. Statistics compiled by the Women and Children Crisis Center indicated that as of October, 241 persons received assistance from the center during the year, including 169 women, 10 men, and 62 children.

Sexual Harassment.—Sexual harassment is not a crime, but physical sexual assault can be prosecuted as indecent assault. Sexual harassment of women sometimes occurred, based on complaints received by the Police Domestic Violence Unit.

Reproductive Rights.—Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. Public hospitals and health centers and a regional NGO's clinic provided free information about and access to contraception. 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 provided free prenatal, obstetric, and postpartum care.

Discrimination.—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. Both the inheritance laws and the land rights laws increased economic discrimina-

tion experienced by women in terms of their ability to access credit and own and operate businesses.

Women had lower labor force participation rates than their male counterparts (74.6 percent for men compared with 52.7 percent for women). Unemployment levels were higher for women, at 7.4 percent, compared with 3.6 percent for men. Average weekly earnings were higher for men—127 pa'anga (\$68) compared with 112 pa'anga (\$60) for women. 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 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.

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. 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 Registration.—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. The law requires births to be registered within three weeks, and this was usually done in practice.

Child Abuse.—According to Police Domestic Violence Unit statistics, during the year there were 33 reports of assaults on children up to age 19 (28 girls and five boys).

Sexual Exploitation of Children.—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 (\$53,475) or up to 10 years' imprisonment for individuals and a fine of up to 250,000 pa'anga (\$133,700) for corporations.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no known resident Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—There are no legally mandated provisions for services for persons with physical, sensory, intellectual, or mental disabilities. There were no formal complaints of discrimination in employment, education, and provision of other government services. However, there were no programs to ensure access to buildings for persons with disabilities, and in practice most buildings were not accessible. There also were no programs to ensure access to communications and information for persons with disabilities. The Tonga Red Cross Society operated a school for children with disabilities and conducted occasional home visits. A program of the Ministry of Education, Women, and Culture to assimilate children with disabilities into primary schools continued during the year. The queen mother ran a center providing accommodation and meals for adults with disabilities. 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 also moved 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. A subculture of transgender dress and behavior was tolerated, and a prominent NGO and annual festival highlighted transgender identities. 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. Freedom of Association and the Right to Collective Bargaining.—The law protects the right of workers to form and join independent unions, strike, and engage in collective bargaining, but regulations on the formation of unions, strikes, and collective bargaining were never promulgated. There is no law specifically prohibiting antiunion discrimination or providing for reinstatement of workers fired for union activity. There were no official unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act but have no formal bargaining rights under the act. The Public Servants Association acted as a de facto union representing all government employees. There have been strikes, but none took place during the year.

Collective bargaining was not known to take place in practice. There were no known reports of antiunion or antiassociation discrimination during the year. There was no dispute resolution mechanism in place specifically for labor disputes, although persons could take their cases to court.

b. 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 forced labor.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

c. 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.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/llab/programs/ocft/tda.htm>.

d. 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 (\$16) per week. Data from the 2009 Household Income and Expenditure Survey (the latest available) indicated that 3.1 percent of the population lived in absolute poverty and 22.5 percent lived below the basic needs poverty line. While the latter group did not live in absolute poverty, they struggled to meet extra costs like education, transport, and utility bills.

Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the work week to 40 hours. There are no laws mandating premium pay for overtime or prohibiting excessive compulsory overtime.

The ministry enforced labor 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. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment; however, the authorities seldom enforced this right.

TUVALU

EXECUTIVE SUMMARY

Tuvalu is a constitutional parliamentary democracy. Following generally free and fair parliamentary elections in September 2010, a loose coalition of eight of the 15 members of Parliament (MPs) formed a new government and selected Maatia Toafa as prime minister. However, in December 2010 Parliament ousted Toafa in a vote of no confidence and selected Willy Telavi as the new prime minister. Security forces reported to civilian authorities.

There were human rights problems in a few areas. In particular, there were concerns that traditional customs and social patterns led to and perpetuated religious and social discrimination, including discrimination against women. Domestic violence also was a problem.

In January the government banned public gatherings and meetings in the capital, Funafuti, following demonstrations by residents of Nukufetau Island demanding removal of one of their MPs. The ban ended in mid-February.

There were no reports that government officials committed human rights abuses.

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 traditional discretionary 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 prisoners had access to potable water. The government permitted visits by independent human rights observers, but there were no such visits during the year.

As of November the prison system held 12 convicted prisoners (11 men and one woman). There were no juvenile offenders (defined as those under age 18) or pretrial detainees.

Prisoners had access to visitors and were permitted religious observance. Prisoners could submit complaints without censorship through the Office of the People's Lawyer. During the year the government did not investigate or monitor prison conditions and did not receive any complaints or allegations of inhumane prison conditions.

The country does not have a formal ombudsman who can act on behalf of prisoners and detainees.

Renovations were made to the women's prison during the year.

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

Role of the Police and Security Apparatus.—The national police, under the Office of the Prime Minister, maintain internal security. The country has no military force. 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 session. 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 because the people's lawyer was based on the main island of Funafuti and infrequently traveled to 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 public trial, and an independent judiciary generally enforced this right. The law provides for a presumption of innocence. Judges conduct trials and render verdicts; there are no juries. Defendants have the right to consult with an attorney in a timely manner and have access to an independent public defender. They also have the right to confront witnesses, present witnesses and evidence, access government-held evidence, and appeal convictions.

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 and organizations may seek civil remedies for 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.—Status of Freedom of Speech and Press.—The law provides for freedom of speech and press, and the government generally respected these rights in practice.

Freedom of Press.—Although there were no government restrictions, there were no locally based private, independent media. The government's Media Department controlled the country's sole radio station.

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

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. On January 13, however, following demonstrations by residents of Nukufetau demanding removal of one of their MPs, the government imposed a two-week ban on public gatherings, meetings, and processions in the capital of Funafuti under the provisions of a public order ordinance. The government stated that it imposed the ban because of a threatening letter constituents sent to the MP. The senior magistrate's court declined to take up a complaint brought by some village leaders contesting the constitutionality of the ordinance. On January 28, the government loosened the ban, permitting public gatherings provided organizers obtained advance permission from the police commissioner. The ban expired two weeks later and was not renewed further.

Freedom of Association.—The law provides for freedom of association, and the government respected this right in practice.

c. Freedom of Religion.—See the Department's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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.

Protection of Refugees.—Access to Asylum.—The country's 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 asylum or refugee status.

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.—Recent Elections.—The September 2010 general elections were generally free and fair. An eight-member majority of the newly elected Parliament selected Maatia Toafa as prime minister. In December 2010 Parliament ousted Toafa in a no-confidence vote and selected Willy Telavi as the new prime minister.

Political Parties.—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 of Women and Minorities.—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 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. 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.

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. Public officials were not subject to financial disclosure laws.

Since 2009, together with Nauru and Kiribati, the country has participated in a subregional audit support program, an 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 nongovernmental organizations (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.

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 sex discrimination.

Women.—Rape and Domestic 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. 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, five years' imprisonment.

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. Many cases of rape and domestic violence went unreported due to lack of awareness of women's rights and traditional and cultural pressures on victims. Human rights observers criticized the police for seeking to address violence against women using traditional and customary methods of reconciliation rather than criminal prosecution. The Women's Crisis Center, operated by the Tuvalu National Council of Women, provided counseling services, but there were no shelters or hotlines for abused women. The police have a Domestic Violence Unit. The government also participated in a regional program providing training for police in handling domestic violence cases.

Sexual Harassment.—The law does not specifically prohibit sexual harassment but prohibits indecent behavior, which includes lewd touching. Sexual harassment was not widely reported. There were no known reported cases during the year.

Reproductive Rights.—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 family planning services and provided free prenatal, obstetric, and postnatal care. Virtually all births were attended by skilled health personnel.

Discrimination.—There remained 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 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. Additionally, as women tended not to own capital, few women were able to access credit to start businesses.

There is a Department of Women within the Office of the Prime Minister.

Children.—Birth Registration.—Citizenship is derived through one's parents. The law requires births to be registered within 10 days, and this was generally observed in practice.

Child Abuse.—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.

Sexual Exploitation of Children.—The age of consent for sexual relations is 15. Sexual relations with a girl below age 13 are punishable by up to life imprisonment. Sexual relations with a girl older than age 12 but younger than age 15 are 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.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—During the year there were no confirmed reports that persons were trafficked to, from, or within the country.

Persons With Disabilities.—The law does not prohibit discrimination on the basis of physical, sensory, intellectual, 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. Persons with disabilities had limited access to information and communications. The Fusi Alofa Association (Tuvalu National Disabled Persons Organization) and the Tuvalu Red Cross undertook regular home visits to persons with disabilities and conducted educational programs to raise community awareness of the rights of persons with disabilities and advocate for such persons. The Fusi Alofa Association ran basic education classes in Funafuti for children with disabilities who were not able to attend school.

The Community Affairs Department in the Ministry of Home Affairs and Rural Development is responsible 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 or gender identity 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. Freedom of Association and the Right to Collective Bargaining.—The law protects the right of workers to form and join independent unions, choose their own

labor representatives, and conduct legal strikes. The law also provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Public sector employees, such as civil servants, teachers, and nurses, were members of professional associations that did not have union status. Most of the working-age population (approximately 75 percent) lacked permanent employment and worked in the informal and subsistence economy, so few unions existed. The only registered trade union, the Tuvalu Overseas Seamen's Union, was independent of the government. There were no reports of antiunion discrimination.

Although there are provisions for collective bargaining and the right to strike, in practice the few individual private sector employers set their own wage scales. No strike has ever taken place. Both the private and public sectors generally used nonconfrontational deliberations to resolve labor disputes.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

c. 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. However, a separate provision of law allows children age 15 or older to enter into apprenticeships of up to five years, subject to approval by the commissioner of labor. No restrictions are placed on the type of work that a child apprentice may perform, but he or she must be medically examined and determined to be physically and mentally fit for employment in the specified occupation. Apprentices may lawfully live away from their families; in such cases, under the law the contract must adequately provide for the supply of food, clothing, accommodation, and medical attention to the apprentice. However, the government did not have sufficient resources to monitor and enforce child labor law provisions effectively. Children rarely were employed outside the traditional economy of subsistence farming and fishing.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The law provides for the government to set a minimum wage, but in practice the Department of Labor in the Ministry of Foreign Affairs and Labor has not set a national minimum wage rate. The minimum annual salary in the public sector was approximately A\$3,000-A\$4,000 (approximately \$3,060-\$4,080). There was no recent poverty-level income figure available, but this minimum salary was barely sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. According to traditional custom, however, extended families help support their less well-off members.

The law sets the workday at eight hours, and the Ministry of Foreign Affairs and Labor may specify the days and hours of work for workers in various industries. Although there is provision in the law for premium pay for overtime work, no premium overtime rates have been established. The law provides for rudimentary health and safety standards. It requires employers to provide adequate potable water, basic sanitary facilities, and medical care. Workers may remove themselves from work situations that endanger health or safety without jeopardy to their jobs. The law also protects legal foreign workers.

The Ministry of Foreign Affairs and Labor is responsible for the enforcement of wage and hour and health and safety regulations, but the ministry did not have sufficient resources to enforce the laws during the year. The Department of Labor had only one staff member.

In practice private sector wages were typically somewhat lower than the minimum public sector wage rate.

VANUATU

EXECUTIVE SUMMARY

Vanuatu is a multiparty parliamentary democracy with a freely elected government. Parliament reelected the current head of government, Prime Minister Sato Kilman, in June after a court had annulled his December 2010 appointment to the same position. The most recent national elections, held in September 2008, were considered generally free and fair. Security forces reported to civilian authorities.

Violence against women remained one of the most prominent human rights abuses during the year.

The government continued to address human rights challenges including police violence, poor prison conditions, arrests without warrants, an extremely slow judicial process, government corruption, and violence and discrimination against women.

Government efforts to prosecute and punish abuses by the police were minimally effective.

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 April a commission of inquiry was established to investigate why the findings and recommendations of the coroner's report into the death of escaped prisoner John Bule were not implemented, but its appointment was revoked two weeks later after the Vanuatu police force challenged the coroner's report in the court of justice. The challenge was pending before the court at year's end. In 2010 authorities released the report of a coroner's inquest conducted by New Zealand Justice Nevin Dawson in Bule's case. The report highlighted police abuse by the Vanuatu Mobile Force (VMF), a police paramilitary unit, and called for an inquiry into Bule's death and a scaling down of the VMF's powers. The report noted instances of intimidation during the inquest, including a death threat against Dawson from a senior VMF officer. Bule died after sustaining multiple injuries while in police custody following his recapture in 2009.

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, 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 only slightly during the year with foreign donor funding but remained below international standards. Prisoners had access to potable water. Deaths of prisoners while incarcerated were not prevalent.

Following the 2008 release of a report detailing prisoner complaints about poor conditions at the main Port Vila prison, and a subsequent 2009 court order directing the public prosecutor to catalogue prisoner injuries and illnesses, only one case was referred to the court, without resolution.

At year's end the prison system held a total of 183 inmates, including 158 convicted prisoners and 25 pretrial detainees. There were two female prisoners and three 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. Male inmates were incarcerated in overcrowded facilities. Persons deemed mentally unfit to stand trial were held with the general prison population.

According to the center manager of the Correctional Services Department, the existing facilities, especially in Port Vila, made total separation of juveniles from adults difficult, and in some cases juveniles were held with adults during the year. However, he stated that the number of juveniles in custody remained very low.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. The Office of the Ombudsman is mandated to investigate complaints of human rights violations; however, no investigations related to prison conditions were undertaken during the year. Supreme Court justices regularly visited prisons to monitor conditions.

The government permitted prison monitoring visits by independent human rights observers. During the year representatives from the U.N. High Commissioner for Human Rights visited the prisons in Port Vila.

The Ombudsman Commission is not authorized to consider on its own initiative such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; the status and circumstances of confinement of juvenile offenders; and improvements to pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offenses. The commission can investigate specific complaints received from prisoners relating to such matters, but it did not undertake any such investigations 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 national police maintain internal security, and its paramilitary VMF comprise the country's entire externally focused military force. The commissioner of police heads the police force, including a police maritime wing, the paramilitary VMF, 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.

Civilian authorities were hampered by a lack of resources in maintaining effective control over security forces and did not have effective mechanisms to punish abuse or corruption. There were allegations of police impunity, in particular with regard to the VMF. The report of a coroner's inquiry into the 2009 death in custody of recaptured prison escapee John Bule (see section 1.a.) characterized the VMF as a force with a "culture of violence" that considered itself "above the law."

The Office of the Ombudsman is mandated to investigate complaints of security force abuses.

During the year foreign assistance continued 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.

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. Detainees were allowed prompt access to counsel and family members. The Public Defender's Office provided counsel to indigent defendants.

Pretrial Detention.—Pretrial detainees constituted nearly one-eighth of the total prison population. 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.

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. 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 often reluctant to enforce domestic court orders, particularly when the orders concerned their own family or clan members. This resulted in the reluctance of women to lodge complaints with the police.

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.—Status of Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice.

Violence and Harassment.—In March the minister for public utilities and infrastructure, Harry Iauko, was fined 15,000 vatu (approximately \$164) after pleading guilty to aiding and abetting the January 2009 assault on Marc Neil-Jones, publisher of the Vanuatu Daily Post newspaper.

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

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.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt/>.

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 U.N. High Commissioner for Refugees in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees.—Access to Asylum.—The country's 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.

Temporary Protection.—According to the immigration compliance officer, at year's end three Sri Lankans and one Indonesian from West Papua remained in Port Vila awaiting resettlement in a third country.

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.—Recent Elections.—The most recent national parliamentary elections were held in September 2008; they were considered generally free and fair. Allegations of bribery and electoral fraud were raised against then foreign minister Bakoa Kaltongga, two other politicians, and a former ambassador to the U.N. The allegations included bribery of electoral officials and discrepancies in voting rolls that led to some voters being turned away from polling booths. 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. Of the two petitions before the Supreme Court during the year, one was dismissed and one remained pending a decision at year's end.

Participation of Women and Minorities.—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. No women served in the cabinet. The solicitor general—the second-ranking official (under the attorney general) in the Office of the State Law—was a woman.

A small number of ethnic minorities (non-Melanesians) served in parliament and in the cabinet, including as the minister of economy.

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.

The ombudsman reported that, while police corruption sometimes occurred, his office received no specific complaints during the year.

Members of parliament and elected members of provincial governments are subject to a leadership code of conduct, which includes financial disclosure requirements. However, the Office of the Ombudsman confirmed that some officials did not comply with these 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 the government's response to requests for information from the media was inconsistent.

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.

Government Human Rights Bodies.—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.

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.—Rape and Domestic Violence.—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. 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.

The Family Protection Act (FPA), which entered into force in 2009, covers domestic violence, women's rights, children's rights, and family rights. Violators could face prison terms of up to five years or a fine of up to 100,000 vatu (approximately \$1,095) or both. In 2010 the government established a Family Protection Unit (FPU) at police headquarters in Port Vila to deal with issues addressed by the FPA. According to the FPU, during the year it issued 302 protection orders. A protection order does not require proof of injury; as long as there is a threat of violence, police can issue an order.

There were no government programs to address domestic violence, and media attention to the abuse was limited. As part of the New Zealand government's regional Pacific Prevention of Domestic Violence Program, Radio Vanuatu had a bi-monthly program for police to raise awareness and discuss issues relating to domestic violence. The Department of Women's Affairs played a role in the process for implementing the Family Protection Act. 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 woman later wishes to withdraw her complaint, she must go to court to request that it be dropped.

Churches and nongovernmental organizations (NGOs) operated facilities for abused women. NGOs also played an important role in educating the public about domestic violence, but did not have sufficient funding to implement their programs fully.

Sexual Harassment.—Sexual harassment is not illegal and was a problem.

Reproductive Rights.—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. According to country indicators published by the Population Reference Bureau, an estimated 38 percent of married women ages 15-49 used some form of contraception, with 37 percent using modern contraceptive methods. 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. A regional adolescent health and development program funded by the U.N. Population Fund worked with schools to strengthen school-based clinics and to incorporate counseling and services.

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 prenatal, 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. Women were equally diagnosed and treated for sexually transmitted infections.

Discrimination.—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. Although the law does not prohibit women from owning or inheriting land, in practice women 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. The Employment Act prohibits women from working in certain sectors of the economy at night. 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 U.N. 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.—Birth Registration.—Citizenship is derived through one’s parents. Births are usually registered immediately unless the birth has taken place in a very remote village or island. Failure to register does not result in denial of public services.

Education.—The government stressed the importance of children’s rights and welfare, but there were significant problems with regard to education. Although the government stated a commitment to a free and universal education policy, school fees served as a barrier to education.

School attendance is not compulsory. Boys tended to receive more education than girls did. 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.—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.

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.

Child Marriage.—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.

Sexual Exploitation of Children.—Some children under age 18 were engaged in prostitution.

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 12.

Child pornography is illegal. The maximum penalty is five years’ imprisonment if the child is age 14 or older, and seven years’ imprisonment if the child is under age 14.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—The country’s Jewish community was limited to a few foreign nationals, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State’s Trafficking in Persons Report at <http://www.state.gov/j/tip>.

Persons With Disabilities.—There is no law specifically prohibiting discrimination against persons with physical, sensory, intellectual, 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, information, and communications for them. Their protection and care were left to the traditional extended family and NGOs. In practice most buildings were not accessible to persons with disabilities. 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.—In 2010 a group of villagers killed two brothers whom they accused of using sorcery to cause the deaths of two staff members of a secondary school in 2009. Police arrested five suspects, who were later released on bail. Two of the suspects jumped bail before questioning. At year's end they were still at large, and police were still investigating the matter.

There were no reports of societal violence or discrimination against persons based on HIV/AIDS status.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law provides all workers with the rights to organize and join unions, to strike, and to collective bargaining. Unions require government permission to affiliate with international labor federations, but the government has not denied any union such permission. The law prohibits retaliation for legal strikes. In the case of private-sector employees, complaints of violations of freedom of association 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. While the law does not require union recognition or reinstatement, it prohibits antiunion discrimination once a union is recognized. Complaints of antiunion discrimination are referred to the Department of Labor. The government effectively enforced applicable laws without lengthy delays and appeals.

Freedom of association and the right to collective bargaining were respected in practice.

Unions exercised the right to organize and bargain collectively in practice.

There were no known employee complaints of such discrimination received by the labor department during the year.

b. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

c. 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. However, the Department of Labor did not effectively enforce these laws. There were four inspectors within the labor department who were also responsible for cases of child labor. The department confirmed that there were no reported cases of child labor during the year and apart from verbal awareness done by the department no other action was taken during the year to address child labor. In practice children were employed in agriculture and some in commercial sexual exploitation.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at <http://dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work.—The minimum wage was 26,000 vatu (approximately \$285) per month. The minimum wage was enforced effectively. According to Asian Development Bank recent estimates 40 percent of all Ni-Vanuatu and 50 percent of the rural population have incomes below the international poverty line. 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. Maternity leave pay provided a 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. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the four inspectors attached to the Department of Labor could not enforce the law fully. The labor department confirmed that some companies in these sectors were paying workers below the minimum wage rate and making employees work long hours without paying overtime. Many companies in these sectors did not provide personal safety equipment and standard scaffolding for workers. The government responded by issuing improvement notices to companies and drafting an Occupational Health and Safety Bill which will include harsher penalties for non-compliance to health and safety laws.

VIETNAM

EXECUTIVE SUMMARY

The Socialist Republic of Vietnam is an authoritarian state ruled by a single party, the Communist Party of Vietnam (CPV) led by General Secretary Nguyen Phu Trong, Prime Minister Nguyen Tan Dung, and President Truong Tan Sang. The most recent National Assembly elections, held in May, were neither free nor fair, since the CPV's Vietnam Fatherland Front (VFF), an umbrella group that monitors the country's mass organizations, vetted all candidates. Security forces reported to civilian authorities.

The most significant human rights problems in the country were severe government restrictions on citizens' political rights, particularly their right to change their government; increased measures to limit citizens' civil liberties; and corruption in the judicial system and police.

Specific human rights abuses included continued police mistreatment of suspects during arrest and detention, including the use of lethal force, as well as austere prison conditions, arbitrary arrest and detention for political activities, and denial of the right to fair and expeditious trial. Political influence, endemic corruption, and inefficiency strongly distorted the judicial system. The government increasingly limited privacy rights and freedoms of the press, speech, assembly, movement, and association; increasingly suppressed dissent; further restricted Internet freedom; reportedly was involved in attacks against critical Web sites; and spied on dissident bloggers. Freedom of religion continued to be subject to uneven interpretation and protection, with significant problems continuing, especially at provincial and village levels. Police corruption persisted at various levels. The government maintained its prohibition of independent human rights organizations. Violence and discrimination against women as well as trafficking in persons continued, as did sexual exploitation of children and some societal discrimination based on ethnicity, sexual orientation and gender identity, and HIV/AIDS status. The government limited workers' rights to form and join independent unions and inadequately enforced safe and healthy working conditions.

The government inconsistently took steps to prosecute and punish officials who committed abuses, and members of the police sometimes acted with impunity.

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, but there were reports of 19 deaths of persons in custody during the year as well as abuses of lethal force.

For example, in March Trinh Xuan Tung died in custody in Hanoi after Lieutenant Colonel Nguyen Van Ninh beat him while in detention for a traffic violation. Authorities suspended Ninh pending investigation, and at year's end the scheduling of a trial was expected in early 2012.

In April in Dong Nai Province, local police officers beat Nguyen Cong Nhut to death after detaining him for five days for allegedly stealing tires. The case was reported to the Supreme People's Court and at year's end remained under investigation.

In March a court convicted police officer Nguyen The Nghiep of excessive use of force and sentenced him to seven years in prison for the death by beating of Nguyen Van Khuong, who was arrested for a traffic violation in Bac Giang Province in July 2010. Authorities also banned Nghiep for life from the police force and ordered him to pay 155 million Vietnamese dong (VND) (approximately \$7,380) to the deceased's family, which his family did.

In September authorities charged four former prison guards (Hoang Dinh Nam, Nguyen Van Tho, Le Huu Thiet, and Tran Van Phuc) in the Central Highlands with using plastic batons to beat to death inmate Truong Thanh Tuan in September 2010. A court directed the four to pay VND 129 million (approximately \$6,140) to the victim's family.

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

There continued to be no information on the whereabouts of Thich Tri Khai, a monk from the unregistered Unified Buddhist Church of Vietnam whom authorities arrested in 2008, and Le Tri Tue, a founder of the Independent Workers' Union whom authorities placed in custody in 2007.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits physical abuse, but police commonly mistreated suspects during arrest or detention. Incidents of physical harassment, intimidation, and the questioning of family members were reported in several locations, including but not limited to Hanoi, Ho Chi Minh City, and Bac Giang and Dong Nai provinces.

For example, in April local police arrested and beat Tran Van Du from Soc Trang Province while interrogating him in custody. In October the Soc Trang People's Court sentenced the following police officers for "intentionally inflicting injury": Vo Van Ut Deo to two years' imprisonment; Danh Nhan, eight years; Tran Tuan Khai, four years; and Nguyen Quoc Thang, two years.

In August Hanoi police officials opened an investigation into an alleged "deliberate physical assault" by police Captain Minh after Internet footage showed him stomping on a detained protester during a demonstration over Chinese sovereignty claims in the South China Sea (East Sea) in July. Authorities placed Minh on administrative leave but later cleared and reinstated him.

Land-rights protesters in Hanoi, Ho Chi Minh City, Danang, and several provinces in the Mekong Delta continued to report instances of physical harassment and intimidation by local authorities. Most incidents between local authorities and ethnic minorities involved land, money, or domestic disputes. For example, the People's Court of Gia Lai Province convicted nine Montagnards of "undermining unity policy" and sentenced them to prison for what human rights groups reported were advocacy activities related to Montagnard rights or land disputes. The sentences handed down in April were as follows: Siu Hlom, 12 years; Siu Nheo and Siu Brom, 10 years each; Rah Lan Mlih, Ro Mah Pro, and Rah Lan Blom, nine years each; and Kpa Sin and Ro Man Klit, eight years each. In December the court also sentenced Siu Thai (Ama Thuong), arrested in April, to 10 years' imprisonment.

The government reported in September that more than 32,300 drug users—the large majority of whom were administratively sentenced to forced detoxification without judicial review—were living in the 121 drug-detention centers countrywide. According to the government, the stated population did not exceed the intended capacity of the centers, which had separate facilities for women. At these centers, according to a September report from a nongovernmental organization (NGO), authorities allegedly forced individuals to perform menial work under harsh conditions and mistreated them (see section 7.b.). After his November visit, the U.N. special rapporteur on health criticized these centers as ineffective and counterproductive.

Prison and Detention Center Conditions.—Prison conditions were austere but generally not life threatening. Overcrowding, insufficient diet, lack of access to potable water, and poor sanitation remained serious problems. Prisoners generally were required to work but received no wages. Authorities sometimes placed prisoners in solitary confinement, thus depriving them of reading and writing materials for periods of up to several months. Family members continued to make credible claims that prisoners received benefits by paying bribes to prison officials or undertaking hunger strikes.

Prisoners had access to basic health care, although in many cases officials prevented family members from providing medication to prisoners. Family members of imprisoned activists who experienced health problems claimed medical treatment was inadequate and resulted in greater long-term health complications. In July and September, respectively, two long-term prisoners convicted and jailed for attempting to overthrow the government (Nguyen Van Trai, a member of the People's Action Party of Vietnam, and Truong Van Suong) died in prison from liver cancer and heart disease, respectively.

The total number of prisoners and detainees was not publicly available. Pretrial detainees were held separately from convicted prisoners. Juveniles generally were held in prison separately from adults, but on rare occasions, they were held in detention with adults for short periods due to the unavailability of space. Men and women were held separately but treated equally. Political prisoners were typically sent to specially designated prisons that also held other regular criminals, and in

most cases, political prisoners were kept separate from nonpolitical prisoners. Authorities completely isolated some high-profile political prisoners from all others. While prison sentences could be extremely lengthy, prisoners were not forced to serve beyond the maximum sentence for their charged offense.

Authorities limited prisoners to one 30-minute family visit per month and generally permitted family members to give supplemental food and bedding to prisoners. Prisoners did not have the right to practice their religion in public, nor to have access to religious books and scriptures, although authorities allowed Roman Catholic priest and democracy activist Thaddeus Nguyen Van Ly (rearrested in July) to keep a Bible, pray, and give communion. Prisoners were allowed to submit complaints to prison management and judicial authorities, but their complaints were routinely ignored.

Previously, authorities had permitted the International Committee of the Red Cross to visit prisons, but no such visits occurred during the year. Authorities allowed foreign diplomats to make one limited prison visit and meet with a prominent prisoner. State control of the media restricted reporting on living conditions. There were no prison ombudsmen, and no individuals were allowed to serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders.

d. Arbitrary Arrest or Detention.—The law allows the government to detain persons without charges indefinitely under vague “national security” provisions. The government also arrested and indefinitely detained individuals under other legal provisions and 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 Ministry of Public Security, although in some remote areas, the military is the primary government agency and performs public safety functions, including maintaining public order in the event of civil unrest. The ministry 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 was less intrusive than in the past, it continued to monitor individuals suspected of engaging, or being likely to engage, in unauthorized political activities. Credible reports suggested that local police 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. At the commune level, it is common for guard forces composed of residents to assist the police. The police were generally effective at maintaining public order, but police capabilities, especially investigative, were generally very limited, and training and resources were inadequate. Several foreign governments assisted in training provincial police and prison management officials to improve their professionalism.

Arrest Procedures and Treatment While in Detention.—The law outlines the process by which individuals are taken into custody and treated until authorities adjudicate their cases. The Supreme People’s Procuracy (Public Prosecutor’s Office) issues arrest warrants, generally at the request of police. However, police may make an arrest without a warrant based on a complaint filed by any person. The procuracy issues retroactive warrants in such cases. The procuracy 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.

Arbitrary Arrest.—Arbitrary arrest and detention, particularly for political activists, remained a problem. According to activist groups and diplomatic sources, the government sentenced at least 29 arrested activists during the year to a total of 165 years in jail and 70 years of probation for exercising their rights. Authorities also increasingly charged political dissidents with “attempting to overthrow the state” due to their alleged membership in political parties other than the CPV. While violators of this legal provision had the possibility of receiving the death penalty, they typically received prison sentences of up to seven years. The government also used decrees, ordinances, and other measures to detain activists for the peaceful expression of opposing political views (see section 2.a.).

For example, in February police in Ho Chi Minh City detained Nguyen Dan Que for allegedly urging individuals to take part in mass protests demanding political reforms but released him after three days of questioning. Local police continued to monitor him closely throughout the year.

In April police detained political dissidents Pham Hong Son and Le Quoc Quan for “causing public disorder” in an attempt to attend the open trial of fellow political activist Cu Huy Ha Vu but released them nine days later.

Peaceful protests during the year in Ho Chi Minh City and Hanoi over Chinese sovereignty claims in the South China Sea (East Sea) resulted in the temporary detention and surveillance of several protest organizers, and there were reports that local security officials prevented individuals from leaving their homes to take part in the demonstrations. Moreover, on November 27, authorities detained activist Bui Thi Minh Hang in Ho Chi Minh City for participating in one such “illegal” protest and previously participating in related protests in July and August in Hanoi. In December authorities sentenced her without due process to two years at a reeducation camp near Hanoi.

Authorities also subjected religious and political activists to varying degrees of informal detention in their residences. For example, Ho Chi Minh City local police continued to monitor prominent activists Nguyen Dan Que and Do Nam Hai closely.

Pretrial Detention.—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) or more than two years for national security cases. However, at times investigations lasted indefinitely. By law the procuracy may also request additional two-month periods of detention after an investigation to consider whether to prosecute a detainee or ask police to investigate further. Investigators sometimes used physical abuse, 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 national security laws, authorities prohibited defense lawyers’ access to clients until after an investigation had ended and the suspect had been formally charged with a crime, most often after approximately four months. Under regulations, investigations may be continued and access to counsel denied for more than two years. In addition a scarcity 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 routinely denied detainees access to family members, especially in national security cases. Before a formal indictment, detainees also have the right to notify family members, although a number of detainees suspected of national security violations were held incommunicado. 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.” Terms of 24 months were standard for drug users and prostitutes. Individuals sentenced to detention facilities were forced to meet work quotas to pay for services and detention costs. Chairpersons may also impose terms of “administrative probation,” which generally took the form of restriction on movement and travel. Authorities continued to punish some individuals using vaguely worded national security provisions of the law.

Amnesty.—In honor of National Day, the government amnestied approximately 10,535 prisoners on August 29, the overwhelming majority of whom had ordinary criminal convictions. Among those released were the following five individuals convicted of committing national security crimes: three ethnic Montagnards from Dak Lak Province (Y Dham Eban, Y Bien Nie, and Y Kim Kbuor) charged with “under-

mining national unity," as well as Nguyen Van Tinh from Haiphong and Tran Duc Thach from Nghe An Province, both charged with antistate propagandizing.

e. Denial of Fair Public Trial.—The law provides for the independence of judges and lay assessors, but in practice they were not independent. The CPV controlled the courts at all levels through its effective control over judicial appointments and other mechanisms, and in many cases it determined verdicts. As in past years, political influence, endemic corruption, and inefficiency strongly distorted the judicial system. Most, if not all, judges were members of the CPV and chosen at least in part for their political views. The party's influence was particularly notable in high-profile cases and other instances in which authorities charged a person with challenging or harming the party or state.

There continued to be a shortage of trained lawyers and judges. The Vietnam Bar Federation falls under the supervision of the VFF and is closely coordinated with the Ministry of Justice and the Vietnam Lawyers Association. The federation, which oversees local bar association functions, continued during the year to develop a professional code of conduct for lawyers.

Trial Procedures.—The constitution provides that citizens are innocent until proven guilty, although 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.

The public prosecutor brings charges against an accused person and serves as prosecutor during trials. 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 involving a juvenile offender or with possible sentences of life imprisonment or capital punishment. The defendant or defense lawyer has the right to cross-examine witnesses, but 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. In national security cases, judges occasionally silenced defense lawyers who were making arguments on behalf of their clients in court because the judges deemed the arguments reactionary. Convicted persons have the right to appeal. District and provincial courts did not publish their proceedings, but the Supreme People's Court 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. Human rights lawyers were restricted, harassed, arrested, disbarred, and in some cases detained for representing political activists. For example, on August 12, the Dak Lak Bar Association dismissed Huynh Van Dong for serving as a defense lawyer in May for two defendants charged with subversive acts against the state. Additionally, given their previous convictions, lawyers Le Tran Luat, Le Thi Cong Nhan, and Le Quoc Quan were not permitted to practice law. During the April trial of activist Cu Huy Ha Vu, one of his attorneys (Tran Vu Hai) accused the Hanoi People's Court of violating criminal procedure by refusing to publicize the documents by which the court made its accusation. When the court refused to drop the charges and declare a mistrial, activist Vu sent his lawyers away in protest; the court found him guilty and sentenced him to seven years in prison.

Political Prisoners and Detainees.—There continued to be no precise estimates of the number of political prisoners. The government reportedly held more than 100 political detainees at year's end, although some international observers claimed there were more (see also section 1.d., Arbitrary Arrest). Diplomatic sources reported the existence of four reeducation centers in the country holding approximately 4,000 prisoners.

For example, on February 8, authorities arrested Vu Quang Thuan, democracy activist and chairperson of the Vietnam Restoration Movement, upon arrival at Tan Son Nhat airport in Ho Chi Minh City for propagandizing against the state. He awaited trial at year's end.

On December 23, authorities arrested and detained Viet Khang (also known as Vo Minh Tri) after he composed and sang two songs to express his view on the government's handling of the dispute with China regarding sovereignty in the South China Sea (East Sea). At year's end his detention reportedly continued in Ho Chi Minh City.

At year's end dissident Nguyen Ba Dang, a member of the People's Democratic Party, awaited trial. Police had arrested him in January 2010 in Hai Duong Province for distributing antistate propaganda.

In March the Tra Vinh Province Appeals Court upheld the original sentences of three members of the United Workers-Farmers Organization—nine years' imprisonment for Nguyen Hoang Quoc Hung and seven years' imprisonment for Do Thi Minh Hanh and Doan Huy Chuong—whose convictions were for causing public disorder to oppose the government. Police had arrested them for distributing pamphlets in February 2010 that called on citizens to advocate for democracy and freedom of assembly and to fight attempted invasions from China.

In September the Dong Nai Province People's Court sentenced Pham Thi Phuong, a member of the Vietnam Populist Party, to 11 years in prison for activities to overthrow the government. Authorities had arrested her and her husband, Pham Ba Huy, in Ho Chi Minh City in April 2010 for reportedly planning a campaign to bomb statues throughout the city. At year's end Pham Ba Huy continued to await trial.

In January Binh Phuoc People's Court convicted Phung Lam from Binh Phuoc Province of propagandizing against the state and sentenced him to seven years in prison. Police had arrested him in June 2010 for alleged ties to the Democratic Party of Vietnam (DPV) and DPV chairman Nguyen Sy Binh, claiming that Lam posted articles opposing the government on the Internet. Lam had fled to Cambodia in May 2010, but police arrested him when he attempted to return to visit his family.

During a one-day closed trial in May, the Ben Tre People's Court convicted several defendants of attempting to overthrow the government and sentenced them as follows: Tran Thi Thuy from Dong Thap Province, eight years' imprisonment and five years' probation; Pham Van Thong, Ben Tre Province, seven years' imprisonment and five years' probation; Pastor Duong Kim Khai, Ho Chi Minh City, six years' imprisonment and five years' probation; and Cao Van Tinh, Con Tho Province, five years' imprisonment and five years' probation. The other three (congregant Pham Ngoc Hoa, Nguyen Thanh Tam, and lay pastor Nguyen Chi Thanh) were each sentenced to two years' imprisonment and three years' probation. In August Thuy, Thong, Khai, and Tinh appealed; the court reduced Khai's sentence to five years' imprisonment and Tinh's sentence to four years' imprisonment, and denied the appeals of Thuy and Thong. Police had arrested Thuy, Thong, Khai, and Tam in July-August 2010 for alleged ties to a banned, foreign-based, prodemocracy group and for organizing and advocating on behalf of land-rights claimants in Ben Tre and Dong Thap provinces. Police had also arrested Hoa and Thanh, affiliated with Khai and the unrecognized Mennonite Church, in November 2010 for their alleged ties to the same prodemocracy group and their work with Khai.

On March 22, authorities deported foreign citizen Le Kin, whom they had arrested in October 2010 in Ho Chi Minh City for attempting to overthrow the government through his alleged involvement with overseas political organizations critical of the government.

In August an appeals court upheld the Hanoi People's Court sentence in April of attorney Cu Huy Ha Vu to seven years in jail for antistate propagandizing. Police had arrested him in November 2010 for his Internet articles and interviews with foreign media criticizing the prime minister. In November Vu's appeal of his sentence was unsuccessful.

In February the Hanoi People's Court convicted Vu Duc Trung and Le Van Thanh, affiliated with the Falun Gong movement, of "illegally broadcasting information [into China] and operating information networks without a license" and sentenced them to three and two years' imprisonment, respectively. Police had arrested them in Hanoi in November 2010 for broadcasting Falun Gong radio programs.

In March the People's Court of Tri Ton District, An Giang Province, sentenced Chau Heng, a Khmer Krom land-rights activist to two years' imprisonment for "deliberately destroying property and creating social disorder." Police had arrested Heng in December 2010 as he reentered Vietnam after being denied political refugee status by the Office of the U.N. High Commissioner for Refugees (UNHCR) in Thailand. Heng had led protests in 2007 and 2008 against local government land seizures.

Also in August the Ho Chi Minh City People's Court sentenced Pham Minh Hoang, a dual national and professor at the Ho Chi Minh City University of Technology, to three years' imprisonment followed by three years' house arrest for alleged ties to a foreign-based prodemocracy group, posting critical comments online against the government under a pseudonym in 2010, and activities aimed at overthrowing the government. Hoang admitted guilt and asked to return to a foreign country. An appeals court in Ho Chi Minh City in November reduced the imprisonment from three years to 17 months, and Hoang continued to serve his sentence at year's end.

In March the appellate division of the Ho Chi Minh City People's Court reduced Le Thang Long's original sentence from five years' imprisonment to three-and-a-half

years. In May the Ho Chi Minh City People's Court denied the appeal of businessman and blogger Tran Huynh Duy Thuc and upheld his original sentence of 16 years' imprisonment. Long and Thuc—as well as prominent attorney Le Cong Dinh and DPV leader and Viet Youth for Democracy cofounder Nguyen Tien Trung—had all been arrested in 2009 and tried jointly in Ho Chi Minh City in January 2010 for involvement in a plot to create new political parties and overthrow the government. Dinh and Trung had pleaded guilty to joining political parties other than the CPV but had denied attempting to overthrow the government. During the year there were no developments in the cases of Dinh and Trung.

On August 29, the government amnestied and released Bloc 8406 member Tran Duc Thach (see section 1.d., Amnesty). Authorities had arrested Thach plus Bloc 8406 members Vu Van Hung and Pham Van Troi in 2008, convicted them in 2009 of antistate propagandizing for displaying banners that criticized the CPV and advocated multiparty democracy, and sentenced them to prison (Thach and Hung, three years' imprisonment; Troi, four years). In January 2010 the Hanoi Appellate Court—with foreign diplomats and journalists excluded—had upheld the prison sentences.

In July authorities returned Roman Catholic priest and activist Thaddeus Nguyen Van Ly to prison to complete the remainder of his eight-year prison term for propagandizing against the state. Authorities had arrested him in 2007 in connection with his role in cofounding the Bloc 8406 movement and the Vietnam Progressive Party but had granted him a one-year humanitarian release in March 2010 to seek treatment for a brain tumor following two strokes in 2009 (see also section 1.c.).

Several other political dissidents affiliated with outlawed political organizations—including the People's Democratic Party, People's Action Party, Free Vietnam Organization, DPV, United Workers and Farmers Organization, Bloc 8406, and others—remained in prison or under house arrest in various locations.

Authorities also continued to detain and imprison other individuals who used the Internet to publish ideas on human rights, government policies, and political pluralism (see section 2.a., Internet Freedom).

Authorities released several persons, including political activists and religious leaders, during the year, including the following:

In June authorities released activist and dissident author Tran Khai Thanh Thuy from prison, and she resettled abroad. A Hanoi court had convicted Thuy and her husband, Do Ba Tan, in February 2010 of assault and had sentenced her to three-and-one-half years in prison and him to two years' probation following a 2009 incident in which unidentified individuals attacked them.

On July 1, authorities released democracy activist Ngo Quynh, who had been convicted and imprisoned for antistate propagandizing in 2009.

In March activist lawyer Nguyen Van Dai completed his 2007 sentence of four years in prison for posting appeals for a multiparty state on the Internet, and authorities released him to begin his sentence of four years' house arrest.

In September Pham Ba Hai, leader of the Bach Dang Giang Foundation and a Bloc 8406 member, completed his 2006 sentence of five years in prison for antistate propaganda. At year's end he was serving two years' house arrest.

In February authorities released political activist and former police officer Tran Van Thieng, age 75. A court in Ho Chi Minh City had convicted him in 1991 of attempting to overthrow the government by "trying to publish a book that distorted historical information" about Vietnam and had sentenced him to 20 years' imprisonment.

In October 2010 the Can Tho Police Security Investigation Agency and the People's Procuracy of Can Tho released Doan Van Chac from any wrongdoing and declined any further investigation into his case. Police had arrested him in June 2010 after he had evaded arrest since participating as a juvenile in a 1983 campaign against the government that resulted in the deaths of three officials.

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, civil, 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 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. The government continued to disallow the use of class action lawsuits against government ministries, thus limiting land rights petitioners from sending joint complaints to numerous government agencies.

Property Restitution.—A 2009 decree offers compensation, housing, and job training for individuals displaced by development projects. However, there were widespread complaints, including from the National Assembly, that compensation was inadequate or delayed. There were also 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. Some members of ethnic minority groups in the Central and Northwest Highlands continued to complain that they had not received proper compensation for land the government confiscated to develop large-scale, state-owned enterprises.

For example, in February Pham Thanh Son self-immolated on the sidewalk outside the Danang City People's Committee building to protest the confiscation of his family's property by local officials and their refusal to hear his appeal.

On November 3, 50 to 70 police officers tried to remove an "illegal" sign, posted weeks earlier on the roof of the Thai Ha church in Hanoi, which called on the government to return land the church once owned. Security officials reportedly injured one church member while attempting to crash through the front gate. On December 2, security officials detained 30 parishioners and two clergy members, including the head Thai Ha priest, after 150-200 parishioners peacefully protested for the land's return. By year's end all detainees were released.

In January, upon appeal, the Danang City People's Court commuted the sentences of all the remaining defendants in a land-rights protest that led to police clashes with Roman Catholic parishioners in a funeral procession in Con Dau Village in May 2010 and set them free. Police had arrested six parishioners accused of starting the altercation and damaging a police vehicle. The court initially tried them in October 2010 for public disorder and denied three of them legal representation; four individuals received nine- and 12-month jail sentences, and the remaining two defendants received suspended sentences.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, but the government did not respect these prohibitions in practice. Household registration and block warden systems existed for the surveillance of all citizens. Authorities focused particular attention on persons suspected of being involved in unauthorized political or religious activities.

The government pursued a population and reproductive health strategy that set a target average number of children per couple (see section 6, Women).

Forced entry into homes is not permitted without orders from the public prosecutor, although security forces seldom followed these procedures and instead asked permission to enter homes with an implied threat of repercussions for failure to cooperate. During the year police forcibly entered homes of a number of prominent dissidents—such as Pham Hong Son, Nguyen Thanh Giang, Le Quoc Quan, and Le Tran Luat—and removed personal computers, cell phones, and other material.

Government authorities continued to open and censor targeted persons' mail; confiscate packages and letters; and monitor 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.

CPV membership remained a prerequisite to career advancement for all government and government-linked organizations and businesses. However, economic diversification continued to make 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.—*Status of Freedom of Speech and Press.*—Although the constitution and law provide for freedom of speech, including for members of the press, the government continued to use broad national security and antidefamation provisions to restrict these freedoms. The law 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. It also expressly forbids "taking advantage of democratic freedoms and rights to violate the interests of the state and social organizations."

Freedom of Speech.—The government continued to restrict 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 sovereignty disputes with China.

Freedom of Press.—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, under the overall guidance of the CPV Propaganda and Education Commission. Private ownership of any media outlet continued to be prohibited.

Foreign journalists must be approved by the Foreign Ministry's press center and based in Hanoi, with the exception during the year of one correspondent reporting solely on economic matters who lived in and worked from Ho Chi Minh City while accredited to Hanoi. Foreign journalists are required to renew their visas every three to six months. The allowed number of foreign media employees was limited, and Vietnamese employees working for foreign media are required to register with the Foreign Ministry.

The procedure for foreign media outlets to hire local reporters and photographers and receive accreditation approval 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. Reporters temporarily on assignment in the country are typically assigned a Foreign Ministry minder—with the cost paid by the news organization. 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 notified authorities about their travel outside Hanoi when it involved a story that the government would consider sensitive or where the travel was in an area considered sensitive, such as the Northwest or Central Highlands.

Violence and Harassment.—During the year security officials attacked or threatened several journalists reportedly because of their coverage of sensitive stories. For example, in February Ho Chi Minh City police detained freelance reporter Ta Phong Tan, a member of the Free Journalists Club, for 24 hours and allegedly beat him for writing articles critical of government policies.

In April police arrested publisher Bui Chat after he returned from overseas where the NGO International Publishers Association had given him their Freedom to Publish Award. Police held Chat for four days and later summoned him for further questioning by security officials. Several days later police detained blogger Ngo Thanh Tu (also known as Thien Sau) in Ho Chi Minh City, as he tried to depart on an international flight, and questioned him about his affiliation with Bui Chat. In June authorities detained Chat overnight in Ho Chi Minh City and prevented his attendance at a foreign embassy ceremony in Hanoi.

In August a court sentenced Phan Ha Binh, deputy managing editor of Tien Phong, to seven years in prison for extortion. Authorities had arrested Binh in October 2010 and accused him of soliciting a VND 220 million (approximately \$10,500) bribe from a cement company and threatening to write negative articles.

Multiple reporters for foreign news organizations reported harassment by security officials, including threats not to renew their visas if they continued to publish stories on sensitive topics.

Censorship or Content Restrictions.—The Ministry of Information and Communication and the Propaganda and Education Commission frequently intervened directly to dictate or censor a story. More often, however, the party and government maintained control over media content through pervasive self-censorship, backed by the threat of dismissal and possible arrest. As long as the government did not deem their content to have been "sensitive," authorities permitted some private investors to operate television channels and news-aggregator Web sites and publish certain pages in newspapers.

Despite the continued growth of Internet blogs, the party and government increased efforts to suppress press freedom, continuing a three-year-old "rectification" campaign. In February Prime Ministerial Decree Number 2, "Sanctions for Administrative Violations in Journalism and Publishing" went into effect. It stipulates fines between VND one million and 42 million (approximately \$50-2,100) for journalists, newspapers, and online media which fail to comply with broad, vague provisions that require "providing honest domestic and international news in accordance with the interests of the country and the people." The decree—which officials described as "simply an administrative act"—authorizes branches of the government to impose fines on journalists and newspapers at any time, based on arbitrary determinations by ministries and officials at various levels about what constitutes "the interests of

the country and the people.” Article 7 of the decree imposes fines of VND 10.5 million to 21 million (\$500-1,000) on journalists who fail to publish their sources of information and similar fines on journalists and newspapers that “use documents and materials from organizations and personal letters and materials from individuals.”

In January the editor in chief of the Saigon Tiep Thi Web site was forced from his position following the publication in late 2010 of sensitive articles.

In February Nguyen Anh Tuan, the founder and editor in chief of the news Web site VietnamNet—whom the ministry reprimanded in December 2010 for publishing an international NGO’s annual corruption survey—was pressured to resign. Authorities also refused to renew the press card issued by the government to the author of the offending article.

Libel Laws/National Security.—The law requires journalists to pay monetary damages to individuals or organizations whose reputations were harmed as a result of reporting, even if the reports were accurate. Independent observers noted that the law severely limited investigative reporting. There were some 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.

Publishing Restrictions.—Under government regulations the Ministry of Information and Communication 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, although the government occasionally censored articles.

In October the Ministry of Culture’s state-owned Fine Arts Publishing House recalled all first-edition copies of *Killer with a Festering Head*, a cartoon book by Nguyen Thanh Phong, two weeks after its release. According to media reports, the ban occurred because government censors deemed some of the book’s illustrations—which satirized contemporary Vietnamese life and social issues—to be violent, politically sensitive, or broaching sensitive topics.

Nongovernmental Impact.—The law limits satellite television access to senior 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 urban-area subscribers. Television providers are required to register with the Ministry of Information and Communication, and edit and translate foreign programming before it is broadcast. Regulations stipulate that movies and programming on science, education, sports, entertainment, and music be translated in advance and that all news programs (CNN and BBC, for example) provide brief translations in advance of broadcasting.

Internet Freedom.—The government allows access to the Internet through a limited number of service providers (ISPs), all of which were state-owned, joint-stock companies.

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 requires ISPs to provide technical assistance and workspace to public security agents to allow them to monitor Internet activities. The government requires cybercafes to register the personal information of their customers and store records of Internet sites visited by customers. ISP compliance with these government regulations was unclear. Although citizens enjoyed increasing access to the Internet, the government monitored e-mail, searched for sensitive key words, and regulated Internet content. In March the NGO Reporters Without Borders strongly criticized the government for continued regulation of Internet content and monitoring of individual use.

City and provincial authorities issue additional local regulations to control online access. In compliance, Internet cafes continued to install and use government-approved software to monitor customers’ online activities. Location of Internet cafes within 220 yards of a school continued to require a curfew on operations, and ISPs were obliged to cut online access to Internet cafes between 11 p.m. and 6 a.m. to curb online gaming.

Ministry of Information and Communication regulations require Internet companies, social networking sites, and Web sites that provide information in the areas of “politics, economics, culture, and society” to continue to register and obtain a government license before operation.

From May to July, the blocks on Facebook appeared to weaken, with two of the three major ISPs allowing access to the site. Subscribers of other ISPs often used workarounds such as virtual private networks to access the site.

Provisions of law and regulation, such as the prohibition of antistate propagandizing, prohibit bloggers from posting material that the government believes would undermine national security, disclose state secrets, or incite violence or crimes. Consequently, these provisions prohibit individuals from downloading and disseminating documents the government deems offensive. 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. A number of prominent print and online news journalists maintained their own professional blogs, several of which were considered far more controversial than their mainstream writing. In a few instances, the government fined or punished these individuals for the content of their blogs.

Authorities detained and imprisoned dissidents who used the Internet to criticize the government and publish ideas on human rights and political pluralism. Prime Ministerial Decree Number 2 heralded an increase in the number of bloggers arrested for online expression, totaling at least nine individuals during the year. The majority of bloggers arrested were charged with propagandizing against the state or attempting to overthrow the government.

For example, in July police detained Dang Xuan Dieu, Ho Duc Hoa, and Nguyen Van Oai at Tan Son Nhat airport in Ho Chi Minh City after they returned from Thailand where they had attended an Internet/blogger training course organized by a foreign NGO. Police also arrested Redemptorist follower Le Van Son, who also attended the course, on August 3 in Hanoi. That same day, authorities arrested three more Roman Catholic bloggers (Tran Huu Duc, Dau Van Duong, and Dang Xuan Tuong) in Vinh City, Nghe An Province, for participating in the same training. In September police arrested Ta Phong Tam after she posted an analysis of the arbitrary nature of Le Van Son's arrest.

On August 18, local authorities arrested Nguyen Xuan Anh, Repemptorist member and resident of Vinh City, and charged him with participating in a banned, foreign-based, prodemocracy group and attempting to overthrow the government. By year's end the Vinh Diocese reported that authorities had arrested 16 individuals (15 Roman Catholics and one Protestant).

On April 19, authorities dropped an investigation and all charges against Le Nguyen Huong Tra (also known as Co Gai Do Long) and stated that her behavior "was less serious than previously thought." Security officials had accused her of abusing democratic freedoms and had arrested her in October 2010, nine days after she had posted commentaries critical of Vice Minister of Public Security Nguyen Khanh Toan's son.

On the day of his scheduled release in October 2010 from a 30-month sentence for alleged tax evasion, authorities rearrested Nguyen Van Hai (also known as Dieu Cay) for antistate propagandizing, allegedly based on three-year-old blog postings. There were unconfirmed reports during the year that he lost his arm while in custody.

In January the People's Court of Lang Son Province convicted Vi Duc Hoi, a former CPV official from the province, of antistate propagandizing after his online postings in 2007-09 of prodemocracy articles criticized the CPV. The court sentenced him to eight years in prison followed by five years' house arrest (reduced on appeal in April to five years' imprisonment and three years' house arrest). Hoi, a CPV member beginning in 1980, had been removed from the CPV in 2007 after he authored online articles disparaging corruption in the party.

Web sites critical of the government that were hosted overseas were continually targeted throughout the year by distributed denial-of-service attacks. A majority of the targeted Web sites were news-aggregator sites that regularly republished postings by high-profile dissidents critical of the government. Hackers rendered several other Web sites inoperable. In June and July the popular news portal VietnamNet was hacked multiple times and rendered inaccessible. An investigation into these attacks continued at year's end. In August a botnet attacked a Web site belonging to a foreign-based prodemocracy group using an estimated 77,000 Internet Protocol addresses located in Vietnam, which suggested government involvement, according to Access Contested: Security, Identity, and Resistance in Asian Cyberspace.

Political dissidents and bloggers routinely reported having their home Internet connections disconnected on orders from the security services.

The government used firewalls to block some Web sites that it deemed politically or culturally inappropriate, including sites 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 most of the time. BBC online in Vietnamese and English was blocked at times during the year.

The Ministry of Information and Communication 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. Enforcement remained selective.

Academic Freedom and Cultural Events.—The government asserted the right to restrict academic freedom, and authorities sometimes questioned and monitored foreign field researchers. 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. Academic publications usually reflected the views of the CPV and government.

In May the National Assembly distributed a draft law on higher education for public comment. Critics publicly voiced concerns that the draft included an extensive list of administrative constraints but did not provide universities with autonomy to make basic decisions, such as what to teach and how many students to admit.

The government continued to restrict the ability of some international and domestic organizations to host conferences with international sponsorship or participation by requiring government approval at least 20 days in advance.

The government continued to prohibit independent scientific and technical organizations from publicly criticizing party and state policy. In July Thai Nguyen Medical University permanently dismissed Tu Anh Tu, a medical student, for engaging in activities advocating for democracy, which included reading online prodemocracy articles and participating in activist movements.

Although the government controlled art exhibits, music, and other cultural activities, artists were allowed broader latitude than in past years to choose 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 law limits freedom of assembly, and the government restricted and monitored all forms of public protest or gathering. Law and regulation require persons wishing to gather in a group to apply for a permit, which local authorities may 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 to have a political purpose. The government also restricted the right of several unregistered religious groups to gather in worship.

On June 5, approximately 300 individuals gathered in front of the Chinese embassy in Hanoi to protest news reports that Chinese patrol ships harassed a Vietnamese seismic survey ship and Chinese violations of Vietnamese sovereignty continued in the disputed South China Sea (East Sea). More than 1,000 individuals joined a similar protest in Ho Chi Minh City. Similar public demonstrations took place once a week for 11 consecutive weeks in Hanoi but were censored shortly thereafter in Ho Chi Minh City. During the July 10 protest in Hanoi, police detained at least 20 individuals. One week later authorities temporarily suspended Hanoi Police Captain Pham Hai Minh from duty when he was photographed trampling the face of one of the protesters. On August 18, the Hanoi People's Committee issued a decree "banning all spontaneous gatherings, demonstrations, and parades." On August 22, police arrested 50 individuals for protesting in violation of that decree; authorities released all 50 five days later, but protest leaders and fellow demonstrators thereafter remained under investigation and reported being monitored by police. On September 5, a group of 10 persons filed a lawsuit against state-controlled media for claiming that hostile forces incited the protesters.

On November 8, plainclothes security officials beat and detained approximately 30 Falun Gong practitioners who demonstrated outside the Chinese embassy in Hanoi in support of Vu Duc Trung and Le Van Thanh, whom authorities had arrested in 2010 and charged with broadcasting illegally into China (see also section 1.e., Political Prisoners and Detainees).

Freedom of Association.—The government severely restricted freedom of association and neither permitted nor tolerated opposition political parties. The government prohibited the 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.

Authorities occasionally physically prevented political activists and family members of political prisoners from meeting with foreign diplomats. Tactics included setting up barriers or guards outside diplomats' residences or calling individuals into local police stations for random and repetitive questioning.

c. Freedom of Religion.—See the Department of State's International Religious Freedom Report at <http://state.gov/j/drl/irf/rpt>.

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, but the government imposed some limits on freedom of movement for certain individuals. The government generally cooperated 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.

Local government authorities observed but did not hinder the UNHCR and foreign diplomatic fact-finding and monitoring visits 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.

In February, 55 Montagnards who fled the Central Highlands for Cambodia were resettled in third countries. The UNHCR, which conducted several monitoring trips during the year, reported that there was "no perceptible evidence of mistreatment" of any of the ethnic minority individuals it monitored in the Central Highlands.

In-country Movement: Several political dissidents, amnestied with probation or under house arrest, were subject to official restrictions on their movements.

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."

Local police require citizens to register when staying overnight in any location outside of their own homes; the government appeared to enforce these requirements more strictly in some Central and Northern Highlands districts. Foreign passport holders must also 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.

The 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 Travel.—Officials occasionally delayed citizens' access to passports in order to extort bribes, and prospective emigrants occasionally encountered difficulties obtaining a passport.

For example, in July authorities stopped Father Dinh Huu Thoai, chief of office of the Redemptorist Church of Vietnam, at the Moc Bai border gate (Tay Ninh Province) and prevented him from leaving the country. In September security forces prevented human rights lawyer Huynh Van Dong from leaving the country.

Although their probation ended years earlier, the government continued to prohibit dissidents Nguyen Khac Toan, Pham Hong Son, Le Thi Kim Thu, and others from receiving a passport and traveling overseas during the year. Authorities continued to allow attorney Le Quoc Quan, attorney Le Tran Luat, and journalist Nguyen Vu Binh to travel within the country but prohibited them from traveling overseas.

Emigration and Repatriation.—The government generally permitted citizens who had emigrated to return to visit, although it refused to allow certain activists or other individuals living abroad to return. Known Vietnamese political activists overseas were denied entry visas or were detained and deported after entering the country. For example, on August 1, authorities denied Radio Free Asia reporter Tuong Anh entry after he arrived at Tan Son Nhat airport, Ho Chi Minh City, from abroad.

The government continued to honor a tripartite memorandum of understanding signed with Cambodia and the UNHCR to facilitate the return from Cambodia of all ethnic Vietnamese who did not qualify for third-country resettlement.

Citizenship.—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 citizenship under certain conditions. Emigrants who acquire another country's citizenship generally are considered still to be Vietnamese citizens unless they formally renounce their Vietnamese citizenship. However, in practice the government treated overseas Vietnamese as citizens of their adopted country. Legislation seeks 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. The government continued to liberalize travel restrictions for overseas Vietnamese, including permitting visa-free travel and permitting individuals to petition to receive Vietnamese passports.

Protection of Refugees.—The law does not provide for the granting of refugee status, and the government has not established a system for providing protection to refugees.

Access to Asylum.—The law does not provide for the granting of asylum.

Safe Country of Origin/Transit.—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. No such cases were reported 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 no proof existed that these individuals had ever possessed Cambodian citizenship. Almost all were ethnic Chinese or Vietnamese whom authorities 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. An additional 2,100 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 enjoy the same rights as Vietnamese citizens, including the right to property ownership, comparable access to education, and public medical care. In July 2010 the first group of 287 individuals received Vietnamese citizenship as part of a joint UNHCR-government effort to survey and naturalize these stateless individuals. The naturalization applications for the approximately 1,800 remaining were submitted to the president's office for final approval, but no action was reported at year's end.

The 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 the officials that govern them.

Elections and Political Participation.—Recent Elections.—The most recent elections, in May to select members of the National Assembly, were neither free nor fair, since the VFF chose and vetted all candidates. Despite the CPV's 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 to other candidates was lower than that of the 2007 election. The CPV approved 15 "self-nominated" candidates who did not have official government backing but were allowed 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 62 million eligible voters cast ballots in the May election, a figure that international observers considered improbably high. (Voters are permitted to cast ballots by proxy, and local authorities are charged with assuring that all eligible voters cast ballots by organizing group voting and all voters within their jurisdiction are recorded as having voted.) CPV candidates won 458 of the 500 seats. Only four of the 15 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 are party members), continued to take incremental steps to assert itself as a legislative body. A majority of Na-

tional Assembly committees increased the number of members on the committees in an attempt to exert more influence over budgetary matters and to review and provide recommendations on policy matters. For example, the number of members on the External Relations Committee increased from 30 to 36, the Committee on Social Issues increased its membership from 40 to 50 members, and the committees on legal affairs and defense increased the number of vice chairs. In August the National Assembly appointed a Constitutional Amendment Drafting Committee and adopted a statement by its Standing Committee giving guidance on the scope and timetable of the drafting process.

Political Parties.—The constitution vests all authority and political power in one party, the CPV, and recognizes the leadership of the CPV. The CPV Politburo functions as the supreme decision-making body in the country, although technically it reports to the CPV Central Committee. Political opposition movements and other political parties are illegal.

The government continued to restrict public debate and criticism severely. No public challenge to the legitimacy of the one-party state was permitted, although there were instances of unsanctioned letters critical of government policy from private citizens. For example, former government officials and leading academicians criticized the government's decision to allow substantial foreign investment in bauxite mining and its handling of sovereignty claims in the South China Sea (East Sea). The government continued to crack down on the small, opposition political groups established in 2006, and group members faced arrests and arbitrary detentions.

Members of Bloc 8406 and other political activist groups that call for the creation of a multiparty state continued to face harassment and imprisonment.

Participation of Women and Minorities.—The law provides the opportunity for equal participation in politics by women and minority groups. There were 122 women in the National Assembly, or approximately 24 percent—a slightly lower percentage than in the previous assembly.

Ethnic minorities held 78 seats, or approximately 16 percent, in the National Assembly—a decline from the previous assembly.

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 continued to be a major problem. The government persisted in efforts to fight corruption, including publicizing budgets of different government levels, continuing to streamline inspection measures, and occasionally widely publicizing cases of officials accused of corruption.

The anticorruption law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. 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.

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.

Foreign aid donors conducted an annual anticorruption dialogue as part of consultative group meetings with the government. Previous dialogues focused on corruption in the education, health, and construction sectors.

According to an annual report by the government's Anticorruption Steering Committee released in June, state agencies initiated preliminary investigations into 100 cases of corruption-related crimes, an increase of approximately 5 percent compared with the same period during the previous year. There were 185 suspects, an increase of 3 percent, and authorities brought 97 cases to the court of first instance. According to the annual report of the Office of the Inspectorate General, it investigated 220 cases of corruption/fraud involving 449 individuals during the year, a majority of which continued under investigation at year's end.

In June authorities charged Pham Thanh Hai, an accountant in the government's department of cinematography, with embezzling VND 42 million (approximately \$2,100) from the department's annual budget.

In September the Supreme People's Court in Hanoi concluded its investigation into the August 2010 allegations of misappropriation in the shipbuilding conglomerate Vinashin and found that nearly VND 900 billion (approximately \$43 million) had been misappropriated. The court charged Chief Executive Officer Pham Thanh

Binh and eight others—board members Tran Quang Vu and Tran Van Liem, former subsidiary general directors Nguyen Van Tuyen and Nguyen Tuan Duong plus To Nghiem, Trinh Thi Hau, Hoang Gia Hiep, and Do Dinh Con—with “deliberately acting against state regulations and economic mismanagement, causing serious consequences.” These offenses are punishable by up to 12 years in prison. At year’s end the accused awaited trial as well as additional investigation on other, related charges.

In June a court convicted Tran Van Khanh, the former director general of Vietnam General Corporation of Agriculture Materials, of “abusing powers while performing official duties” and sentenced him to five years’ imprisonment. Specifically, in 2003-04 Khanh illegally sold company fertilizer to individuals outside of working hours and rented company vehicles to private individuals, from which he pocketed more than VND 3 billion (approximately \$140,000).

In May the former governor of the State Bank of Vietnam, Le Duc Thuy, retired from his position after coming under investigation for allegedly taking bribes from the Reserve Bank of Australia currency supplier (Securrency). It was claimed that, for the exchange of an undisclosed amount of money, Thuy helped Securrency win banknote supply contracts during the period 2002-09 and that Securrency deposited funds for Thuy into an overseas account belonging to a member of the government’s public security bureau, Colonel Luong Ngoc Anh. An investigation continued at year’s end.

By government decree various 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 these asset declarations only if a government employee is found “unusually wealthy” and 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.

The Ministry of Public Security is responsible for investigating corruption charges brought forward by anticorruption offices in the Ministry of Home Affairs and the Office of the Inspectorate General. Additionally, the Central Steering Committee on Anticorruption reports directly to the Office of the Prime Minister and has the responsibility to direct, coordinate, inspect, and formulate countrywide anticorruption activities. This committee periodically provides reports on anticorruption activities to the CPV Central Committee, National Assembly, and Office of the State President. It is also responsible for suspending and/or dismissing senior officials appointed by the prime minister who are convicted of corrupt practices.

The law does not provide for public access to government information, and the government usually did not grant such access to citizens or noncitizens, including foreign media. In accordance with the law, the Official Gazette published most government legal documents in its daily edition but not party documents such as Politburo decrees. 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 a majority of the time through the court’s Web site. During his March visit, the U.N. independent expert on foreign debt and human rights called on the government to make information on debt and development assistance broadly available to enhance transparency and accountability in the management and use of public resources.

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, nor does it tolerate attempts by organizations or individuals to comment publicly on its human rights practices. The government used a wide variety of methods to suppress domestic criticism of its human rights policies, including surveillance, limits on freedom of the press and assembly, interference with personal communications, and detention.

U.N. and Other International Bodies.—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, although it allowed representatives from the UNHCR, press, 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.

Government Human Rights Bodies.—The government discussed human rights matters bilaterally with several foreign governments and continued to hold official talks concerning human rights, typically through annual human rights dialogues.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, but enforcement of these prohibitions was uneven.

Women.—Rape and Domestic Violence.—The law prohibits using or threatening violence against women or taking advantage of a person who cannot act in self-defense. It also criminalizes rape, including spousal rape. Rapists are subject to two to seven years' imprisonment. In severe cases of rape, including organized rape, a repeat offense, or extreme harm to the victim, sentences may range from seven to 15 years in prison. Authorities reportedly prosecuted rape cases to the full extent of the law, but the government did not make arrest, prosecution, conviction, and punishment statistics available.

Domestic violence against women was common. A 2010 U.N. report found that 58 percent of married women had been victims of physical, sexual, or emotional domestic violence. Domestic violence cases were treated as civil ones, unless the victim suffered injuries involving more than 11 percent of her body.

The law specifies acts constituting domestic violence, assigns specific portfolio responsibilities to different government agencies and ministries, and stipulates punishments for perpetrators ranging from warnings, through probation for up to three years, to imprisonment for three months to three years. However, NGO and survivor advocates considered many of the provisions to be weak, and the government did not make arrest, prosecution, conviction, and punishment statistics available. Officials acknowledged domestic violence as a significant social concern, and the media discussed it more openly during the year. 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 to address domestic violence. Hotlines for victims operated by domestic NGOs existed in major cities. The Center for Women and Development, supported by the Women's Union, also operated a nationwide hotline, although it was not widely advertised in rural areas. It conducted 2,161 consultations regarding 1,858 cases during the year. While rural areas often lacked the financial resources to provide crisis centers and hotlines, a law establishes "reliable residences" to allow women to turn to another family while local authorities and community leaders attempt to confront the abuser and resolve complaints. 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 highlighted the problem through public awareness campaigns. Local NGOs affiliated with the Women's Union remained engaged in women's issues, particularly violence against women and trafficking of women and children.

Sexual Harassment.—According to the government, sexual harassment of adults is not illegal, and there is no legal requirement to prevent it. There also is no law to protect employees from sexual harassment in the workplace. However, the law prohibits employers from discriminating against female workers or offending their dignity and honor, although there were no known prosecutions during the year. 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. If the victim has access to a labor union representative, complaints can also be lodged with union officers. In serious cases victims may sue offenders under a provision that 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. Nevertheless, sexual harassment lawsuits continued to be unheard of, and most victims were unwilling to denounce offenders publicly.

Reproductive Rights.—The law affirms an individual's right to choose contraceptive methods; access gynecological diagnosis, treatment, and health check-ups during pregnancy; and obtain medical services when giving birth at health facilities, and the government generally enforced the law. Nonetheless, unmarried women of reproductive ages had limited or no access to subsidized contraceptives due to government policy and lack of access in rural areas. Women and men were equally diagnosed and treated for sexually transmitted infections.

Although the Population and Reproductive Health Strategy for 2011-20—applicable to all citizens—no longer specifically referred to the number of children per couple, it set a target of maintaining the average number of children per reproductive-age couple at 1.8. The government, primarily through media campaigns, strongly encouraged individuals to practice family planning. There was also anecdotal information that authorities would not promote government officials if they had more than two children.

Discrimination.—The law provides for gender equality in all aspects of life, but women continued to face societal discrimination. Despite the large body of law and regulation devoted to the protection of women's rights in marriage and the workplace, as well as provisions that call for preferential treatment, women did not always receive equal treatment. They experienced economic discrimination since they cannot work in all the same industries as men and are not allowed to work the same hours as men (due to pregnancy or nursing). Moreover, no laws prohibit employers from asking about family status during job interviews.

Although the law provides for equal inheritance rights for men and women, in practice women faced cultural discrimination: A son was more likely to inherit property than a daughter, unless specified by a legal document. Laws prohibit gender-based preferential hiring for jobs, and while NGOs assumed that such discrimination occurred, allegations were hard to prove.

The CPV-affiliated Women's Union and the government's National Committee for the Advancement of Women 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. In April the National Strategy Plan for Gender Equality replaced the National Plan of Action for the Advancement of Women. Key areas of the strategy were similar to plan goals but also moved beyond advancement to recognize broader inequities in access to social services and focus on developing indicators; placing more women in senior ministry positions and the legislature; and increasing literacy rates, access to education, and health care.

According to a 2010 U.N. Population Fund report, the national average male-female sex ratio at birth was 111 to 100. The imbalanced ratio of newborn boys to girls continued to increase, particularly in some wealthier areas of Hanoi and Ho Chi Minh City. The government acknowledged the issue and was taking steps to address it.

Children.—Birth Registration.—By law the government considers anyone born to at least one Vietnamese citizen parent to be a citizen, although persons born to non-Vietnamese parents may also acquire citizenship under certain circumstances. Not all births were registered immediately, sometimes due to a lack of knowledge among the populace. A birth certificate is required for public services, such as education and health care, and the choice by some parents, especially ethnic minorities, not to register their children affected the ability to enroll them in school and receive government-sponsored health care.

Education.—Education is compulsory, free, and universal through the age of 14. Nevertheless, authorities did not always enforce the requirement, especially in rural areas, where government and family budgets for education were strained and children's contributions as agricultural laborers were valued.

Child Abuse.—The U.N. and the General Statistics Office found that 25 percent of children were victims of child abuse as reported by their mothers during a study on domestic violence. The government did not make information available on the extent of the problem or its efforts to combat it.

Sexual Exploitation of Children.—Sexual harassment of children under age 16 is illegal. The law criminalizes all acts of sale, fraudulent exchange, or control of children as well as all acts related to child prostitution and forced child labor. Sentences range from three years' to life imprisonment, and fines range from VND five million to VND 50 million (approximately \$240 to \$2,400). The law also specifies prison sentences for acts related to child prostitution, including harboring prostitution (12 to 20 years), brokering prostitution (seven to 15 years), and buying sex with minors (three to 15 years). Similarly, the law prohibits all acts of cruel treatment, humiliation, abduction, sale, and coercion of children into any activities harmful to their healthy development and provides for the protection and care of disadvantaged children.

The minimum age of consensual sex is 18. Statutory rape is illegal and may result in life imprisonment or capital punishment. Penalties for sex with minors between the ages of 16 and 18, depending upon the circumstances, vary from five to 10 years in prison. The production, distribution, dissemination, or selling of child pornography is illegal and carries a sentence of three to 10 years' imprisonment.

According to preliminary findings released in July of a 2010 survey conducted by UNICEF and the Ministry of Labor, Invalids, and Social Affairs (MOLISA), child prostitution, child trafficking for sexual purposes, child sex tourism, and child pornography occurred in Vietnam. The report showed that children as young as age 12 worked as prostitutes, with the most commonly observed age being 14-15. Some minors entered into prostitution for economic reasons.

Displaced Children.—Independent NGOs estimated that 23,000-25,000 children lived on the streets and were sometimes abused or harassed by police.

Institutionalized Children.—There were no shelters designed specifically for child victims of trafficking or abuse. Instead, authorities placed them in facilities with survivors of domestic violence or adult trafficking. The government allocated VND 1.25 trillion (approximately \$59.5 million) for the draft National Program of Action for Children for 2011-20. The new program's focus is assistance for disadvantaged children with priority for the 12 poorest provinces. The government also promulgated the National Program on Child Protection 2011-15, which was approved in February.

International Child Abductions.—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism.—There were small expatriate Jewish communities in Hanoi and Ho Chi Minh City, and there were no reports of anti-Semitic acts.

Trafficking in Persons.—See the Department of State's Trafficking in Persons Report at <http://state.gov/j/tip>.

Persons With Disabilities.—The constitution provides for the protection of persons with physical disabilities. The law prohibits discrimination against or maltreatment of persons with disabilities; encourages their employment; and requires equality for them in accommodation, access to education, employment, health care, rehabilitation, transportation, and vocational training.

The provision of services to persons with disabilities, although limited, improved during the year. The Ministry of Transportation implemented accessibility codes for public transportation facilities, trained transportation agency officials and students on the use of the codes, and developed training materials for bus drivers to assist individuals on and off buses. The government also put in place four accessible bus routes in Ho Chi Minh City and Danang with accessible buses and distributed free bus tickets (or reduced the fares for) 26,000 individuals in Hanoi and Ho Chi Minh City.

Construction and major renovations of new government and large public buildings are required to include access for persons with disabilities, but enforcement was sporadic. New buildings and facilities in larger urban cities were built with ramps and accessible entries. The Ministry of Construction maintained enforcement units in the cities of Hanoi, Ho Chi Minh, Danang, Quang Nam, and Ninh Binh to enforce barrier-free codes and provided training on construction codes for inspectors and architectural companies in more than 20 provinces during the year.

Access to education for children with disabilities, including blindness, deafness, and mobility restrictions, was extremely limited. 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, but the government enforced these provisions unevenly. Firms that have 51 percent of their employees with disabilities may qualify for special government-subsidized loans.

The government respected the political and civil rights of persons with disabilities. For example, by law ballot boxes may be and were 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 persons with disabilities.

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. In certain areas, including the Northwest and Central Highlands and

portions of the Mekong Delta, ethnic minority groups made up the majority of the population.

Some members of ethnic minority groups continued to leave for Cambodia and Thailand, reportedly to seek greater economic opportunity or shortcuts to migration to other countries. The government monitored certain highland minorities closely, particularly several ethnic groups in the Central and Northwest Highlands, where it continued to be concerned that the religion they practice encouraged ethnic minority separatism.

The government imposed increased security measures in the Central and Northwest Highlands in response to concerns over possible ethnic minority separatist activity. There were reports that ethnic minority individuals who telephoned ethnic minority community members abroad were a special target of police attention. Authorities arrested and convicted several individuals connected to overseas separatist organizations and sentenced them to lengthy prison terms in 2011. During the period around sensitive occasions and holidays, an increased security presence was reported throughout the region. There were a few reports that Vietnamese police operating on both sides of the border returned members of ethnic minorities seeking to enter Cambodia and sometimes beat and detained them.

In late April and early May, 5,000 ethnic Hmong in Dien Bien Province gathered in Muong Nhe District as part of a millennium movement. Security personnel dispersed the crowd and arrested 150 individuals. According to the government, seven detainees (among them were Thao A Lao, Mu A Thang, Trang A Do, and Giang A Xi from Dien Bien Province) remained in police custody at year's end, charged with preventing government officials from performing official duties, and an investigation continued.

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 continued to allocate land to ethnic minorities in the Central Highlands through a special program, but there were valid complaints that implementation was uneven.

The government maintained a program to conduct classes in some local ethnic minority languages in elementary and secondary schools. The government also 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, and only in limited areas of the Northwest Highlands. The law provides for universal education for children regardless of religion or ethnicity, and ethnic minorities are not required to pay regular school fees. The government operated special schools for ethnic minority children, and there were 223 boarding schools for them in the Northwest and Central Highlands and the Mekong Delta, including at middle- and high-school levels plus 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 some credible cases of discrimination against ethnic minorities.

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. Nonetheless, local security officials detained Tang Thuy, an ethnic Khmer Krom minority group member from Soc Trang Province, for two days in March for questioning about his participation in a meeting that called for the government to respect the rights of all ethnic minorities.

The government granted preferential treatment to domestic and foreign companies that invested in highland areas 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.

The National Assembly's Ethnic Minority Council, along with provincial Ethnic Minority Steering Committees, supported infrastructure development and addressed some issues related to poverty reduction and an increase in literacy rates during the year.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Consensual same-sex sexual activity is not criminalized, although by decree, individuals may not change their gender. There was no reported official discrimination based on sexual orientation or gender identity, but societal discrimination and stigma were pervasive. A lesbian, gay, bisexual, and transgender (LGBT) community existed but was largely underground.

A 2009 survey of more than 3,200 LGBT individuals by the Institute for Studies of Society, Economy, and the Environment reported that 4.5 percent claimed they were victims of assault or physical abuse by homophobic individuals and 6.5 percent claimed they lost jobs because of their sexual orientation. The institute also reported that government officials, the Women's Union, and the Lawyers Association participated in sensitivity training during the year. Most LGBT persons chose not to tell family of their sexual orientation for fear of being disowned, and a 2011 online survey, conducted by the Information Sharing and Connecting Group with more than one thousand LGBT respondents, noted that more than 20 percent were forced into counseling by their families.

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 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 the number of such reports decreased. The government reported approximately 5,100 school-age children with HIV/AIDS. In several cases HIV/AIDS-positive children or orphans were barred from schools due to pressure from other parents. With the assistance of foreign donors, the national government and provincial authorities took steps to treat, assist, and accommodate persons with HIV/AIDS and thereby decrease societal stigma and discrimination, but these measures were not consistently applied. Faith-based charities were sometimes permitted to provide HIV prevention and home-based care services to persons with or affected by HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining.—The law does not allow workers to organize and join independent unions of their choice. While workers may choose whether to join a union and at which level (local, provincial, or national) they wish to participate, every union must be affiliated with the country's only trade union confederation, 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.

The law outlines mandatory union dues for union members and domestic and foreign employers. While these dues were intended to support workers and union activities, neither the VGCL nor the government, which is responsible for dues collection, provided transparent information regarding their use. Although the law does not allow for independent unions, it permits the negotiation of disputes to be led and organized by "relevant entities," which may be composed of worker representatives when the enterprise in question does not have a union, i.e., during the first six months after an enterprise is established. The law allows for "union activities" during this period, especially during emergencies such as a strike.

The law permits strikes under certain prescribed circumstances and stipulates an extensive and cumbersome process of mediation and arbitration that must be followed before a lawful strike may occur.

The law prohibits strikes in businesses that serve the public or that the government considers essential to the national economy and defense. The law also grants the prime minister the right to suspend a strike considered detrimental to the national economy or public safety. The law defines "essential services" more broadly than in International Labor Organization (ILO) criteria. A decree defines these enterprises as ones involved in electricity production; post and telecommunications; maritime and air transportation, navigation, and management; public works; and oil and gas. The essential services list was reduced by nearly 60 percent in April (effective June 1), from 142 firms to 58.

Strikes that do not arise from a collective labor dispute or do not adhere to the process outlined by law are illegal. Before workers may hold a strike, they must take their claims through a process involving a conciliation council (or a district-level labor conciliator where no union is present). If the two parties cannot reach a resolution, 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 failed. The law also stipulates that workers on strike will not be paid wages while they are not at work.

The law prohibits retribution against strikers, and there were some anecdotal reports of employer retaliation against strike participants by limiting future employment prospects. For example, MOLISA's Center for Industrial Relations reported the case of a company photographing workers on strike and sending the photographs to other companies within their business association. Local news reported that employees at a Panasonic factory accused the company of creating a list of striking workers. 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.

The law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers. 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.

In practice VGCL leaders influenced key decisions by drafting, amending, or commenting on labor legislation; developing social safety nets; and setting health, safety, and minimum wage standards. Labor activists and representatives of independent (non-VGCL) workers' organizations faced antiunion discrimination (see section 1.e., Political Prisoners and Detainees).

There was little evidence that leaders or organizations active during the first six months' window after an enterprise was established continued to be active or recognized thereafter.

The VGCL reported 981 strikes during the year. The main reason for the high number of strikes—more than double the number in 2010—was reportedly the negative impact of high inflation on workers' living conditions. The majority of these strikes occurred in Ho Chi Minh City and surrounding provinces in foreign-invested enterprises (mainly South Korean and Taiwanese companies). None of the strikes followed the authorized conciliation and arbitration process and thus were considered illegal, "wildcat" strikes. The government tolerated these strikes and not only took no action against the strikers but on occasion also actively mediated agreements in the workers' favor. In some cases the government disciplined employers, especially with foreign-owned companies, for the illegal practices that led to strikes.

There were credible reports that employers tended to use short-term or probationary contracts to avoid certain legally mandated worker benefits, such as unemployment insurance, or to inhibit workers from joining unions.

b. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, except as defined by administrative or criminal penalties. Nonetheless, according to government and NGO reports, forced labor of adults and children occurred (see section 7.c.).

There were reports from credible NGOs that the government, especially the Ministry of Public Security, increased efforts to prevent forced labor, and the government reported criminal prosecutions for forced labor during the reporting period. In response to reports of forced labor on domestic coffee plantations, Lam Dong Province authorities issued a directive in November calling for increased inspections and stricter punishments against illegal labor brokers who offered jobs on coffee plantations.

Prisoners convicted by courts routinely were required to work for little or no pay. Authorities routinely required individuals, detained under administrative decree in reeducation centers and detention centers for sex workers and drug users, to work for little or no pay under administrative and legislative regulations. They produced food and other goods used directly in prisons or sold on local markets, reportedly to purchase items for their personal use. There were credible reports that private companies hired individuals in drug detention centers.

There was also information that suggested workers in centers for social and educational rehabilitation were engaged in agriculture (growing rice and vegetables; raising poultry, fish, and other livestock; and shelling cashews or other nuts), manufacturing (producing bicycle tires, mosquito nets, false eye-lashes, pottery, bamboo or rattan products, and shoes and apparel), and construction work.

In September an international human rights organization reported that authorities forced individuals in the detention centers for drug users to engage in unpaid or underpaid work as part of their treatment. In response, MOLISA officials confirmed that "therapeutic labor" was one part of the treatment for individuals in these centers but asserted that it was not required of all individuals and was remunerated. The officials also reported providing orders to provincial officials to halt construction of any new drug detention centers and cease all actions that violated labor regulations.

Also see the Department of State's Trafficking in Persons Report at <http://state.gov/jtip>.

c. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits most child labor but allows exceptions for certain types of work. The law sets the minimum age for employment at 18 years, but enterprises may hire children between ages 15 and 18 if the firm obtains permission from parents and MOLISA. Enterprises hiring young labor (ages 15-18) have to provide them with special considerations concerning working hours, annual leave, and working environment. Children ages 15-18 may work a maximum of seven hours per day and 42 hours per week and must receive special health care.

The law permits children to register at trade training centers, a form of vocational training, from age 13. By law an employer must ensure that workers under age 18 do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in law and include those requiring compressed working posture, direct contact with harmful chemicals, contact with radioactive substances, work with various types of furnaces or hot metal, driving motor vehicles, operating stone grinding machines, and operating machines for starching cloth and cotton yarns, among others.

MOLISA is responsible for enforcing child labor laws and policies. Government officials may fine and, in cases of criminal violations, prosecute employers who violate child labor laws. Generally the government committed insufficient resources to enforce effectively laws providing for children's safety, especially for children working in mines and as domestic servants. However, there were several reports that the government detected some cases of child exploitation, removed children from exploitative situations, and prosecuted/fined employers during the year. In April Lam Dong Province authorities closed and burned illegal tin mining sites where children were employed. In September authorities rescued two dozen children from "slave labor" in a private garment factory; at year's end the factory owners awaited trial.

A 2011 investigation by the Ho Chi Minh City Department of Labor, Invalids, and Social Affairs showed that child labor appeared in seven of 24 districts and approximately 90 percent of establishments using child labor did not have business licenses. MOLISA maintained that more than 25,000 children worked in hazardous conditions countrywide, a statistic that international observers continued to believe was actually higher.

The government approved in February its first five-year National Program on Child Protection and committed approximately VND 1.75 trillion (\$83.3 million) toward implementation from both central and local government budgets. The government also continued programs to eliminate persistent child labor, with a particular focus on needy families and orphans. A joint project with the ILO to eliminate the worst forms of child labor continued.

In practice child labor remained a problem, particularly in rural areas, where two-thirds of the population resided. In rural areas children worked primarily on family farms, in other agricultural activities and household responsibilities, or in mines. In some cases they began work as young as age six and were expected to do the work of adults by the time they reached age 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 similarly to reform schools or juvenile detention centers, were commonly assigned work for "educational purposes."

In urban areas children worked in family-owned small businesses, including small, privately owned garment factories, or on the street shining shoes or selling articles such as lottery tickets and newspapers. For example, in September Ministry of Public Security officials initiated the rescue of 19 ethnic minority children from Dien Bien Province who had been trafficked for the purpose of forced labor to family-owned garment workshops near Ho Chi Minh City. One shelter reported that some children were drugged during the year to keep them awake and working longer hours.

d. Acceptable Conditions of Work.—The law requires the government to set a minimum wage and adjust it based on consumer price index changes. New minimum wages took effect on October 1, as follows: the monthly minimum for unskilled laborers at private enterprises was between VND 1.78 million (approximately \$85) and VND 2 million (\$95) in urban areas, and VND 1.4 million (\$67) and 1.55 million (\$74) in rural areas. For employees working for the state sector, the monthly minimum was VND 830,000 (\$40). The government defined the poverty line for the pe-

riod 2011-15 as VND 400,000 (\$19) per month for rural households and VND 500,000 (\$24) for urban households.

The government set the workweek for government employees and employees of companies in the state sector at 40 hours and 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 it 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 16 hours per week and 200 hours per year but provides for an exception in special cases, with a maximum of 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 the public and private sectors.

The law requires the government to promulgate rules and regulations that provide for worker safety and provides that workers may remove themselves from hazardous conditions without risking loss of employment.

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 may not 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 may not be compelled to work overtime, at night, or in locations distant from their homes.

It was unclear how strictly the government enforced provisions for wages, hours, and benefits or the exceptions for certain female employees. MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the law, but enforcement was inadequate for many reasons, including low funding and a shortage of trained enforcement personnel. 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. There were approximately 140 general labor inspectors plus small numbers of additional inspectors focused on persons with disabilities, social insurance, export recruiting companies, etc. The VGCL stated, and MOLISA acknowledged, that low fines on firms for labor violations failed to act as an effective deterrent against violations.

There were credible reports that factories exceeded the legal overtime thresholds and did not meet legal requirements for rest days. A September ILO report noted that 66 of 78 apparel factories did not comply with legal overtime limits.

On-the-job injuries due to poor health and safety conditions and inadequate employee training in the workplace remained a problem. The mining and construction sectors reported the greatest number of occupational injuries. In the first six months of the year, there were 3,531 occupational accidents and 273 deaths. For example, in April a stone mining accident killed 18 workers in Nghe An Province. The company had been fined twice in the previous year for poor safety standards, and authorities arrested the owner after the April incident for violating safety regulations. At year's end prosecution proceedings had begun against the owner.