

EAST ASIA AND THE PACIFIC

AUSTRALIA

Australia is a constitutional democracy with a federal parliamentary government. Its population was approximately 20.4 million. Citizens periodically choose their representatives in free and fair multiparty elections. John Howard began his fourth consecutive term as prime minister in October 2004; his Liberal and National Party coalition government held 87 of 150 seats in the lower house of the Federal Parliament and 39 of 76 seats in the upper house. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- prolonged detention of unsuccessful asylum seekers who could not be returned to their home country
- domestic violence against women, particularly in Aboriginal communities
- societal discrimination against Aboriginal people
- trafficking in persons
- a few interrelated incidents of interethnic societal violence in December
- labor law reform including restrictions on the right to strike

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings. However, the Australian Institute of Criminology (AIC), an agency of the attorney general's department, reported that in 2004, 28 persons died in police custody or in the process of arrest. Police shot and killed six persons; all six shootings were found to be justifiable. In the remaining cases, 11 deaths were attributed to accidents, 9 to self-inflicted injuries, and 2 to natural causes.

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, there were occasional reports that police and prison officials mistreated suspects in custody. Some indigenous groups charged that police harassment of indigenous people was pervasive and that racial discrimination by some police and prison custodians persisted (see section 5).

In December, 31 persons were injured in assaults and rioting between mostly white and ethnic Arab youths in the Sydney area (see section 5).

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

According to the AIC's annual report on prison deaths, 39 persons died in prison custody in 2004. Of these, 15 deaths were attributed to self-inflicted injuries, 20 to natural causes, 1 to accident, 1 to unlawful homicide, and 2 to undetermined causes.

Juvenile offenders under age 17 generally were incarcerated in youth detention or training centers but could be sentenced to custody in an adult prison upon conviction of a serious criminal offense such as homicide. In immigration detention facilities, children were held with adults, most often family members, until July, when families with children were removed from the immigration detention centers to housing in the community under newly established "residency determination arrangements" (see section 2.d.).

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.—Each of the country's six state and two territorial jurisdictions has a separate police force that enforces state and territorial laws. The Australian Federal Police (AFP) enforce commonwealth laws. The minister for justice and customs oversees AFP activities, while the state police forces report to the respective state police ministers. The police forces generally do not have problems with corruption and impunity. State and territorial police forces have internal affairs units that investigate allegations of misconduct and a civilian ombudsman's office that can either review an investigation upon request of the complainant or initiate its own inquiry into a complaint.

Arrest and 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 has 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, legislation passed in December permits the police to hold individuals for up to 48 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." 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.

There were no reports of political detainees.

The December antiterrorism law permits a judge to authorize "control orders" on individuals suspected of involvement with terrorism-related activities. Such orders may include a range of measures, including monitoring of suspects and house arrest, and may be in effect for up to a year without the filing of criminal charges. Under certain circumstances a judge may approve extension of an expiring control order for up to an additional year at a time, up to a maximum cumulative period of 10 years.

In August 2004 the High Court ruled that the government had the authority to detain asylum seekers indefinitely (see section 2.d.).

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

There are federal, state, and territorial courts, which handle both civil and criminal matters. The highest federal court is the High Court, which exercises general appellate jurisdiction and advises on constitutional issues. State and territorial supreme, district, and county courts conduct most major criminal and civil trials, while the magistrates' and specialists' courts (such as the Children's Court and administrative tribunals) adjudicate less serious criminal and civil cases and conduct preliminary hearings.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. In the state district and county courts, and the state and territorial supreme courts, there generally is a judge and jury. The judge conducts the trial, and the jury decides on the facts and on a verdict. Defendants have the right to an attorney, and a government-funded system of legal aid attorneys is available to low-income persons. The defendant's attorney can question witnesses, present evidence on the defendant's behalf, and access relevant government-held evidence. Defendants enjoy the presumption of innocence and have the right to appeal the court's decision or the sentence imposed.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In December 2004 the Victoria Civil and Administrative Tribunal upheld a 2003 complaint by the Islamic Council of Victoria that two Christian pastors and their ministry had vilified Muslims in 2002; in June the tribunal directed the pastors to apologize and not repeat the comments (see section 2.c.). The defendants maintained that their speech was protected under the constitution and appealed the tribunal's decision.

During the year some members of the media expressed concern that the definition of sedition contained in proposed antiterrorism legislation possibly could be applied to them for publishing certain types of information. To address these concerns Parliament amended the legislation's definition of sedition and inserted a provision that shields from prosecution for sedition offenses journalists and other commentators who publish "in good faith a report or commentary about a matter of public interest."

b. Freedom of Peaceful Assembly and Association.—While the rights of peaceful assembly and association are not codified in law, the government generally respected these rights in practice.

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

Societal Abuses and Discrimination.—On December 13, shots were fired at parked cars of Catholic parishioners attending a church service in the Sydney suburb of Auburn. Police were investigating the incident at year's end.

The country's Jewish community numbered approximately 84 thousand persons. In the 12-month period ending September 30, the Executive Council of Australian Jewry recorded 332 anti-Semitic incidents, a 25 percent decrease from the number recorded in the previous 12 months. Although this was a significant decrease, it was still higher than the annual average of 301 incidents since reports were first compiled in 1989. The incidents ranged from property damage and/or assaults (11 reports) to harassment and offensive written and electronic media. At year's end the leader of a neo-Nazi group was in jail awaiting trial on charges of criminal damage relating to, among other things, the vandalizing of a Perth synagogue in 2004 (see section 5).

In June the Victoria Civil and Administrative Tribunal ordered two Christian pastors to make a public apology, via newspaper advertisements, for comments that the court held had vilified Muslims. The pastors also were ordered not repeat the comments anywhere in the country. In August the Court of Appeal granted a stay on the order for an apology but left in place the order that the pastors not repeat the comments. The pastors appealed the court's decision to the Victoria Supreme Court; the appeal was pending at year's end. In 2003 the Islamic Council of Victoria (ICV) had filed a complaint under Victoria's Racial and Religious Tolerance Act against the pastors and their ministry organization, and in December 2004 the tribunal upheld the ICV's complaint but postponed sentencing.

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

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

The law does not address exile; however, the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The government has established a system for providing protection to refugees subject to certain geographic and time constraints on claims by those who previously sought asylum in a safe country of transit. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The government sets an annual quota on the number of protection grants it makes. In the 12-month period ending June 30, the government granted 13,178 humanitarian class visas, which included an offshore resettlement component of 12,096 visas (for persons resettled in the country) and an onshore component of 1,082 visas (for persons already in the country who were granted asylum). The program's offshore component was made up of 5,511 refugees and 6,585 special humanitarian grantees. Special humanitarian grantees were displaced persons subjected to gross violations of human rights, and whose applications were supported by residents or organizations based in the country. The government continued to resettle those detainees granted refugee status and provided extensive social services to aid in the adjustment process.

Noncitizens arriving at a national border without prior entry authorization automatically are detained. Legal assistance is provided upon request to detainees making an initial asylum claim or application for lawful residence. Individuals may be released pending full adjudication of their asylum claim only if they meet certain

criteria such as old age, ill health, or experience of torture or other trauma. However, most did not meet release criteria and were detained for the length of the asylum adjudication process. They were either released upon receiving asylum and an appropriate visa or removed once it was determined that they did not qualify for protection. The federal government oversaw five immigration detention facilities and one residential housing detention facility within the country. During the year some asylum seekers who had been intercepted at sea continued to be housed in offshore detention centers in Nauru. In October, 25 of the 27 remaining detainees in Nauru were transported to Australia, where 13 were released and 12 were detained onshore while their status was assessed. Two detainees who had received adverse security assessments remained in detention in Nauru. As of December onshore detention facilities held 805 detainees.

Noncitizens who arrive by boat and have their asylum claims confirmed are granted a three-year temporary protection visa (TPV), which provides full access to medical and social services but does not authorize family reunification or allow travel abroad with reentry rights. A permanent protection visa, which gives authority for family reunification and reentry rights, may be granted to an applicant at any stage of the asylum adjudication process. Denials of asylum claims may be appealed on merit grounds to the Refugee Review Tribunal, and on grounds of legal error to the Federal Court of Australia and, in certain cases, to the High Court. The minister for immigration and multicultural and indigenous affairs may exercise discretion and grant a visa after the asylum seeker has exhausted the review process. As of August 2004, TPV and temporary humanitarian visa holders may apply for permanent visas without leaving the country.

Although long delays in processing asylum applications were not a significant problem during the year, a small number of asylum seekers remained in detention, some for years, 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. In July 2004 the High Court overturned the Federal Court of Australia's 2003 ruling that the indefinite detention of asylum seekers was unlawful. In May a new Removal Pending Bridging Visa (RPBV) came into effect that allows the minister of immigration to grant a visa to a person in immigration detention whose removal from the country is not practical at that time. Holders of RPBVs may work, access government services, including free medical care, and attend public school. At least 67 people were invited to apply for the visa during the year.

The country's immigration laws and detention policy continued to be criticized by some human rights and refugee advocacy groups, which charged that the sometimes-lengthy detentions violated asylum seekers' human rights.

In its May 2004 report on children in immigration detention, the government-funded, but independent, Human Rights and Equal Opportunity Commission (HREOC) concluded that the country's laws requiring child asylum seekers to be held in mandatory immigration detention breached the UN Convention on the Rights of the Child (CRC), to which the country is a party. The government rejected the commission's view that its policies violated the CRC but announced in June that the Migration Act would be amended to provide that "a minor child shall only be detained as a measure of last resort." On July 29, the remaining 42 children in detention were moved with their families from the detention centers under government-funded "residency determination arrangements" put in place with NGO assistance. Under these arrangements the families were housed among the general population, subject to reporting conditions and a commitment to remain available to the immigration department.

There were no reports of the forced return of persons to countries where they feared persecution, before their asylum claims were considered and rejected. However, during the year refugee, church, and human rights groups continued to express concern about the government's practices in repatriating unsuccessful asylum seekers.

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

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

Elections and Political Participation.—In October 2004 citizens elected a coalition of the Liberal Party and the National Party to a fourth three-year term of office. The opposition Australian Labor Party (ALP) won all six state and two territorial elections held in 2002 for Victoria, South Australia and Tasmania; 2003 for New

South Wales (NSW); 2004 for Queensland and the Australian Capital Territory; and during the year for Western Australia (WA) and the Northern Territory (NT).

There are no legal impediments to public office for women and indigenous people. Both the government and the opposition have declared their intent to increase the numbers of women elected to public office. As of July there were 64 women in the 226-seat Federal Parliament, 3 female ministers in the 17-member federal government cabinet, and 6 female ministers in the 25-member federal government ministry. There was one woman among the eight premiers and chief ministers of the six states and two territories, the chief minister of the NT. During the year a woman was appointed to the High Court of Australia as one of seven justices.

Aboriginals generally were underrepresented among the political leadership (see Section 5). The term of the sole Aboriginal federal senator expired on June 30. No Aboriginals were elected to the Federal Parliament in 2004. There was one Aboriginal woman in the Tasmanian state parliament, one in the NSW state parliament, and one in the WA state parliament. There were four Aboriginals, including a woman, in the NT legislative assembly.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The federal, state, and territorial governments have freedom of information (FOI) laws, which provide the public with access to government information. FOI requests generally are subject to both an application and a processing fee. Federal law enables a person to access and correct inaccurate personal information held by government ministries and agencies and to access other government information that has not been exempted to protect essential public interests or the private or business affairs of others. An applicant, including foreign media, may appeal a government decision to deny a request for information to the quasi-legal Administrative Appeals Tribunal (AAT), an executive body that reviews administrative decisions by government entities. An adverse AAT decision may be appealed to the Federal Court of Australia.

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

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

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

Federal laws prohibit discrimination based on sex, disability, race, color, descent or national or ethnic origin, marital status, or age. An independent judiciary and a network of federal, state, and territorial equal opportunity offices effectively enforced the law. HREOC investigates complaints of discrimination or breaches of human rights under the federal laws that implement the country's human rights treaty obligations.

Women.—The law prohibits violence against women, including spousal rape and abuse, and the government enforced the law. Nonetheless violence against women remained a problem, particularly in Aboriginal communities. In October 2004 the Office for Women, which monitors women's rights and advises the federal government on issues affecting women, published a report entitled *The Cost of Domestic Violence to the Australian Economy*, which found that domestic violence cost the economy \$6 billion (A\$8.1 billion) in the 12-month period from July 2002 to June 2003. The report ranked domestic violence among the top five risks to women's health. The federal Department of Family and Community Services and the state departments of community services had programs to both combat domestic violence and support victims of domestic violence, and the federal, state, and territorial governments funded numerous women's shelters.

It is a crime in all states and territories to perform female genital mutilation (FGM) or to remove a child from the jurisdiction for the purpose of having FGM performed; maximum penalties range from 7 to 21 years' imprisonment. There were no reports of new cases or prosecutions for the offense during the year.

Prostitution is legal or decriminalized in several states and territories, and the governments of Victoria, Queensland, and the Australian Capital Territory license brothels operating within their borders. However, many brothels operated illegally. In some locations state-funded sexual health services employees visited brothels to educate workers about sexual health matters and to prevent worker mistreatment. Local governments or prostitution licensing authorities inspected brothels to assure compliance with planning laws and licensing requirements, including health and safety regulations. However, government officials faced difficulties enforcing health

and safety standards in illegal brothels. Trafficking in persons, primarily women from Asia, for prostitution was a limited problem (see section 5, Trafficking).

The Sex Discrimination Act prohibits sexual harassment. The independent federal sex discrimination commissioner, which is part of HREOC, undertakes research, policy, and educational work designed to eliminate discrimination between men and women.

According to HREOC's July 2004 to June annual report, sex discrimination complaints fell by 1 percent during the reporting period compared with the previous reporting period. Of the 348 new cases filed during the reporting year, women filed 81 percent, and 85 percent were employment related.

There were highly organized and effective private and public women's rights organizations at the federal, state, and local levels.

Women have equal status under the law, and the law provides for pay equity. In August the Australian Bureau of Statistics (ABS) estimated that women's full-time total average weekly earnings were 81 percent of men's.

Children.—The government demonstrated its strong commitment to children's rights and welfare through its publicly funded educational and medical care systems. While the structure of education varied among states and territories, all children between 6 and 15 years of age are entitled to 9 to 10 years of compulsory and free education. A 2004 ABS survey found that the full-time school participation rate for 15-year-olds was 93.4 percent, with most children completing grade 12. The student retention rate from grades 7 and 8 to grade 12 was 81.2 percent for girls and 70.4 percent for boys. The government provided universal health insurance coverage to all citizens and lawful residents from birth on a copayment basis. The government also provided a minimum benefit of 16.8 percent of the cost of a first child's childcare to all parents (with a smaller benefit for additional children), which increased to as much as 100 percent for the lowest income families.

State and territorial child protection agencies investigate and institute prosecutions of persons for child neglect or abuse. All states and territories have laws or guidelines that require members of certain designated professions to report suspected child abuse or neglect. The federal government's role in child abuse prevention is limited to funding research and education campaigns, developing an action plan against the commercial exploitation of children, and funding community-based parenting programs. According to the Australian Institute of Health and Welfare, there were 40,416 substantiated cases of child abuse and neglect from July 2002 to June 2003, the latest period for which national statistics were available. These included physical abuse (28 percent of cases), sexual abuse (10 percent), emotional abuse (34 percent), and neglect (28 percent).

The government has enacted tough criminal laws aimed at restricting the trade in, and possession of, child pornography; the law allows suspected pedophiles to be tried in the country regardless of where the crime was committed. The Child Sex Tourism Act prohibits child sex tourism and related offenses for the country's residents and citizens overseas and provides for a maximum sentence of 17 years' imprisonment upon conviction. During the 12-month period ending June 30, the AFP began 24 investigations, and 4 persons were charged under the act. Of these, one person pled guilty and was awaiting sentencing, two cases were before the courts, and one case had not yet come to trial. 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. Child protection NGOs raised community awareness of child trafficking. There were no reports of children being trafficked into the country during the year (see section 5, Trafficking).

In April 2004 the High Court overturned a 2003 ruling by the Family Court that the Family Court's jurisdiction extended to children in immigration detention facilities; however, in July all children were moved with their families from the detention centers (see section 2.d.).

Trafficking in Persons.—The law prohibits trafficking in persons, but the country continued to be a destination for some trafficked women in the sex industry.

The Federal Migration Act prohibits smuggling of persons in all forms and provides for a maximum penalty of 20 years' imprisonment. The Border Protection Act authorizes the boarding and searching in international waters of vessels suspected of smuggling or trafficking in persons. The Commonwealth Criminal Code provides for sentences of up to 20 years' imprisonment for "people smuggling" aggravated by exploitation. Under the code, conduct that amounts to slavery, or exercising a power of ownership over another person, carries a maximum penalty of 25 years' imprisonment. Under the Child Sex Tourism Act, it is an offense for citizens or residents to travel abroad to engage in sex with minors under age 16 (see section 5, Children).

In 2004 four persons were charged with trafficking in persons offenses in two separate cases; both cases were pending at year's end.

The Department of Immigration and Multicultural and Indigenous Affairs, the Australian Customs Service, and the AFP have lead roles in combating trafficking in persons. The AFP's Transnational Sexual Exploitation and Trafficking Team, a 23-member mobile strike force, is responsible for investigating trafficking syndicates operating in the country and abroad. State police forces worked closely with the AFP to develop a comprehensive policing strategy to counter trafficking in persons.

Some women, primarily from China and Southeast Asia, were brought into the country for the purpose of prostitution, sometimes entering with fraudulently obtained tourist or student visas. Many of these women traveled to the country voluntarily to work in both legal and illegal brothels, but some reportedly were deceived or coerced into debt bondage or sexual servitude. Authorities believed that sex trafficking networks were composed primarily of individual operators or small crime groups that often relied on larger organized crime groups to procure fraudulent documentation for the trafficked women. In June 2004 a federal parliamentary committee issued a report on its yearlong inquiry into the national criminal intelligence agency's response to sex trafficking and the adequacy of federal antitrafficking laws. In response to the report's recommendations, in June the government expanded existing antitrafficking laws to include new offenses for debt bondage, child trafficking, and domestic trafficking, with penalties of up to 25 years in prison, and in September ratified the UN Trafficking Protocol.

An ambassador for people smuggling issues is responsible for promoting a coherent and effective international approach to combating trafficking in persons (particularly in the Asia-Pacific region), assisting in the negotiation of international agreements for the return and resettlement of persons brought illegally into the country, and working for the prosecution of traffickers in persons. The ambassador coordinates the country's participation with Indonesia in the Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime. The government has antitrafficking agreements with Cambodia, Burma, Laos, and Thailand designed to improve international cooperation and police investigations of trafficking syndicates. The government also funded awareness campaigns in source countries and continued funding the Asia Regional Cooperation to Prevent People Trafficking project. Underway in four countries—Thailand, Laos, Burma, and Cambodia—the project focused on strengthening the criminal justice process to combat trafficking in persons.

Within the country the government continued an awareness campaign targeting the sex industry and the community at large and widely publicized criminal cases against traffickers. Trafficking victims willing to cooperate with authorities in the investigation and prosecution of traffickers qualify for a temporary visa and a range of social services. Counseling, temporary shelter, and other assistance were available to all trafficking victims.

There were no NGOs devoted solely to trafficking victims. Nonetheless, assistance was available through various NGOs that dealt with women's and children's issues. Some NGOs received government funding; others were funded privately. Local NGOs and the media were instrumental in bringing to the authorities' attention the presence of illegal migrant women and girls in brothels and massage parlors, and raising public awareness of the problem.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment; education; access to premises; provisions 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, and the government effectively enforced the law. The disability discrimination commissioner, which is part of HREOC, promotes compliance with federal laws that prohibit discrimination against persons with disabilities. The commissioner also promotes implementation and enforcement of state laws that require equal access and otherwise protect the rights of persons with disabilities. The law also provides for mediation by HREOC of discrimination complaints, authorizes fines against violators, and awards damages to victims of discrimination.

HREOC's July 2004 to June annual report stated that 523 complaints of discrimination based on disability were filed during the reporting period, including 211 complaints based on physical disability, 175 complaints based on psychiatric disability, and 48 complaints based on learning disabilities. Of these, 49 percent were employment related and 30 percent concerned the provision of goods and services.

National/Racial/Ethnic Minorities.—Although Asians comprised less than 5 percent of the population, they made up approximately 40 percent of new immigrants. Leaders in the ethnic and immigrant communities continued to express concern

about incidents of vilification and discrimination directed against immigrants and minorities.

On December 11, violence broke out mostly between white and ethnic Arab youths, initially at Cronulla, a suburban Sydney beach. Approximately five thousand persons gathered at the beach to protest an alleged attack by ethnic Lebanese youths on two beach lifeguards the previous week. Some of the protesters, including members of neo-Nazi and other extremist groups, assaulted persons they believed to be of Middle Eastern extraction. Rioting ensued in which at least 31 persons were injured and 16 arrested, and cars and other property vandalized. Police were unable to control the initial violence. On December 12, ethnic Arab youths retaliated by vandalizing cars and shops, assaulting persons, and firing gunshots at various locations around Sydney. At least 7 persons, including a police officer, were injured and 11 arrested in those incidents. Over 400 additional NSW police officers were deployed to Sydney from other locations to prevent further violence. On December 14, two incidents of violence against persons of Middle Eastern descent were reported in other locations, one in Adelaide and one in Perth. On December 15, in response to the December 11–12 Sydney incidents, the NSW parliament passed legislation giving state police additional powers to deal with large-scale public disorder, including authority to establish emergency alcohol-free zones and to “lock down” trouble spots, including expanded authority to search persons and vehicles within such areas. The law also increases the penalties for the crimes of assault and riot and provides for a presumption against bail for such offenses.

In January the leader of the neo-Nazi Australian Nationalist Movement pleaded not guilty to charges of criminal damage and conspiracy to cause arson in connection with incidents in 2004 in which several Asian businesses and a synagogue in Perth were firebombed or sprayed with racist graffiti. At year’s end he remained jailed pending trial, which the Perth District Court scheduled for March 2006.

According to HREOC’s July 2004 to June annual report, the number of racial discrimination complaints rose by 5 percent during the reporting period. Of 167 reported cases, 43 percent involved employment; 24 percent involved provision of goods, services, and facilities; and 20 percent alleged “racial hatred.” Persons born outside the country filed 52 percent of the complaints, and Aboriginals and Torres Strait Islanders filed 28 percent.

Indigenous People.—From 1990 to 2004, Aboriginals and Torres Strait Islanders participated in government decisionmaking through the Aboriginal and Torres Strait Islander Commission (ATSIC). In July 2004 in response to claims of corrupt dealings by ATSIC board members, the government transferred ATSIC’s functions to federal civil service departments, and in November 2004 it established the National Indigenous Council, a government-appointed advisory council, to replace ATSIC. An opposition-led Senate inquiry into the administration of indigenous affairs, initiated in 2004, was critical of the government’s handling of aboriginal affairs, particularly its decision to move ATSIC responsibilities to relevant government agencies. In March Parliament passed legislation abolishing ATSIC and its subordinate regional entities; the National Indigenous Council was retained as ATSIC’s successor.

While some Aboriginal groups claimed that the government’s abolishment of ATSIC was an attempt to silence its indigenous critics, other Aboriginal groups welcomed the move as an attempt to refocus the domestic indigenous policy debate on improving health and social conditions and away from ATSIC’s leadership team, which they viewed as impeding ATSIC’s effectiveness.

The government’s approach toward Aboriginals emphasized a “practical reconciliation” aimed at raising the health, education, and living standards of indigenous people. A wide variety of government initiatives and programs sought to improve all aspects of Aboriginal and Torres Strait Islander life. In 2005–06 the government budgeted approximately \$417 million (A\$556 million) for the indigenous-specific community housing and infrastructure program; a further \$407 million (A\$543 million) for indigenous education and training programs; \$356 million (A\$475 million) for indigenous-specific health services; and \$607 million (A\$809 million) for indigenous employment and economic development programs. The government maintained a national network of “Link Up” offices to provide family tracing, reunion, and other support to indigenous families separated as a result of past government practices. However, indigenous citizens continued to experience significantly higher rates of imprisonment, inferior access to medical and educational institutions, greatly reduced life expectancy rates, higher levels of unemployment, and general discrimination. Poverty and below-average educational achievement levels contributed significantly to Aboriginal underrepresentation in national, territorial, and state political leadership (see section 3).

According to a government report entitled *Overcoming Indigenous Disadvantage* released during the year, the life expectancy of an indigenous person remained 20 years less than that of a nonindigenous person, and the indigenous infant mortality rate was 2.5 times the rates found in nonindigenous populations. In 2002–03 the hospital admission rate for indigenous children under age four for infectious diseases was more than twice the rate for other children. According to a 2004 ABS survey indigenous youth were 1.9 times more likely than nonindigenous youth to leave school before graduation; however, this was a significant improvement over the previous 5 years.

Although Aboriginal adults represented only 2.2 percent of the adult population, according to the ABS they accounted for approximately 21 percent of the total prison population and were imprisoned at 11 times the rate of nonindigenous persons as of June 2004, down from 15 times the nonindigenous rate in 2002. More than 45 percent of Aboriginal men between the ages of 20 and 30 years had been arrested at some time in their lives. In 2003 Aboriginal juveniles accounted for 47 percent of those between the ages of 10 to 17 in juvenile correctional institutions. Human rights observers noted that socioeconomic conditions gave rise to the common precursors of indigenous crime, including unemployment, homelessness, and boredom.

Indigenous groups charged that police harassment of indigenous people, including juveniles, was pervasive and that racial discrimination by police and prison custodians persisted. Human rights groups and indigenous people alleged a pattern of mistreatment and arbitrary arrests occurring against a backdrop of unofficial yet systemic discrimination.

In November 2004 hundreds of residents on Queensland's Palm Island rioted after government officials released the postmortem results on an indigenous man who had died in police custody after being detained for public drunkenness. The coroner's report had cleared the police of responsibility in the man's death; a separate investigation by the Crime and Misconduct Commission, requested by the Queensland State government, was ongoing at year's end.

The National Native Title Tribunal resolves native land title applications through mediation. The tribunal also acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. The 1993 Native Title Act removed the time limit previously in effect for lodging native title claims, but Aboriginal leaders expressed deep concern about the weakening of Aboriginal rights to negotiate with non-Aboriginal leaseholders over the development of rural property. Aboriginal groups continued to express concern that the amended act limited the future ability of Aboriginal people to protect their property rights. In 2002 the High Court ruled that native title rights did not extend to mineral or petroleum resources and that, in cases where leasehold rights and native title rights were in conflict, leaseholder rights prevailed.

The \$968 million (A\$1,290 million) indigenous land fund is a special account that provides an ongoing source of funds for indigenous people to purchase land for their use. It is separate from the Native Title Tribunal and is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

The NGO Aboriginal Tent Embassy in Canberra was set up in a small structure on public land opposite the old parliament building over 30 years ago and worked to publicize Aboriginal grievances. The tent embassy, which also encompassed an itinerants' camp, still existed at year's end, despite fire damage in 2003 and again in August 2004. It remained in the same location despite continued efforts to relocate it by the government and some local indigenous groups who asserted that it was not representative of the entire indigenous community. Other Aboriginal NGOs included groups working on native title issues, reconciliation, deaths in custody, and Aboriginal rights in general. International NGOs, such as Amnesty International, also monitored and reported on indigenous issues and rights.

Other Societal Abuses and Discrimination.—In December 2003 the NSW government released a study of violence against homosexuals, which found that more than half of the survey participants had experienced one or more forms of abuse, harassment, or violence in the previous 12 months. The report also found that two or more persons who were unknown to the victim perpetrated most incidents of harassment or violence and that homosexuals of Middle Eastern background suffered exclusion, assaults, and stalking from family or community members.

Federal and various state laws prohibit discrimination on the grounds of HIV positive status. In the 12 months ending June 30, there were 9 discrimination complaints lodged with the federal disability discrimination commissioner, which is part of HREOC, on the grounds of HIV/AIDS status. These complaints also were included in the total of 523 disability-related complaints to HREOC.

According to HREOC's July 2004 to June annual report, during that period there were 78 reported cases of age discrimination; 73 percent involved employment, and 18 percent involved provision of goods, services, and facilities. Persons aged 45 and older filed 62 percent of the complaints.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, including public servants, the right of association domestically and internationally and protection against antiunion discrimination, and workers exercised these rights in practice. A 2004 ABS survey indicated that union membership had decreased slightly over the previous 12 months to 22.7 percent of the workforce.

Unions carried out their functions free from government or political control.

The 1996 Federal Workplace Relations Act (WRA) contains curbs on union power, restrictions on strikes (see section 6.b.), and limits on redress and compensation claims by dismissed employees. The umbrella trade union organization, the Australian Council of Trade Unions (ACTU), has objected to the law, alleging that it violates the right to assembly provided for in several International Labor Organization (ILO) conventions that the government has signed, including ILO Convention 87 on the Freedom of Association and Protection of the Right to Organize. The primary curb on union power is the abolition of closed shops and union demarcations. This provision in theory could create many small and competing unions at the enterprise level, but thus far there have been few changes in existing union structures.

b. The Right to Organize and Bargain Collectively.—Federal, state, and territorial laws provide workers with the right to organize and bargain collectively, and workers exercised this right in practice.

Under the WRA, negotiation of contracts covering wages and working conditions shifted from the centralized awards system of the past to enterprise-level agreements certified by the Australian Industrial Relations Commission (AIRC). The WRA provides that the AIRC may certify multibusiness agreements only if they are in the “public interest.” In the 12-month period ending June 30, the AIRC certified 5,197 enterprise agreements, a decrease of 39 percent from the number certified in the previous 12 months. The WRA also provides for the negotiation of Australian Workplace Agreements (AWAs) between employers and individual workers, which are subject to fewer government regulations than awards or enterprise bargaining agreements; however, AWAs must improve upon the basic working conditions contained in a relevant same-sector award. The Office of the Employment Advocate approved 205,865 AWAs during the 12-month period ending June 30, an increase of 36 percent compared with the previous 12 months. As of June 30, AWAs covered approximately 460 thousand employees. AWAs were most prevalent in the accommodation and restaurant industries, where an estimated 76 percent of workers covered by a federally registered agreement were covered by AWAs. There also was significant AWA coverage of workers in mining (60 percent) and property and business services (58 percent).

Federal law first recognized an implicit right to strike in 1994. The WRA significantly restricts this right; it subjects strikers to heavy fines for taking industrial action during the life of an agreement and contains tougher secondary-boycott provisions. The WRA 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. In 1999 a union successfully challenged the WRA's restriction on strike action in federal court. The court refused to grant an injunction against the union for taking industrial action outside of a bargaining period because the action was in support of maintaining existing wages and conditions. In June the union movement organized a “national week of action” campaign involving stop-work meetings to protest the government's announced agenda for workplace reforms.

On November 2, the government introduced in Parliament a package of proposed changes to the WRA that, among other things, replaces the country's state labor relations systems with a single set of federal labor relations rules and places additional limits on industrial actions. It permits the government to stop strikes if they are judged to have an “adverse effect” on the employer or damage third parties. On November 15, an estimated 250 thousand workers demonstrated against the proposed legislation in nationwide protests organized by the ACTU. Parliament passed the legislation on December 7, but most of its provisions were not scheduled to go into effect until 2006. Unions, the ALP, and a number of international labor organizations criticized the legislation as violating workers' rights.

The Bureau of Statistics reported 567 industrial disputes for the 12 months ending June 30, a decrease of nearly 21 percent from the previous year; during the same period, total workdays lost due to strikes fell by 56 percent to 241,900.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law does not explicitly prohibit forced or compulsory labor, including by children; however, there were no reports that such practices occurred. Trafficking in women was a limited problem (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, enforced by state educational authorities, effectively prevented most children from joining the work force full time until they were 15 or 16 years of age. Federal and state governments monitored and enforced a network of laws, which varied from state to state, governing the minimum school-leaving age (see section 5), the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations. The ACTU also monitored adherence to these laws.

e. Acceptable Conditions of Work.—Although a formal minimum wage exists, it has not been directly relevant in wage agreements since the 1960s, since most workers received higher wages through enterprise agreements or individual contracts. In June the AIRC increased the federal minimum award wage by \$12.72 (A\$17) to \$362.35 (A\$484.40) per week. Differing minimum wages for individual trades and professions covered approximately 80 percent of all workers; all rates provided a decent standard of living for a worker and family. Legislation passed in December established a new statutory agency, the Australian Fair Pay Commission, to determine future minimum wage increases.

Most workers were employees of incorporated organizations. A complex body of applicable government regulations, as well as decisions of applicable federal or state industrial relations commissions, prescribe a 40-hour or shorter workweek, paid vacations, sick leave, and other benefits. The minimum standards for wages, working hours, and conditions are set by a series of “awards” (basic contracts for individual industries). In 2002 the AIRC refused the ACTU’s request to set a standard for “reasonable working hours” but allowed workers to refuse without penalty “unreasonable” overtime.

Over the past two decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. In 2003–04 there were 2.7 million persons (28 percent of the workforce) employed as casual or temporary workers. Such employees were not entitled to certain employment benefits such as sick leave or annual leave but were paid at a higher hourly wage rate.

Federal or state occupational health and safety laws apply to every workplace. The law provides federal employees with the right to cease work without endangering their future employment if they believe that particular work activities pose an immediate threat to individual health or safety. Most states and territories have laws that grant similar rights to their employees. At a minimum private sector employees have recourse to state health and safety commissions, which investigate complaints and demand remedial action.

Labor law protects citizens, permanent residents, and migrant workers alike. Migrant worker visas require that employers respect these protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits. There were no reports of worker rights abuses in any of the country’s five dependent territories of Macquarie and Heard Islands, Christmas Island, Cocos (Keeling) Island, and Norfolk Island.

BRUNEI

Brunei Darussalam is a small, wealthy, Islamic country with a population of approximately 357,800. It has been ruled by the same family for more than 600 years. The present ruler, Sultan Haji Hassanal Bolkiah, governed under emergency powers that place few limits on his power. During the year the sultan increased membership in the legislative council to include indirectly elected village and district leaders; however, the council has only a limited role in recommending and approving legislation. The sultan maintained control over the security forces.

There were problems in the government’s human rights record, particularly in the area of civil liberties. The following human rights problems were reported:

- inability of citizens to change their government

- arbitrary detention
- no freedom of speech, press, assembly, or association
- restrictions on religious freedom
- discrimination against women
- restricted labor rights
- exploitation of foreign workers

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory for 42 drug-related and other criminal offenses, and it was included as part of the sentence in 80 percent of criminal convictions. Canings were carried out in the presence of a doctor, who had the authority to interrupt the punishment for medical reasons.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. Juveniles typically served their sentences in adult detention centers, but several young offenders were housed at a government rehabilitation center. Detention cells at police stations were Spartan.

There were no reports that human rights monitors requested prison visits, but foreign diplomats had consular access to detained nationals. Family members were permitted to visit prisoners and bring food.

d. Arbitrary Arrest or Detention.—The law provides for a prompt judicial determination regarding the validity of an arrest. However, in practice the provisions, like the constitution itself, were partially or wholly superseded through invocation of the emergency powers.

Role of the Police and Security Apparatus.—The police force and the Internal Security Department are under the direct control of the Prime Minister's Office. Both groups were considered free of major corrupt practices, although there were reports of petty corruption among traffic police. Police statistics reported 17 prosecutions and arrests involving police and other law enforcement officers for corrupt or criminal acts.

Arrest and Detention.—Normally a magistrate must endorse a warrant for arrest. On rare occasions, warrants are issued without this endorsement, such as when police are unable to obtain the 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 physical act of committing a crime.

The Internal Security Act (ISA) permits the government to detain suspects without trial for renewable two-year periods. ISA detainees are also denied the right to legal counsel and are not presumed to be innocent. In the past, information on detainees was made public only after their release.

The criminal procedure code allows for bail except in cases indicated as “discretionary” by written law. Bail is obligatory in any case not deemed discretionary. Detainees generally had prompt access to lawyers and family visitations; however, police may deny access in exceptional cases, such as probable belief of tampering with a witness.

There were reliable reports that the government detained officials suspected of criminal activities, but the government did not acknowledge the arrests.

In April the government released 4 of the 16 persons detained in February 2004 under the ISA for involvement in a counterfeit ring. In November the government announced the release of another five ring members.

Three persons—retired Major Haji Muslim bin Haji Awang Tengah, former senior police officer Noordin bin Haji Ahmed Noor, and businessman Haji Abdul Radzak bin Haji Awang Damit—arrested in March 2004 under the ISA for treason and “subversive actions” remained in detention at year's end.

e. Denial of Fair Public Trial.—The law does not provide specifically for an independent judiciary, but the courts appeared to act independently, and there were no known instances of government interference with the judiciary. All higher court judges are appointed by and serve at the pleasure of the sultan.

The judicial system consists of five levels of courts, with final recourse in civil cases available through the Privy Council in London.

Trial Procedures.—The secular law, based on English common law, provides citizens with a fair and efficient judicial process. Procedural safeguards include the right to defense counsel, an interpreter, and a speedy trial, as well as the right to confront accusers. There is no legal provision to provide affordable legal counsel for poor defendants, except in capital cases. Such defendants may act as their own lawyers in court.

Shari'a (Islamic law) supersedes secular law for Muslims in some areas, including divorce, inheritance, and some sexual crimes. Shari'a is not applied to non-Muslims. A law society, or bar association, established in 2003 to promote lawyers' public accountability, held its first election for a council in late October; election of the president took place on December 19. The society was scheduled to begin operations January 1, 2006.

The law lacks provisions to allow companies or individuals to sue the government, which traditionally resolves disputes with generous, nonnegotiable settlements or in some cases simply refuses to settle.

Political Prisoners.—There were no reports of political prisoners, but information was very difficult to obtain.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law permits government intrusion into the privacy of individual persons, families, and homes. Shari'a permits enforcement of *khalwat*, an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse or close male relative. There continued to be numerous reports of religious enforcement officers entering homes, buildings, and vehicles to detain suspects.

The government monitored the private e-mail and Internet chat room exchanges of citizens that it believed to be subversive. The government employed an informer system as part of its internal security apparatus to monitor suspected dissidents.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Under the emergency powers, the government significantly restricted freedom of speech and freedom of the press. Constitutional amendments adopted in 2004 allow members of the legislative council to "speak their opinions freely," but they are prohibited from using language or exhibiting behavior deemed "irresponsible, derogatory, scandalous, or injurious," and they may be disqualified for "disloyalty" to the sultan among other offenses.

Under the amended May 2005 Seditious Act, it is an offense to "directly or indirectly lower or adversely affect the rights, status position, discretion, powers, privileges, sovereignty, or prerogatives of the sultan, his spouse, successors, or other members of the royal family." The act also makes it an offense to "directly or indirectly lower or adversely affect the standing or prominence of the national philosophy, the Malay Islamic Monarchy concept." This ideology permeates the country's life and government administration. It promotes Islam as the state religion and monarchical rule as the sole governing system, and it upholds the rights and privileges of the Brunei Malay race.

The act also provides for the prosecution of any publisher, proprietor, or editor of a newspaper that publishes matter having a seditious intention. Publication of the newspaper may be suspended for up to one year, and the publisher, printer, or editor can be prohibited from publishing, writing for, or editing any other newspaper. Printing equipment used in printing the newspaper can also be seized. Persons convicted under the amended seditious act face fines up to \$2,965 (B\$5 thousand) and jail terms of up to 3 years.

The law requires local newspapers to obtain operating licenses and prior government approval of foreign editorial staff, journalists, and printers. The law also gives the government the right to bar distribution of foreign publications, and it requires distributors of foreign publications to obtain a government permit. The law allows the government to close a newspaper without giving prior notice or showing cause. Journalists deemed to have published or written "false and malicious" reports may be subjected to fines or prison sentences.

The country's largest circulation daily newspaper, the *Borneo Bulletin*, practiced self-censorship in its choice of topics to avoid angering the government. However, letters to the editor often included comments critical of the government's handling of certain social, economic, and environmental issues. On occasion the government responded to public opinion on topics concerning social or environmental problems.

Although the government owned the country's only television station, three Malaysian television channels were available. Two satellite television networks also were available and offered a total of 28 different channels.

The government's tolerance of political criticism was not tested because there was no organized opposition. In the past the government arrested those who attempted to propagate unwelcome political views. The *Borneo Bulletin* published limited re-

ports on the activities of the Consumers' Association of Brunei, a quasi-human rights organization, and the activities of three political parties (see section 4).

After the 2004 detention of two persons involved in disseminating criticism of the government and the royal family, fear of government surveillance reduced the number of visitors to the few existing Internet forums. The government also was believed to have periodically blocked access to at least one forum hosted outside the country. Brutalk, another forum, reopened early in 2004 only to be shut down again in March. The primary Internet service provider was state owned.

The government generally respected academic freedom; however, some researchers chose to publish from overseas and under a pseudonym when they perceived that subject matter pertaining to the country would not be well received.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Under the emergency powers, the government significantly restricted the right to assemble. Freedom to assemble for political purposes was not tested during the year.

Freedom of Association.—Civil servants and security force personnel, who together composed 60 percent of all employed citizens, are not permitted to join political parties (see section 3). The government continued to restrict the activities of international service organizations such as Rotary, Kiwanis, and the Lions, which developed out of the established business community. Religious regulations promulgated by the Ministry of Religious Affairs and the State Mufti's Office prohibit Muslims from joining these organizations.

There were no politically oriented student associations.

c. Freedom of Religion.—The law states, "The religion of Brunei Darussalam shall be the Muslim religion according to the Shafi'i sect of that religion: Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam." The government controlled mosques, and the Ministry of Religious Affairs prepared the weekly Friday sermons delivered in mosques countrywide. The government restricted the practice of non-Islamic religions and non-Shafi'i Islamic groups, and it reinforced the legitimacy of the observance of traditional and Islamic values through its national ideology.

The government used its internal security apparatus—including such measures as surveillance, investigation, and detention—against persons whom it considered to be purveyors of radical Islam, non-Muslims who attempted to proselytize, and religious groups that did not belong to the official religion. It has banned the Baha'i Faith and the Islamist Al-Arqam movement, and it detained a number of the latter's followers. In July 2004 the government released six members of the movement who had been detained since 2003. A seventh man, Mohammed Ashadi Haji Sulaiman, who had been arrested later, was released in May.

Registration is required by law for a group to worship communally. Under legislation amended in January, an organization that fails to register can face charges of unlawful assembly. All non-Shafi'i religious groups are required to register as associations. In 2003 two Christian groups were denied permission to register.

The government routinely restricted the practice of non-Muslim religions by prohibiting proselytizing, occasionally denying entry to foreign clergy, banning the importation of religious teaching materials or scriptures such as the Bible, and denying requests to expand or build new churches, temples, and shrines. Non-Muslims who proselytize may be arrested or detained and held without charges for an extended period of time.

Muslims who wished to change or renounce their religion faced considerable difficulties. Born Muslims faced official and societal pressure not to leave Islam. Permission from the Ministry of Religious Affairs must be obtained, and there were no reports of anyone requesting such permission. There were instances of persons, often foreign women, who converted to Islam as a prelude to marrying Muslims, as required by the country's Islamic law. Government statistics reported that 10 percent of the 424 conversions to Islam during the year were due to marriage. After the marriages took place, these women faced intense official pressure not to return to their former religions or encountered extraordinary delays in obtaining permission. Unlike in the past, there were no cases of divorced Muslim converts who, because of official and societal pressure, remained officially Muslim.

Authorities continued to arrest persons for offenses under Shari'a, such as *khalwat* and consumption of alcohol.

The Ministry of Education requires courses on Islam and the national ideology and prohibits the teaching of other religions. The ministry requires all students, including non-Muslims, to follow a course of study on the Islamic faith and learn Arabic script. The International School of Brunei and the Jerudong International School were exempt from these requirements, but both offered Islamic instruction for Mus-

lms. Private Christian schools are not allowed to give Christian instruction and are required to give instruction on Islam. However, the government did not prohibit or restrict parents from giving religious instruction to children at home.

The government routinely censored magazine articles on other faiths by blacking out or removing photographs of crucifixes and other religious symbols. In addition government officials prevented the public display, distribution, and sale of items featuring non-Islamic religious symbols.

The government requires residents to carry an identity card that states the bearer's religion. Visitors to the country are asked to identify their religion on their landing cards.

Only Islamic groups belonging to the Shafi'i school are permitted to organize public religious processions; however, during the year a limited number of public lion dances to celebrate the Chinese Lunar New Year were allowed.

In July the government sponsored the attendance of Christian, Buddhist, and Muslim religious officials at the Asia-Europe Interfaith dialogue held in Bali, Indonesia.

Societal Abuses and Discrimination.—The country's various religious groups coexisted peacefully. There were no known Jewish communities in the country, and there were no reports of anti-Semitic acts.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The government restricts the movement of former political prisoners during the first year of their release. Generally, the government does not restrict the freedom of movement of citizens, visitors, and permanent residents. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad, which was granted routinely.

Under the law the sultan may forcibly exile, either permanently or temporarily, any person deemed a threat to the safety, peace, or welfare of the country. However, since 1984 there have been no cases of banishment of citizens.

Protection of Refugees.—The country is not party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and no legal provision exists for granting temporary refuge or refugee status to those seeking such refuge or asylum. Under the law persons arriving without valid entry documents and means of support are considered illegal immigrants and are refused entry. There were no reported cases of individuals seeking temporary refuge during the year.

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

Citizens did not have the right to change their government peacefully, and civil servants are not permitted to join political parties.

The same family has ruled the country for more than 600 years. In 1962 the then sultan invoked an article of the constitution that allowed him to assume emergency powers for two years. Sultan Haji Hassanal Bolkiah renewed these powers in March 2004. The state of emergency places few limits on the sultan's power. The sultan also served as prime minister, minister of defense, minister of finance, chancellor of the national university, inspector general of the Royal Brunei Police Force, and head of the Islamic faith.

Elections and Political Participation.—In September 2004 the sultan named an appointed legislative council, which he revived after a 20-year suspension; however, the council had no independent powers. Political authority and control rested entirely with the sultan, while the council provided a forum for public discussion of proposed government programs as well as administrative deficiencies. Members of the sultan's appointed cabinet served as his principal advisors. The sultan also announced changes to the constitution that consolidated his executive powers while providing for limited elections to the legislative council. Amendments to royal succession to include the sultan's sons from a second (now divorced) wife also were approved.

In September the sultan increased the membership of the legislative council to include several indirectly elected members, comprised of district and village heads.

The country has attempted, with limited success, to institutionalize a form of popular representation based on a traditional system of village chiefs elected by secret ballot by all adults. Candidates must be approved by the government and must be Malay or of a recognized indigenous race. These leaders are expected to communicate constituents' wishes through a variety of channels, including periodic meetings, chaired by the minister of home affairs, with several officials appointed by the

sultan. Regular meetings between senior government officials and *mukim* (a group of villages) representatives allowed for airing of local grievances and concerns.

There were three registered parties in the country: the Brunei Solidarity National Party, the Brunei People's Awareness Party, and the new Brunei National Development Party (BNDP). The BNDP was registered on August 31. All three parties pledged their support to the sultan and the system of government. Although they criticized administrative deficiencies, their few activities received limited publicity, and they were hindered by membership restrictions. However, several members and former members of political parties were consulted informally about the program of the legislative council.

Individuals sought to express their views or influence government decisions and policies by posting messages to Internet discussion boards, writing letters to local newspapers, and petitioning the sultan or handing him letters when he appeared in public.

The lack of a representative, democratic government seriously limited the role of both men and women in government and politics, although women were limited to a greater extent than men. There were no female ministers in the government or the legislative council, although the sultan's sister, Princess Masna, was the second-ranking official in the Ministry of Foreign Affairs, and there were female ambassadors, judges, and other senior officials.

Government Corruption and Transparency.—There were reliable reports of concealed corruption in the government. The government has announced a “zero tolerance” policy for corrupt policy and has successfully prosecuted a number of low-level officials. In May the government began prosecuting a former minister of development on charges of corruptly awarding government projects and accepting bribes. The case had not been decided at year's end.

Despite earlier declarations that the government planned to be more transparent, it continued to restrict and classify as confidential any information on the financial dealings of the government and royal family, particularly regarding expenditures, revenues, and incomes.

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

Few if any civil society organizations dealt directly with human rights. A 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 government may suspend the activities of a registered society if it deems such an act in the public interest or the interest of the registered society.

The few existing NGOs were based locally and generally were professional, business, or social associations. The Consumers' Association of Brunei attempted to address human rights, but the government impeded it from doing so.

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

The law does not contain specific provisions prohibiting discrimination based on race, sex, disability, language, or social status.

Women.—The extent of spousal abuse was unknown. During the year there were fewer than 100 reported cases of domestic violence against women. 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 jail sentence.

A special unit, staffed by female officers, existed within the police department to investigate domestic abuse and child abuse complaints. A hot line was in service for persons to report domestic violence. The Ministry of Culture's Social Affairs Services (SAS) Unit provided counseling for women and their spouses. During the year 31 female domestic abuse victims were sheltered at the Taman Noor Hidayah, a shelter run by the SAS unit. According to press reports, the female victims were restricted to the shelter while waiting for their cases to be brought to court.

Islamic courts, staffed by both male and female officials, offered counseling to married couples in domestic violence cases. Officials did not encourage wives to reconcile with flagrantly abusive spouses, and Islamic courts recognized assault as grounds for divorce.

Female domestic servants, most of whom were foreign workers (see sections 6.c. and 6.e.), also were subjected to abuse. While the level of violence in society generally was low, beating servants or refusing them the right to leave the house on days off was more prevalent. Since most foreign female domestics were highly dependent on their employers, those subject to abuse often were unwilling or unable to bring complaints, either to the authorities or to their governments' embassies. However, when such complaints were brought, the government generally was quick to investigate allegations of abuse and impose fines and punishment as warranted.

Several workers settled assault cases out of court with their employers. Two foreign embassies maintained a shelter for domestics involved in disputes with employers and were active in protecting their citizens' rights.

The law stipulates imprisonment of up to 30 years and caning with not fewer than 12 strokes for rape. The law does not criminalize spousal rape; it explicitly states that sexual intercourse by a man with his wife, as long as she is not under 13 years of age, is not legally considered rape. There were 22 rape cases reported during the year; 12 cases resulted in conviction, and 10 were under investigation at year's end.

Prostitution is illegal. Women who entered the country for purposes of prostitution generally were tried, sentenced, and deported swiftly (see section 5, Trafficking).

In accordance with certain local Islamic practices, women are denied equal status with men in a number of important areas such as divorce, inheritance, and custody of children. However, the law permits female citizens to pass their nationality to their children and to own property and other assets, including business properties.

Men were eligible for permanent positions in government service whether or not they had university degrees, but women without university degrees were eligible to hold government positions only on a month-to-month basis. Women in month-to-month positions received slightly less annual leave and fewer allowances than their male and female counterparts in permanent positions. There were no men in month-to-month positions.

Religious authorities strongly encouraged Muslim women to wear the *tudong*, a traditional head covering, and the majority of women did so. Most government departments and the uniformed services required female Muslims and non-Muslims to wear the *tudong* as part of their dress code. All government schools, as well as the national university and other educational institutions, pressured non-Muslim students to wear the *tudong* as part of the institution uniforms.

Children.—No statistics were published regarding the welfare of children. The strong commitment to family values within society, the high standard of living, and government funding for children's welfare provided most children a healthy and nurturing environment. Education is free, compulsory, and universal for the first 12 years, after which it is still free but no longer compulsory. The highest level of education achieved by most children was completion of secondary school, which normally consists of 12 to 14 years in school, ending at age 16 to 18 depending on whether the student pursues a vocational, academic, or arts course of study in secondary school. A significant percentage of students continued on to tertiary education. With a few exceptions, involving small villages in extremely remote areas, nutritional standards were high and poverty was almost unknown. Medical care for all citizens, including children, was subsidized heavily and widely available. Between 20 and 30 young female rape and sexual abuse victims, between 9 and 15 years of age, were housed at the government-sponsored Taman Noor Hidayah women's shelter. The penalty for the rape of a minor is 8 to 30 years' imprisonment and caning with not fewer than 12 strokes.

Trafficking in Persons.—A statute outlaws sexual exploitation and trafficking of women and girls. In addition, a variety of other laws, primarily those related to prostitution and the protection of minors, could be applied against sex traffickers. The country has been a destination for a small number of persons trafficked for sexual exploitation from China and within the region. There were very few identifiable cases of trafficking, and the majority of women who entered the country as sex workers were considered to have done so voluntarily. Immigration, labor, and religious regulations that criminalize prostitution also served to deter trafficking. There were reports of foreign household laborers who worked under harsh conditions and whose freedom of movement was restricted (see section 6.e.).

In December 2004 the government introduced a specific antitrafficking law under which a person convicted of trafficking persons, harboring smuggled persons, or endangering the lives or safety of trafficked or smuggled persons can be fined up to \$606,060 (B\$1 million), imprisoned for up to 30 years, and caned. A person convicted of facilitating trafficking or smuggling persons can be fined up to \$30,303 (B\$50 thousand) and imprisoned for up to 10 years. There were no reported cases of human trafficking. Immigration and other law enforcement officials began receiving training to investigate and prosecute suspected offenders to deal with trafficked victims under the terms of the new law. Police officials participated in five overseas training courses dealing with human trafficking.

Persons with Disabilities.—The law does not mandate accessibility or other assistance for persons with disabilities. The government attempted to provide educational

services for children with disabilities; however, these efforts did not meet international norms.

National/Racial/Ethnic Minorities.—There were a sizeable number of “stateless” persons and permanent residents, mostly ethnic Chinese, including persons born and raised in the country, who were not automatically accorded citizenship and its attendant rights. They had to travel abroad as stateless persons and did not enjoy the full privileges of citizenship, including the right to own land. Stateless persons and permanent residents also were not entitled to subsidized medical care. In 2003 a reform to the nationality law allowed some older, stateless persons and some permanent residents over age 50 to acquire citizenship by passing an oral rather than a written nationality test. All stateless persons and permanent residents became entitled to free education at government schools and other vocational and technical institutions. During the year 680 persons were granted citizenship, including more than 150 children.

Section 6. Worker Rights

a. The Right of Association.—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; however, in practice there was no union activity in the country. The government did not encourage unions or facilitate their formation, and employers in the industrial sector did not encourage foreign workers to form unions. The 3 registered trade unions were in the oil sector, had a total membership of less than 5 percent of that industry’s work force, and were inactive. There were more than 100 thousand foreign workers in the country, including approximately 10,600 garment industry workers, none of whom were members of any trade union.

While the law permits the formation of trade union federations, it forbids affiliation with international labor organizations unless there is consent from the home affairs minister and Labor Department. At year’s end the country had ratified none of the International Labor Organization’s (ILO) eight Fundamental Conventions and was not an ILO member.

b. The Right to Organize and Bargain Collectively.—There was no union activity in the country; therefore, employer discrimination against union members did not arise. There is no legal foundation for collective bargaining, and strikes are illegal. Wage and benefit packages were based on market conditions.

There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ). The labor laws are fully applicable in the MEZ.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that some foreign domestic workers worked under unacceptable conditions (see section 6.e.). Other workers, most notably in the garment industry, signed contracts with employment agents or other sponsors in their home countries that reduced their promised salaries through payments to the agencies or sponsors. In 2003 the government forbade wage deductions to agencies or sponsors and mandated that employees receive their full salaries. However, foreign workers continued to pay high fees to manpower agents to obtain work in the country.

d. Prohibition of Child Labor and Minimum Age for Employment.—Various laws prohibit the employment of children under age 16. Parental consent and approval by the Labor Commission is required for those under 18. Female workers under 18 may not work at night or on offshore oil platforms. The Department of Labor (DOL), which is part of the Ministry of Home Affairs, effectively enforced laws on the employment of children. There were no reports of violations of the child labor laws.

The government adhered to the standards of ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—Due to economic conditions and reduced government hiring, unemployment has grown in recent years. However, most citizens who had employment commanded good salaries. There is no minimum wage. The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for 2 rest periods of 24 hours each week. Overtime is paid for work in excess of 48 hours per week, and double time is paid for work performed on legal holidays. Occupational health and safety standards are established by government regulations. The DOL inspected working conditions on a routine basis and also in response to complaints. The DOL generally enforced labor regulations effectively, but enforcement in the unskilled labor sector was lax, especially for foreign laborers. The DOL may close a workplace where health, safety, or working conditions are unsatisfactory, and it has done so. The law permits a worker to leave a

hazardous job site without jeopardizing his employment, but generally this did not occur.

At least 100 thousand foreign persons worked in the country. There were reports of foreign maids and other domestic workers who worked exceptionally long hours, did not have a rest day, and had their liberty severely restricted. There also were isolated reports of employers who beat domestic employees or did not provide them with adequate food. The government prosecuted some cases; employers found guilty of abuses typically were fined and asked to compensate the victim.

Government protective measures for foreign workers included arrival briefings for workers, inspections of facilities, and a telephone hot line for worker complaints. Government mediation continued to be the most common means used to resolve labor disputes. Abusive employers faced criminal and civil penalties. When grievances cannot be resolved, repatriation of foreign workers is at the expense of the employer, and all outstanding wages must be paid. The majority of abuse cases were settled out of court by the payment of financial compensation to the worker by the errant employer.

Since February the DOL has brought cases directly against employers who did not pay their workers. Formerly, such cases were brought by the Attorney General's Office and took much longer to prosecute. In March a military officer was fined approximately \$4 thousand (B\$6,668) or a jail sentence in default for not paying his maid for more than 23 months.

In September approximately 300 garment factory workers protested publicly over unpaid salaries of up to 6 months. The government intervened in the dispute, and embassies of the affected workers assisted in finding alternative employment for some workers. The government warned employers that they would be prosecuted if they defaulted on workers' salary payments or paid them late. In September the government filed charges for nonpayment of wages against the board of directors of the factory that employed the garment workers; among the accused was a former cabinet minister. In late November members of the board of directors were charged with 126 counts relating to unpaid salaries of 19 workers, and more charges were expected to be filed to reflect total number of workers not paid by the company.

The government also used the labor act's provisions to prosecute errant employers who employed illegal immigrants or did not process workers' documents, rendering them in illegal status.

In February 2004 the country amended its immigration laws by introducing retroactive prison sentences and caning for overstaying workers and illegal immigrants seeking work, as well as for foreign workers employed by companies other than their initial sponsor. While the majority of prosecutions were for long-term overstayers, many workers were in illegal status owing to their former employers' negligence. Diplomatic missions appealed to the government to delay the introduction of caning penalties and not apply the law retroactively. The government delayed the introduction of caning penalties until June 2004. Subsequently, numerous foreign persons found to be in illegal status received caning sentences in addition to jail time and fines.

In September nine Filipino workers who had been duped by home-based recruiters into coming to the country on social visit passes and were subsequently unable to work legally were repatriated by their embassy. In 2004 several hundred Bangladeshi workers were duped by foreign and local manpower agents into paying high recruitment fees to obtain a three-month short-term work contract. Many of the workers subsequently were not able to transfer to standard two-year contracts, and some lapsed into illegal immigration status. Diplomatic missions again appealed to the government for leniency for these persons, and the government granted their request. The government subsequently closed this loophole by requiring employment agencies to register and limiting work permit renewals to registered agents.

BURMA

Since 1962, Burma, with an estimated population of more than 52 million, has been ruled by a succession of highly authoritarian military regimes dominated by the majority Burman ethnic group. The current controlling military regime, the State Peace and Development Council (SPDC), led by Senior General Than Shwe, is the country's de facto government, with subordinate Peace and Development Councils ruling by decree at the division, state, city, township, ward, and village levels. In 1990 prodemocracy parties won more than 80 percent of the seats in a generally free and fair parliamentary election, but the junta refused to recognize the

results. Twice during the year, the SPDC convened the National Convention (NC) as part of its purported “Seven-Step Road Map to Democracy.” The NC, designed to produce a new constitution, excluded the largest opposition parties and did not allow free debate. The military government totally controlled the country’s armed forces, excluding a few active insurgent groups.

The government’s human rights record worsened during the year, and the government continued to commit numerous serious abuses. The following human rights abuses were reported:

- abridgement of the right to change the government
- extrajudicial killings, including custodial deaths
- disappearances
- rape, torture, and beatings of prisoners and detainees
- harsh and life-threatening prison conditions
- arbitrary arrest without appeal
- politically motivated arrests and detentions
- incommunicado detention
- continued house arrest of National League for Democracy (NLD) General Secretary Aung San Suu Kyi and NLD Vice Chairman U Tin Oo, and the continued closure of all NLD offices, except the Rangoon headquarters
- imprisonment of members of the United Nationalities Alliance, including Hkun Htun Oo and Sai Nyunt Lwin, both leaders of the Shan Nationalities League for Democracy
- infringement on citizens’ right to privacy
- forcible relocation and confiscation of land and property
- restriction of freedom of speech, press, assembly, association and movement
- restriction of freedom of religion
- discrimination and harassment against Muslims
- restrictions on domestic human rights organizations and a failure to cooperate with international human rights organizations
- violence and societal discrimination against women
- forced recruitment of child soldiers
- discrimination against religious and ethnic minorities
- trafficking in persons, particularly of women and girls for the purpose of prostitution and as involuntary wives
- restrictions on worker rights
- forced labor (including against children), chiefly in support of military garrisons and operations in ethnic minority regions

Ethnic armed groups including the Karen National Union (KNU), the Karenni National Progressive Party (KNPP), and the Shan State Army-South (SSA-S) also allegedly committed human rights abuses, including killings, rapes, and forced labor, although reportedly to a lesser extent than the government. Some cease-fire groups, including the United Wa State Army and the Karenni National Peoples Liberation Front also reportedly committed similar abuses against civilians in their home regions. Armed groups and cease-fire groups also practiced forced conscription of child soldiers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—During the year there were several cases of prodemocracy activists who died while in custody under suspicious circumstances. On May 7, Aung Hlaing Win, an NLD member, died in custody after being arrested on May 1 by the Office of the Chief of Military Affairs Security (MAS) for contacting an “illegal organization” in Thailand five years earlier. On May 10, police informed his family that he died of a heart attack; however, the coroner’s autopsy report revealed that the body showed 24 injuries and bruises. MAS offered the family compensation of \$100 (100 thousand kyat), which the family refused. The family filed a wrongful death case in Mayangone Township Court. The judge barred admission of the coroner’s autopsy report and instead upheld the police report on the cause of death. The NLD legal advisory committee helped the family appeal the case to the Supreme Court, which upheld the decision of the lower court.

On May 22, labor activist Moe Naung reportedly died in Kawthoung, shortly after being taken into custody (see section 6.a.).

On May 31, Min Htoo Wai's wife received a telegram informing her that her husband, an NLD member, had died in custody and would be cremated that day. On May 26, police arrested Min Htoo Wai for unspecified reasons and transferred him to Mawlamyine Prison two days later. The family arrived at the prison within an hour of receiving the telegram but was informed that his body was cremated the day before. A prisoner and the medical coroner both informed the widow that her husband died of severe head injuries suffered during a beating on May 29.

On July 20, officials informed Saw Stanford's family that he died of a heart attack at an interrogation center. The family was not allowed to come close to or handle the heavily draped body and could only see his face. Stanford was detained in an MAS raid of Tawako Village, Irrawaddy Division, for allegedly hiding arms and explosives.

On October 4, Htay Lwin of Aung Myay Thazan Township, Mandalay Division, died while in police custody. Authorities had arrested him on the same day on suspicion of theft. His wife came to visit him at the police station but was not allowed to see her husband. An hour later the police informed her that Htay Lwin had committed suicide inside the jail. On October 5, she refused to sign any documents or make funeral arrangements without first seeing her husband's body. Local peace and development council (PDC) officials and district Union Solidarity and Development Association (USDA) Secretary Tin Maung Win offered compensation of \$300 (300 thousand kyat). On October 6, the PDC and hospital authorities delivered the body to her house without any death certificate. The family said Htay Lwin's skull showed evidence of battering, his body was covered with bruises, and there were stitches in both eyes, on his neck, and abdomen. The family appealed to the director general of police and the divisional police commissioner to launch an inquiry and to take action against those responsible. At year's end there were no further developments in the case.

On November 5, 37-year-old Aung Myint Thein of Bago died while in custody in Insein Prison where he was undergoing trial on charges of "illegal association." The cause of death was reported variously to be diarrhea, cholera, or cirrhosis, but the authorities would not release the body to the family (see sections 2.a and 6.c.).

On December 31, Ko Than Htaik died as a result of a severe beating by local peace and development council (PDC) authorities (see section 6.c.).

In March 2004 the Shan Human Rights Foundation (SHRF) reported a commander from Light Infantry Battalion 514 beat a civilian to death in front of a military checkpoint in Mong Kung Township, Shan State, for refusing to provide his vehicle for forced labor.

In July 2004 there was an unverified but credible report that Maung Aye, a theft suspect, died after being beaten while in police custody (see section 1.c.).

The government refused to investigate, or to take any responsibility for, the 2003 attack by government-affiliated forces on an NLD convoy led by party leader Aung San Suu Kyi near the village of Depeyin. Villagers and survivors of the attack reported that the attackers might have killed as many as seventy prodemocracy supporters, but there was no official verification of this number. By year's end the fate of other injured persons, including 31 prodemocracy supporters from the convoy, remained unknown. Officials reportedly involved in the assault were not held accountable and several were promoted.

Similarly, there were no reports that the government took action to investigate or prosecute soldiers involved in any of the 2003 killings reported by the SHRF and the KNU. These killings included two farmers accused of being or helping Shan soldiers in Namhsan Township, Shan State; a displaced farmer in Lai-Kha Town in Shan State; a farmer at a remote farm in Shan State; and two Karen village chiefs.

There were several unverified reports of deaths and injuries due to security forces using civilians to clear landmines; however, reported incidents declined from previous years due to a tenuous cease-fire between the government and the KNU (see section 1.g).

Bombings in Mandalay in April and 3 concurrent bombings in Rangoon on May 7 resulted in an official count of 23 persons killed and 55 permanently injured. In response the government conducted widespread arrests and blamed various opposition groups for the bombings; however, it was unable to produce any credible evidence and the perpetrators remained at large.

Unlike in previous years, there were no reports that armed ethnic groups committed killings. Government media alleged in August 2004 that the Shan United Revolutionary Army, also known as SSA-S, killed five farmers in Namhsan Township.

b. Disappearance.—Private citizens and political activists continued to “disappear” for periods ranging from several hours to several weeks or more, and many persons never reappeared. Such disappearances generally were attributed to authorities detaining individuals for questioning without informing family members and the army’s practice of seizing private citizens for portering or related duties, often without notifying family members (see section 6.c.). Little improvement was reported regarding requests for information directed to the military services. In many cases, individuals who were detained for questioning were released soon afterward and returned to their families.

The whereabouts of persons seized by military units to serve as porters, as well as prisoners transferred for labor or portering duties, often remained unknown. Family members generally learned of their relatives’ fates only if fellow prisoners survived and later reported information to the families.

There were no developments in the 2003 case of a 15-year-old student and 3 or 4 other youths who disappeared from a Rangoon teashop and were believed to have been forcibly taken by the government for military portering.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—There are laws that prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. They routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient.

On December 1, the Assistance Association for Political Prisoners—Burma (AAPP) released a report on the “brutal and systematic” torture that the regime inflicted on political prisoners. Based on the testimony of 35 former political prisoners, the report gave graphic details of the physical, psychological, and sexual abuse the regime metes on dissidents, and identified by name many of the perpetrators. The report detailed the kinds of torture the regime uses, including: severe beatings, often resulting in loss of consciousness and sometimes death; repeated electrocution to all parts of the body, including genitals; rubbing iron rods on shins until the flesh rubs off; burning with cigarettes and lighters; prolonged restriction of movement for up to several months using rope and shackles around the neck and ankles; repeatedly striking the same area of a person’s body every second for several hours; forcing prisoners to walk or crawl on an aggregate of sharp stones, metal and glass; using dogs to rape male prisoners; and threatening female prisoners with rape.

According to the report, the ministers of home affairs, defense, and foreign affairs form a three-person committee that oversees the detention of political prisoners charged under the State Protection Act.

The report also indicated that during initial interrogations torture is conducted mainly by MAS. Interrogation was also conducted by the Bureau of Special Investigations and the Special Branch of the Burma Police, which is under the Ministry of Home Affairs.

Five political prisoners died while in custody (see section 1.a.).

On July 6, journalist and former member of the NLD executive committee U Win Tin was taken to a room in Insein Prison where prisoners are debriefed prior to release, but instead of being released, was then returned to his cell. Opposition sources believe that U Win Tin refused attempts by authorities to coerce him to sign a false confession (see section 2.a.).

In June 2004 four members of the NLD were taken into custody, interrogated, and forced to stand on stools for three days. The 4 were forced to sign false written confessions that led to prison sentences of up to 15 years for violating the Emergency Provision Act of 1950, the Unlawful Association Act of 1908, and the Immigration Act of 1947. The court ruled the three sentences would not have to be served consecutively, but rather the defendants would serve the longest of the three counts (seven years). The son of the most prominent member of this group also was taken into custody and beaten by security agents before being released.

Reliable sources reported that in February 2004, authorities at Insein prison beat NLD member Khin Maung Oo unconscious. Also in February 2004 there was an unverified report that Rangoon policemen and firemen beat San Htay for unknown reasons. In July 2004 there was an unverified but credible report that Maung Aye, a theft suspect, died after being beaten while in police custody.

The military routinely confiscated property, cash, and food, and used coercive and abusive recruitment methods to procure porters. Persons forced into portering or other labor faced extremely difficult conditions, beatings, rape, lack of food, lack of clean water, and mistreatment that at times resulted in death.

During the year there were new reports by NGOs and community leaders that the military continued to commit abuses against ethnic minorities, including beatings, rape, forced mine clearing, and forced labor against villagers in Bago Division, Karen State, Mon State, Shan State, and Tanintharyi Division.

In September 2004 a credible source in Karen State reported that soldiers from the progovernment Democratic Karen Buddhist Army (DKBA) raped several young Buddhist nuns (ages 8–11).

The government did not investigate the 2003 reports that a DKBA commander and government soldiers threatened and beat villagers in Karen State to recruit forced laborers.

In 2003, security agents detained and later sent school teacher Kyaw Ye Win and student Khin Hla Hla Su Win to Ywathagyi psychiatric hospital for demonstrating in front of Rangoon City Hall for the release of all political prisoners. They were amnestied in November 2004.

Prison and Detention Center Conditions.—Prison and labor camp conditions generally remained harsh and life threatening. The Department of Prisons operated approximately 35 prisons and approximately 70 labor camps throughout the country (see section 6.c.). In prisons, food, clothing, and medical supplies reportedly were in very short supply. Bedding consisted of a single mat on the floor. Prisoners were forced to rely on their families, who were allowed to visit once every two weeks for 15 minutes per visit, for basic necessities. Prisoners were held without being charged for weeks or months, and until a prisoner was officially charged with a crime, families could not visit or send critical supplementary food. HIV/AIDS infection rates in prisons reportedly were high due to communal use of single syringes for injections and sexual abuse by other prisoners. In March 2004 unverified reports indicated that the government revoked access by prisoners to periodicals and television, which were granted following a visit from the UN Special Rapporteur for Human Rights (UNSRHR) Paulo Sergio Pinheiro in 2003.

On April 9, 18 political prisoners in Insein Prison staged a 2-day hunger strike to protest poor prison conditions and the denial of prison visits by their families. The prison authorities agreed to make improvements in conditions. After the prisoners met with their families on April 27, the authorities transferred some of the political prisoners to other prisons, some were put in solitary confinement, and others were moved into communal cells with common criminals who beat them. The political prisoners again went on hunger strike and more were put in solitary confinement where they continued their hunger strike, and political prisoners in other wards joined their strike.

The government continued to deny prisoners adequate medical care, although medical services in prisons partially reflected health care services available to the general population. In September, 11 prison inmates in Tharawaddy prison died, and at least 80 were hospitalized due to a cholera outbreak brought on by worm-infested rice, lentils, and meat, and unsanitary water and waste disposal systems. In October these same conditions in Tharawaddy prison caused the deaths of 40 more prisoners from diarrhea. In late December, 9 prisoners in Sittwe Prison reportedly died of diarrhea and another 60 were hospitalized. Unhygienic food was suspected as the cause.

During the year the health of several political prisoners deteriorated. Prominent political prisoners who suffered deteriorating health included NLD members of parliament-elect (MPs-elect) Dr. Than Nyein and U Naing Naing and veteran journalist U Win Tin. Aung Zaw Latt, 30, a political prisoner, died in Bago prison on December 15 from tuberculosis.

According to the government, political detainees were separated from common criminals. However, reports by prisoners indicated that the authorities frequently placed political prisoners in communal cells where they were subjected to beatings and mistreatment by hard-core criminals. Political prisoners in Ward 3 of Insein Prison have been particularly vulnerable: prisoners Min Soe Naing, Min Min, Min Than Tun Win, U Ohn Maung, Phone Aung, and an unnamed Buddhist monk all reportedly were beaten severely by other inmates during the year. According to relatives of the prisoners and the AAPP, on August 24, a criminal gang of inmates brutally beat political prisoner Ko Tun Tun. The prison authorities reportedly took no action against the gang members, so the political prisoners staged a hunger strike. Prison authorities put them in solitary confinement and later transferred them to prisons in remote locations.

During the year the government allowed the International Committee of the Red Cross (ICRC) to perform its traditional services, such as providing medications to detainees, delivering letters between prisoners and their families, and advocating for monthly family visits to prisoners. The ICRC closely followed more than four thousand detainees on an individual basis. These included security detainees, minors, foreign nationals, and prisoners who were especially vulnerable, such as the sick and aged. As a result of ongoing dialogue with the government on prison problems, the ICRC gained the right to talk in private with prisoners; to make repeated visits as desired; and to have full access to most prisoners, while working to expand

its access to more detainees in prisons and labor camps. The ICRC reported that the conditions of detention, treatment of detainees, and overall health care in most prisons and labor camps improved during the year as a result of corrective measures taken by the prison department on the recommendation of the ICRC. However, the ICRC had to curtail a visit to Tharawaddy Prison in November after the government's mass mobilization organization, the USDA, insisted on accompanying ICRC personnel.

d. Arbitrary Arrest or Detention.—There is no provision in the law for judicial determination of the legality of detention, and the government routinely used arbitrary arrest and incommunicado detention. The law allows authorities to extend sentences after prisoners have completed their original sentence, and the government regularly uses this provision (see section 1.c.).

Role of the Police and Security Apparatus.—The police are auxiliary forces of the military and are under direct command of military officers. They primarily deal with common crimes and do not handle political crimes. The Myanmar Police Force (MPF) is administratively under the Ministry of Home Affairs. Corruption and impunity were serious problems due to a government-imposed system whereby police were required to collect funds for their operations. Police typically required victims to pay substantial sums for crime investigations, and police extorted money from the civilian population. Bail is commonly offered in criminal cases, but it is rarely, if ever, allowed for political prisoners.

MAS officers and Special Branch (SB) officers of the MPF are responsible for detaining persons suspected of “political crimes” that are perceived to threaten the government. Once detained, MAS officers, or in some cases SB officers, take prisoners to MAS regional interrogation centers where MAS officers interrogate the person for a period ranging from hours to months and can charge the person with a crime at any time during the interrogation. A hood frequently was placed on those accused or suspected of political crimes upon arrest.

Arrest and Detention.—By law, warrants for searches and arrests are required; however, MAS and the police have special authority to conduct searches and make arrests at will. The government continued to arrest and detain citizens for extended periods without charging them, often under the Emergency Act of 1950, which allows for indefinite detention. The government regularly refused detainees the right to consult a lawyer, denied the detainee or his family the right to select independent legal representation, or forced the detainee to use government appointed lawyers.

Incommunicado detention was a problem and relatives of detainees often learned much later that they had been detained. Prolonged solitary confinement was used for punishment of prisoners. In December 2004 Thet Naung Soe attempted a hunger strike in prison to demand the release of all political prisoners. His family tried to visit him, but the jailors showed them a note written in his own handwriting that he did not wish to meet his family at the time. A prison official indicated that Thet Naung Soe had refused food for a time and was in the prison hospital. At the end of the year, he remained hospitalized in prison with a severe skin rash and suffering from mental depression.

On July 13, a Buddhist nun, Daw Thissawaddy was arrested on charges of “defaming the Buddhist religion.” She had written to the State Sangha Maha Nayaka (State Clergy Coordination Committee) to permit her to use the title of “Bikku-ni” (akin to “mother superior”) much as monks use the title “Bikku.” She pointed out that such practice was followed in other Buddhist societies. The Buddhist clergy took no action, but the Ministry of Religious Affairs lodged a case against her and had her detained. A month after her detention the authorities pressured her to go abroad.

On August 13, three university students, Ja Naw, Win Moe, and Bran Awng San, were arrested in Momauk Township by the special antidrug squad. However, the squad did not seize any drugs from them, but rather educational CDs on human rights issued by Amnesty International (AI), books opposing the Salween Hydropower project, and educational materials on antidrug matters.

In February 2004 officials transferred NLD Vice-Chairman U Tin Oo (arrested following the May 2003 Depeyin attack) from Kalay Prison, Sagaing Division, to his residence in Rangoon, where he remains under house arrest without trial. During the year, Aung San Suu Kyi remained under house arrest without charge and without trial. Her detention was extended on November 27 for another six months. Except for two live-in housemaids, who are also forbidden from leaving the compound, she remains incommunicado with the outside world.

At year's end, of the 153 persons arrested during and immediately following the Depeyin attack, only Aung San Suu Kyi and U Tin Oo continued to be denied their freedom.

Authorities continued to detain private citizens and political activists, some of whom disappeared, at times temporarily (see section 1.b.).

During the year the government sentenced Rohingya Party MP-elect Kyaw Min to 47 years imprisonment and sentenced his wife, 2 daughters, and son to 17 years imprisonment on charges of having improper house registration documents. In addition his sister-in-law was arrested by authorities in Kyaukphyu for traveling there without permission and residing in her husband's household without proper residential documents.

Amnesty.—Since the October 2004 ouster of Prime Minister Khin Nyunt, the SPDC initiated five prisoner releases. During the year the government carried out mass prisoner releases on January 2 and July 6, totaling approximately six thousand prisoners. The government released approximately 368 political prisoners but continued to arrest additional political prisoners. In November and December 2004, the SPDC released 14,318 convicts, citing “improper deeds” of the disbanded Office of Chief Military Intelligence. Only 76 of those released were considered to be political prisoners.

During the year at least five MPs-elect were released from prison. On January 2, Kyaw Khin, NLD MP-elect from Taunggyi, was released. He was rearrested on February 25 and sentenced to 14 years' imprisonment for providing a list of Aung San Suu Kyi's awards to a fellow student at the university where he was enrolled. Ohn Kyaing (Aung Wint), NLD MP-elect from Mandalay, was also released on January 2. On March 6, Dr. Myint Naing, NLD MP-elect from Kanbulu, Sagaing Division, was released. On July 6, two MPs-elect were released: Sein Hla Oo, NLD MP-elect from Insein, Rangoon Division, and Khin Maung Win, NLD MP-elect from Oktwin, Bago Division.

On March 6, political detainee Dr. Myint Naing was released. Also in March, 11 NLD members from Bogalay Township, Irrawaddy Division, were released. On July 6, the two Buddhist nuns arrested in 2003 for shouting prodemocracy slogans and distributing pamphlets in front of Rangoon City Hall and their colleague were released.

In 2003 and 2004 the government released 24 NLD MPs-elect who were arrested on and around May 2003.

e. Denial of Fair Public Trial.—The judiciary is not independent of the government. The SPDC appoints justices to the Supreme Court who, in turn, appoint lower court judges with the approval of the SPDC. These courts then adjudicate cases under decrees promulgated by the SPDC that effectively have the force of law. The court system includes courts at the township, district, state, and national levels.

Trial Procedures.—During the year the government continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British-era legal system formally were in place, the court system and its operation remained seriously flawed, particularly in the handling of political cases. The misuse of blanket laws—including the Emergency Provisions Act, the Unlawful Associations Act, the Habitual Offenders Act, and the Law on Safeguarding the State from the Danger of Subversive Elements—and the manipulation of the courts for political ends continued to deprive citizens of the right to a fair trial. Pervasive corruption further served to undermine the impartiality of the justice system.

In a December 12 press statement, AI noted that the government increasingly used the justice system to stifle peaceful dissent during the year. AI pointed out that opposition supporters were sentenced under false criminal charges. This indictment echoed a statement by UNSRHR Pinheiro, who on October 28 told a committee of the UN General Assembly (UNGA) that in Burma “the machinery of law, order and justice, far from upholding the rights of citizens, has been employed as an implement of repression and to silence dissent.”

There is a fundamental difference between criminal and political trial procedures. Some basic due process rights, including the right to be represented by a defense attorney, generally were respected in criminal cases but not in political cases that the government deemed especially sensitive. In criminal cases, defense attorneys generally are permitted 15 days to prepare for trial, are permitted to call and cross-examine witnesses, and can be granted a 15-day delay for case preparation. However, their primary function is not to disprove their client's guilt, which is usually a foregone conclusion, but to bargain with the judge to obtain the shortest possible sentence for their clients. Reliable reports indicated that senior junta authorities dictated verdicts in political cases, regardless of the evidence or the law. Political trials are not open to the public.

None of the NLD members or the hundreds of prodemocracy supporters arrested in association with the May 2003 Depeyin attack were given public trials. In 2003

police arrested Thet Lwin, a driver for a Canadian mining company, for driving his expatriate supervisor near the Rangoon residence of Aung San Suu Kyi. In February 2004 a closed court sentenced Thet Lwin to seven years in prison under a criminal charge, unrelated to the original arrest. At the end of the year, he remained in Insein Prison.

NLD members generally appeared to be able to retain the counsel of lawyers without fear that the lawyers might be imprisoned; however, lawyers were not always told when trials would begin. Approximately 14 lawyers remained imprisoned at year's end. Most had been sentenced prior to 1998, when the government made it easier for political prisoners to retain legal counsel.

Political Prisoners.—At year's end there were approximately 1,300 “security detainees,” who included political prisoners (approximately 1,100), arms merchants, violators of state security laws, and those accused of fostering religious disturbances.

On January 2, Kyaw Khin, NLD MP-elect from Taunggyi, was released. He was rearrested on February 25 and sentenced to fourteen years for providing a list of Aung San Suu Kyi's awards to a fellow student at the university where he was enrolled.

On February 9, the government detained Hkun Htun Oo and Sai Nyunt Lwin, the chairman and secretary of the Shan Nationalities League for Democracy (SNLD), the leading ethnic prodemocracy party. Eight other Shan leaders were arrested around the same time. Secret trials were held in Insein Prison for SNLD leaders on charges of subversion and eight other counts of alleged political and economic misdeeds, including violating currency exchange regulations. Hkun Htun Oo received 2 life sentences plus 53 years in prison, General Hso Ten received 3 life sentences plus 46 years in prison, and Sai Nyunt Lwin received 3 life sentences plus 25 years in prison. They remained in remote prisons at the end of the year.

On August 3, Sao Oo Kya, member of the Shan State Consultative Council, was arrested in his home for attending the new generation Shan State meeting and Shan State Day celebrations. He was later sentenced to 13 years in prison for defamation of the state and violating the Hotel and Tourism Act. On November 22, his court appeal was rejected.

On November 20, authorities in Kachin State arrested NLD members Ko Ko Myint and Thein Zaw on charges of opium possession. The opium was allegedly planted by the authorities. Ko Ko Myint and Thein Zaw remained under detention at the end of the year. Authorities in Rakhine State also prosecuted NLD members San Shwe Tun and Aung Ban Thar, arrested in July for foreign currency violations after authorities allegedly planted Bangladeshi currency in their homes.

In April 2004 the government sentenced 11 members of the Mandalay Division NLD to between 7 and 22 years in prison for “illegal association” with an exile group in Thailand. In June 2004 officials detained Than Than Htay and Tin Myint, NLD Township Executive members from Magway and Rangoon divisions, on similar charges. They were interrogated for several weeks before being transferred to Insein Prison. In September 2004 Than Than Htay and Tin Myint, along with one other NLD member, were found guilty of violating three counts of Burmese law and sentenced to seven years in prison. The government produced no credible evidence against them. In June 2004 authorities arrested Ye Ye Win, San Ya, and Ye Htet, members of NLD in Theinzayat Township in Mon State, accused them of contacting exile groups in Thailand, and held them incommunicado. In September 2004 a court sentenced them to seven years in prison. At the end of the year, all of these persons remained in prison. In December 2004 five NLD members were arrested in Rangoon for allegedly possessing and distributing a leaflet titled “An Appeal to the Masses.” All five received life sentences on June 13 and remained in Insein Prison at year's end. In December 2004, NLD member U Kyaw Swe was arrested in Chaung Oo, Sagaing Division on charges of possessing an unregistered motorcycle and obstructing authorities in the line of duty. The same month he was sentenced to two years' imprisonment.

The government routinely extends 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 on six separate occasions for two months, that is, for up to one year. The SPDC chairman, Senior General Than Shwe, can add five years to a sentence. Unlike in previous years, the government did not release any prisoners being held under this law. During the year the government released all of the approximately 15 students and political activists held in prison beyond the expiration of their sentences.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The abrogated 1974 constitution did not provide for rights to privacy, and authorities in-

fringed routinely on citizens' privacy. Through its intelligence network and administrative procedures, the government systematically monitored the travel of all citizens and closely monitored the activities of many citizens, particularly those known to be active politically.

Forced entry without a court order is legal. The law requires that any person who spends the night at a place other than his registered domicile inform the police in advance. Any household that hosts a person not domiciled there must, according to the law, maintain and submit a guest list to the police. While the law was selectively enforced, enforcement increased following the April bombing in Mandalay and the May 7 bombings in Rangoon. Security forces significantly increased surveillance of civilians following the May 2003 Depeyin attack and also after bombings that occurred in Rangoon during that year. Ward-level SPDC officials stepped up unannounced nighttime checks of residences for unregistered visitors. Three months after long-term political prisoner U Htwe Myint was released from prison, he was rearrested on March 18 and sentenced to 14 days in prison for failure to report an overnight stay at his brother's home while attending a funeral.

Security personnel regularly screened private correspondence and telephone calls and monitored normally protected communications. In June 2004 a foreign investigation team found an eavesdropping device in the wall of its ambassador's meeting room. In 2003 the UNSRHR found a listening device in a prison interview room while interviewing a political prisoner.

The authorities generally continued to discourage citizens from subscribing directly to foreign publications (see section 2.a.).

The government continued to control and monitor closely the licensing and procurement of all two-way electronic communication devices. Possession of an unregistered telephone, facsimile machine, or computer modem was punishable by imprisonment. For example, users of unregistered cordless telephones in the country face up to three years' imprisonment and a hefty fine.

Weak private property rights and poor land ownership records facilitated involuntary relocations of persons by the government. The law does not permit private ownership of land; it recognizes only different categories of land-use rights, many of which are not freely transferable. Post-colonial land laws also have revived the pre-colonial tradition that private rights to land were contingent upon the land being put to productive use.

For decades successive military governments have applied a strategy of forced relocation against ethnic minority groups in an effort to deny support to armed ethnic groups. Such forced relocations continued during the year. The forced relocations reportedly were accompanied by rapes, executions, and demands for forced labor to build infrastructure for villagers and military units (see sections 1.c., 1.e., and 2.d.). On October 4, the government ordered approximately 100 households in the villages of Wanzan and Koonkieng, in the southern Shan State, to move to Wanpong, Laikha Township, in an effort to isolate the SSA-S from the local populace.

Reports of forced relocation in urban areas lessened; however, the government reportedly continued to relocate forcibly households for "security" reasons. In Rangoon, persons were forced to leave homes or dwellings located on property that could be used for commercial gain. In some cases those forced to move were poorly compensated. In 2004 the government gave notices to retired civil servants to move from at least two locations in Rangoon by 2005. At the end of the year, they remained in their homes. In November the government ordered civil servants to relocate without their families to a new administrative capital in Pyinmana.

There were numerous reports that government troops looted and confiscated property and possessions from forcibly relocated persons, or persons who were away from their homes. These materials often were used for military construction. Diplomatic representatives reported that commandeering privately owned vehicles for military or VIP transport without compensating the vehicle owners was also commonplace throughout the country. This practice was particularly widespread in Shan, Kayah, and Karen states, and in areas of Mon State and Bago Division.

In these same areas, thousands of civilian villagers were displaced from their traditional villages, which often were burned to the ground, and moved into settlements tightly controlled by SPDC troops in strategic areas. In other cases, villagers who were driven from their homes fled into the forest, frequently in heavily mined areas without adequate food, security, or basic medical care.

Forced relocations often generated large refugee flows to neighboring countries or to parts of the country not controlled by the government. In some areas, the government replaced the original occupants with ethnic Burmans. In other areas, army units forced or attempted to force ethnic Karen to relocate to areas controlled by the DKBA.

The government has the right to confiscate property without paying compensation. There were several credible, but unverified, reports of this occurring across the country. For example in November there were credible reports of a new "model village" being established in Buthitaung Township, Rakhine State. Eighty households of paroled prisoners were moved onto 200 acres of land confiscated from local villagers who received no compensation. In March 2004 the government evicted families and seized land in Chin State to make way for an India-Burma-Thailand highway project. In July 2004 the military expropriated the land of 150 households in Ye Township, Mon State, for new military buildings. In 2003 diplomatic observers reported the government ordered families to exhume corpses of their relatives from a cemetery to make way for construction of a condominium project on the outskirts of Rangoon.

There were several reports of government mistreatment and exploitation of farmers. During the year the military continued to confiscate land from farmers in Mon state (see section 4). In January 2004 officials detained five farmers from Letkhopin Village, Irrawaddy Division, for expressing grievances about uncompensated confiscation of farmland. In 2004 there were credible reports that the military confiscated, without compensation, thousands of acres of farmland in Mon State. The government also reportedly confiscated land in northern Shan State when farmers could not repay loans taken out to buy and plant a type of Chinese rice hybrid never planted before in the area, which the government had required the farmers to plant. In 2003 there were reports that civil servants in several areas confiscated established farm plots, forcing farmers to buy less desirable land to continue their livelihood.

Military personnel also routinely confiscated livestock, fuel, food supplies, fishponds, alcoholic drinks, vehicles, or money. Such abuses were widespread. Regional commanders forced contributions of money, food, labor, and building materials from civilians throughout the country (see sections 1.c. and 6.c.).

In violation of international human rights law, both army and insurgent units used forced conscription, including of children (see sections 1.g. and 6.c.).

Government employees generally were prohibited from joining or supporting political parties; however, this proscription was applied selectively. In the case of the government's mass mobilization organizations, the USDA, the Myanmar Women's Affairs Federation (MWAFF), and the Myanmar Maternal and Child Welfare Association (MMCWA), the government used coercion and intimidation to induce many persons, including nearly all public sector employees and students, both to join the organizations and to attend meetings in support of the government (see section 2.a.).

Marriages between female citizens and foreigners were officially banned, and the government ordered local attorneys not to be witnesses to such marriages. However, the ban was not enforced.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—A few ethnic insurgent groups continued to battle, with varying levels of resistance, the government for autonomy or independence, including the Chin National Front, the Naga National Council, the Arakan-Rohingya Solidarity Organization, the Mon Land Restoration Army, the SSA-S, the KNPP, and the KNU through its armed wing, the Karen National Liberation Army (KNLA). The largest of these, the KNU, began peace talks with the government in 2003 leading to a tenuous cease-fire. However, there were credible reports of renewed attacks on villages in Karen State in September 2004 after the rainy season ended. During the year, there were several isolated firefights between units of the Burmese Army and KNLA forces, and a more serious outbreak of fighting a few miles from Taungoo Town, Bago Division, beginning in September.

In April the Shan State National Army rejoined the ranks of the ethnic resistance groups by forming an alliance with the SSA-S, thus becoming the first cease-fire group to break its agreement with the government.

According to credible reports, on July 11, 27 Karen villagers, including children, were massacred by the Burmese Army after being arrested for allegedly having contacts with the KNU. The villagers were internally displaced persons, who had been hiding in the jungle on an island off the coast of Palaw Township, Tanintharyi Division.

According to a credible report, on December 23, Burmese Army battalions 426 and 428 burned 26 houses in Hee Gaw Ber village, Kayah State, forcing the 610 residents into hiding.

In November 2004 there were credible reports that the army attacked Karen villages in Shwegyin Township, Nyaunglebin District, Bago Division, burning houses and rice stores. An estimated 20 thousand baskets of paddy rice were destroyed. As many as 4,781 civilians were displaced and were prevented from returning. The attacks reportedly ceased by the end of 2004, but the dislocated villagers were forced

to construct three new military camps on their old village sites, and the dislocation of civilians continued.

In November and December 2004 there were credible reports of army attacks on civilians in Taungoo District, Bago Division, which displaced more than three thousand residents. Reportedly they were used as forced labor to construct roads into former KNU-held territory. These projects continued during the year and there were reports of fighting in the area between government forces and the KNLA as recently as August.

There were credible reports from Mon Township of northern Nyaunglebin District, Bago Division, that local villagers were forced to tear down their homes and then forced to construct a new army camp at Mawdalaw. Construction continued during the year.

There were credible reports that attacks continued against civilian populations in Kayah State throughout the year. Army troops reportedly continued to pursue Karenni displaced persons who had fled to Taungoo District, Bago Division, and Papun District in northern Karen State.

Incidents of rape in conflict areas and other ethnic minority areas continued. During the months of May and June, at least four cases of rape by government soldiers were reported to the Burmese Army by Mon community leaders. In one case the teacher of a 14-year-old female student who was raped reported the rape to the battalion commander in Ye Township. The case was brought before a military tribunal, and the soldier was sentenced to seven years' imprisonment. The commander later scolded the villagers for not taking better care of their daughters. It was not known whether action was taken in the other three reported cases.

In July a 24-year-old woman of Ponnagyun Township, Rakhine State, alleged she was raped by Commander Shwe Aye of Kyanung Taung police station. She reported the incident to the local police and appealed to the Township Peace and Development Council, but by year's end no investigation had been carried out. On September 8, Sergeant Major Thein Shwe from Kyaun Thaya Naval Base allegedly raped a primary school teacher from Myebon Township, Rakhine State. Authorities pressured her family not to press charges and to keep the matter quiet.

In January 2004 the Thai-based Human Rights Foundation of Mon Land issued a report documenting five cases of rape by elements of the Burmese Army during an offensive against ethnic rebels in southern Mon State that began in 2003. The report also asserted that rape of local women was standard practice by Burmese Army troops, especially by the 299th Light Infantry Brigade, which took 3 local Mon women per day to military bases to work, after which soldiers raped them. The government did not investigate any of the cases, despite their being documented, and failed to respond officially to the report.

Christian Solidarity Worldwide reported that in April 2004 a Shan woman was gang-raped by Burmese Army soldiers near the Thai border.

NGOs reported that Burmese Army soldiers raped numerous women in Shan State and other ethnic regions in 2003. For example, a captain raped a 20-year-old woman in Shan State, while another soldier restrained her husband. The woman and her husband later reported the rape to SPDC authorities in the area; however, after no action was taken they began to fear for their safety and fled across the border to Thailand. In 2003, a captain and 20 other soldiers gang-raped a woman in Shan State. The captain then threatened to punish the village headman and the villagers if anyone reported the rape. There was no information that the government investigated these abuses.

In central and southern Shan State, security forces continued to engage the SSA-S. The military maintained a program of forced relocation of villagers in the region that reportedly was accompanied by killings, rapes, and other abuses of civilians.

Karen NGO sources indicated that human rights abuses increased in Karen State during the year, despite intermittent peace talks. There were reports of fighting between Burmese Army and KNLA forces west of Taungoo and in Nyaunglebin townships of Bago Division. The highway east of Taungoo was closed past Mile 13 for several weeks in September. Numerous Karen villages were attacked and burned and hundreds of villagers fled into the jungle with limited supplies.

There were no developments in the following cases from 2003: combined troops of the Burmese Army and a DKBA unit arrested and tortured a villager in Noeawlar village, Pa-an Township. When he later escaped, the troops extorted \$450 (450 thousand kyat) and a cow from his mother. Soldiers extorted \$200 (200 thousand kyat) worth of food from the villagers in Sha-zi-bo Village and abducted a woman from Zi-pyu-gon Village. It was not known if she was released. Also in Nyaunglebin District, government troops shot and killed a man from Thaw-nge-doe Village, Kyauk-kyi Township, and took \$50 (50 thousand kyat) from his body.

In 2003 government soldiers reportedly forced villagers from Na Bue Township to porter ammunition and supplies and to act as minesweepers for the troops. Many villagers and prisoners have been killed or injured from resulting landmine explosions.

The government blamed Thai-based exile groups for an April bomb blast in Mandalay's Zaygyo Market, the massive May 7 triple bombings at upscale venues in Rangoon, and smaller bombings in Rangoon in 2004 and during the year. According to government reports, members of insurgent groups committed serious abuses in 2003. For example, they accused the KNU of blowing up a cinema hall in 2003 in Phyu Township, Bago Division, injuring fifty persons. The KNU denied responsibility. The UN Children's Fund, AI, and Human Rights Watch reported that insurgent groups, as well as government forces, recruited child soldiers (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law permits the government to restrict freedom of speech and freedom of the press, and in practice the government continued to restrict these freedoms severely and systematically during the year. The government continued to arrest, detain, convict, and imprison citizens for expressing political opinions critical of the government, and for distributing or possessing publications in which opposition opinions were expressed (see sections 1.d. and 1.e.). Security services also monitored and harassed persons believed to hold antigovernment opinions.

Legal restrictions on freedom of speech have intensified since 1996, when the government issued a decree prohibiting speeches or statements that “undermine national stability.” In all regions of the country, the government continued to use force to prohibit all public speech critical of it by all persons, including persons elected to Parliament in 1990, and by leaders of political parties. The government has pursued this policy consistently with few exceptions.

On January 2, the government released Zaw Thet Htwe, who was arrested in 2003 along with four other editors of the sports journal *First Eleven* for alleged involvement in a plot against the junta. Some speculated, however, that they were actually arrested for publishing articles exposing corruption in local sports. The government released three of the editors but charged Zaw Thet Htwe, a former student leader, and Soe Pa Pa Hlaing, daughter of an imprisoned NLD MP-elect. Later in 2003 the government sentenced Zaw Thet Htwe to death and released Soe Pa Pa Hlaing. In May 2004 the government commuted the death sentence to a 3-year term.

On December 13, three representatives of political parties were summoned to the Ministry of Home Affairs where they were detained for most of the day. They were reprimanded for giving interviews on the radio on issues related to the constitution and were reminded that discussing the NC process is a violation of the law.

The NLD continued to press for substantive dialogue on political reform and publicly voiced criticisms of the policies and actions of the government (see sections 1.a. and 1.d.). In July 2004 the NLD began collecting signatures on a letter to the SPDC calling for the release of Aung San Suu Kyi and U Tin Oo and for the reopening of party offices. In August 2004 authorities arrested nine NLD supporters and sentenced them to lengthy prison terms. In November 2004 authorities in Danabyu Township arrested three NLD members: U Han Sein, U Than Htut and U Win Maung. They were held for two weeks with no charges and brought to court in November 2004, allegedly for illegally “distributing leaflets.” However, the leaflets were legally printed and sealed in an envelope at NLD headquarters. Consequently, they were tried on a different charge of violating State Law and Order Restoration Council Order 3/90, which restricted the right to assemble and campaign, and ordered to pay a fine of \$5 (5 thousand kyat)—approximately one week's wages—or face two months imprisonment. They paid the fine and were released. They lodged an appeal in the divisional court, but at the end of the year, the court had not yet deliberated on their appeal.

Many prominent writers and journalists remained in prison for expressing their political views. The Paris-based nongovernmental organization (NGO) Reporters Sans Frontieres reported that at least six journalists remained in prison at the end of the year, including U Win Tin of Hanthawady, who has been imprisoned for more than 16 years (see section 1.c.). Other journalists being held in prison were Thaug Tun, Than Win Hlaing, Monywa Aung-Shin, Ne Min, and Lazing La Htoi. In May 2004 a court sentenced Ne Min, former BBC stringer, to 15 years in prison for allegedly passing information to Thai-based exile groups. Government censorship boards prohibited publication or distribution of works authored by those in prison.

It was not known whether any imprisoned journalists were released during the year.

The government owned and controlled all daily newspapers and domestic radio and television broadcasting facilities. These official media remained propaganda organs of the government and usually did not report opposing views except to criticize them. The only partial exception was the *Myanmar Times*, an English and Burmese-language weekly newspaper, targeted at the foreign community in Rangoon. The paper's co-owner, U Myat Swe (Sunny Swe), and his father, former Office of Chief Military Intelligence (OCMI) officer, Brigadier General Thein Swe, were arrested in the wake of former prime minister Khin Nyunt's ouster in October 2004. The government pressured Yamin Htin Aung, wife of Myat Swe, the major shareholder of the popular *Myanmar Times* weekly newspaper to sell her share to the government-backed publisher. Although the *Myanmar Times* was both censored and progovernment, the newspaper occasionally reported criticisms of government policies by the UN and other international organizations.

All privately owned publications remained subject to prepublication censorship by state censorship boards. Due in part to the time required to obtain the approval of the censors, private news periodicals generally were published weekly. However, the government has given transferable waivers of prepublication censorship for weekly periodicals. As a result weekly tabloids proliferated. During the year the government restructured the Press Scrutiny Board. The board previously was under the management of the Ministry of Home Affairs, but the Ministry of Information assumed control and set up new procedures for the approval of publishers' licenses. New licenses were issued to government cronies. The government ordered all local journals to publish articles critical of the political opposition and their supporters. Government controls encouraged self-censorship, and publications generally did not report domestic political news or sensitive economic and political topics.

Imported publications remained subject, in principle, to predistribution censorship by state censorship boards, and possession of publications not approved by the state censorship boards remained a serious offense. The government also restricted the legal importation of foreign news periodicals and discouraged subscriptions to foreign periodicals (see section 1.f.); however, foreign newspapers could be purchased in Rangoon. Some foreign newspapers and magazines were distributed uncensored.

The government issued few visas to foreign journalists, except for an easing of restrictions for the resumption of the NC in February and December, when some correspondents of major media services were invited to apply for visas. In previous years, the authorities detained and deported some journalists who entered the country as tourists; there were no such actions during the year. During the year, the government held several press conferences to convey its views on current political issues, including the May bombings in Rangoon, and to criticize the International Labor Organization (ILO). Burmese representatives of international media organizations were allowed to attend.

Due to widespread poverty, limited literacy, and poor infrastructure, radio remained the most important medium of mass communication. News periodicals rarely circulated outside urban areas. The government continued to monopolize and control the content of the two domestic radio stations. Foreign radio broadcasts, such as those of Radio Free Asia (RFA), the Voice of America, the BBC, and the Democratic Voice of Burma, remained the principal sources of uncensored information.

On July 4 and 5, authorities arrested Hla Myint Than, a Bago Township NLD member, and seven others. They were accused of listening to the Burmese language service of RFA and BBC in a teashop, and having a group discussion of the news. All but Hla Myint Than were released on July 6. However, they were later re-arrested along with two others and charged with contacting an "illegal organization" (Federation of Trade Unions of Burma or FTUB), alleged possession of a satellite telephone, reporting news about forced labor to the FTUB, and illegally traveling to Thailand. They were sentenced in Insein Prison on November 11 to lengthy prison terms. Seven received 8-year sentences, Win Myint of Bago received a 17-year term, and Wai Linn of Bago received 25-years' imprisonment. They remained in prison at year's end. One of them, Aung Myint Thein, died in prison on November 5 of undetermined causes (see sections 1.a. and 6.c.).

The government continued to monopolize and to control tightly all domestic television broadcasting, offering only three channels, including an armed forces channel. The general population was allowed to register satellite television receivers for a fee. Illegal satellite television was also available, but access to satellite television remained far beyond the reach of the vast majority of the impoverished population. The Television and Video Law makes it a criminal offense to publish, distribute, or possess a videotape not approved by a state censorship board. During the year, the government cracked down on uncensored foreign videotapes and DVDs, and many private distributors closed their doors.

The government strictly monitored and censored all cultural events. In September it revoked permission for a Korean pop group to use a large concert venue and made them hold the concert in a smaller area where fewer persons could attend. The government systematically restricted access to electronic media. All computers, software, and associated telecommunications devices were subject to registration, and possession of unregistered equipment was punishable by imprisonment (see section 1.f.).

On July 8, Nai Sein Aye, chairman of the Mon Literature and Culture Committee, was arrested in Thanbyuzayat Township, Mon State, after his organization sponsored an event to commemorate the abdication of former Mon king Manuha and the fall of the ancient Mon capital of Thaton to the Burmese. The Mon Literature and Culture Committee, which had been functioning since 1948, was asked to disband. Nai Sein Aye was released after two months.

On August 26, Aung Pe, a private tuition teacher and a NLD supporter, was sentenced to three years' imprisonment for alleged violation of the Private Tuition Act. He was arrested on February 12 for lecturing to his students on the life of national hero General Aung San and singing songs honoring him.

Until October 2004 the former OCMI operated the more popular of the country's two Internet service providers (ISPs), offering expensive, censored Internet service to those who could afford it. After October 2004 the army signal corps and the Ministry of Communications, Post, and Telegraphs took control of the ISPs. There are several Internet cafes; however, access was costly and the government restricted full access to the World Wide Web and prohibited the use of commercial free e-mail providers. The government also monitored all e-mail communications.

The government restricted academic freedom. University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. The Ministry of Education routinely warned teachers against criticizing the government. It also instructed them not to discuss politics at work, prohibited them from joining or supporting political parties or from engaging in political activity, and required them to obtain advance approval for meetings with foreigners. Like all state employees, professors and teachers are required to join the USDA, the government's mass mobilization organization. Teachers at all levels continued to be held responsible for the political activities of their students. Foreigners were not permitted on university campuses without prior approval and were not allowed to attend any meetings involving students, including graduation ceremonies.

In recent years the government took a number of measures to limit the possibility of student unrest. Undergraduate campuses were moved to remote areas, teachers and students were warned that disturbances would be dealt with severely, and most on-campus dormitories were closed. The quality of education deteriorated to such an extent that many students opted to use self-study or private tutoring. The government placed heavy security around other schools that were open, even during summer vacation.

The government tightly controlled the limited number of private academic institutions in the country as well as their curricula. Similar controls extended to Buddhist monastery-based schools, Christian seminaries and Sunday schools, and Muslim madrassas.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law limits the freedom of assembly, and the government restricted it in practice. An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although the ordinance was not enforced consistently.

In April 2004 the government allowed the NLD to re-open its Rangoon headquarters, closed following the May 2003 attack. However, all other NLD offices remained closed by government order, and the NLD could not conduct party activities outside its headquarters building. The nine other legally registered political parties were required to request permission from the government to hold meetings of their members. During the year meetings occurred outside the NLD offices without government permission, such as regular Tuesday visits by an NLD women's group to Rangoon's Shwedagon Pagoda; however, security officials closely monitored these "illegal" activities, and the government prohibited those participating from wearing political pins, badges, jackets, and shirts with political pictures or slogans.

The government continued to bar the Parliament elected in 1990 from convening. On February 17, the government reconvened the NC, after a recess of seven months, as part of a democracy road map that would "nullify" the results of the 1990 election and approve a new constitution. However, the government did not allow the participation of the NLD and other prodemocracy parties, did not allow delegates to the

NC to discuss the convention outside of the NC site, and threatened to enforce harsh laws against any who criticized the NC or the draft constitution. The NC recessed on March 31 and reconvened on December 5.

Unlike in previous years, government authorities permitted a delegation of NLD members to pay their respects at the tomb of Aung San, the father of Aung San Suu Kyi, on Martyrs' Day. However, the authorities ensured that the delegation members were not wearing any clothing that would identify them as NLD party members.

The government at times interfered with the assembly of religious groups (see section 2.c.).

Freedom of Association.—The government restricted freedom of association, particularly for members of the NLD, prodemocracy supporters, and those who contacted exile groups. During the year there were several arrests, sentences, and even a death in custody of persons accused of “illegal contact” with cross-border exile groups, especially the FTUB, the NLD-Liberated Areas, and the All Burma Student Democratic Front (see sections 1.b, 1.d, and 2.a). Over the years the government continued to coerce NLD members, including NLD MPs-elect, to resign from their party positions.

AI reported that in January 2004 the government sentenced 7 students from Dagon University to between 7 and 15 years in prison for forming an illegal association (a sports club) in 2003.

The government compelled civil servants to join the USDA. The government coerced secondary school and college-level students to join when registering for classes. The government also coerced skilled trade workers and professional association members to join the USDA. The government organized mass rallies of USDA members to support its seven-step road map to democracy. The MAAF and the MMCWA continued to coerce women to attend their meetings and to join their organizations, with a recent example occurring on December 15 in Ponnagyun Township, Rakhine State. Township authorities ordered women from Aung Pru Byin, Padalike, Thayetcho, Yota Yoke, and Pan Nila villages to attend meetings organized by local women's organizations at which authorities pressured the attendees to become full members.

In another form of coercion, local authorities in Tiddim Township, Chin State, ordered citizens of Tiddim Town as well as villagers from 17 surrounding villages to attend the opening of the Man Hsaung suspension bridge by SPDC member Lieutenant General Ye Myint on March 21. There was no public or private transportation available, so the persons had the choice of walking for up to six hours to attend the ceremony or paying an absentee fine of \$1.50 (1,500 kyat).

In general, freedom of association existed only for government-approved organizations, including trade associations, professional bodies, and the USDA. Few secular, nonprofit organizations existed, and those that did took special care to act in accordance with government policy. There were 10 legally registered political parties, but most were moribund. During the year authorities harassed and intimidated three of the opposition parties that challenge military rule. The seven other legal parties supported regime policies in return for more favorable treatment.

c. Freedom of Religion.—Constitutional support for religious freedom does not exist. Most registered religious adherents generally were free to worship as they chose; however, the government imposed restrictions on certain religious activities and promoted Buddhism over other religions. In practice the government also restricted efforts by Buddhist clergy to promote human rights and political freedom.

The government's pervasive internal security apparatus infiltrated or monitored meetings and activities of virtually all organizations, including religious ones. Religious activities and organizations were subject to restrictions on freedom of expression and association.

Virtually all organizations, religious or otherwise, must register with the government. Although an official directive exempted “genuine” religious organizations from registration, in practice only registered organizations were allowed to buy or sell property or open bank accounts. Thus, most religious organizations registered with the government. In addition, the government provided some utilities at preferential rates to registered religious groups. There was no official state religion; however, the government continued to show preference for Theravada Buddhism, the majority religion. For example the government continued to fund two state-run Buddhist universities in Rangoon and Mandalay. The government also hosted the World Buddhist Summit in December 2004. Promotions within the military and the civil service were generally contingent on the candidates being followers of Buddhism.

There were no reported incidents of religious violence during the year.

The government continued its efforts to control the Buddhist clergy (Sangha). It tried members of the Sangha for “activities inconsistent with and detrimental to Buddhism” and imposed on the Sangha a code of conduct that was enforced by criminal penalties. In a November 2004 report, the Assistance Association for Political Prisoners in Burma estimated that there are approximately 300 monks and novices in prison. The government did not hesitate to arrest and imprison Buddhist monks who opposed the government. In 2003, 26 monks from Mahagandayon Monastery in Rangoon were defrocked and then sentenced by the government to 7 to 18 years in prison for refusing to accept offerings from a senior military official. All of these monks were released in a prisoner amnesty on July 6. The government also subjected the Sangha to special restrictions on freedom of expression and freedom of association. For example members of the Sangha were not allowed to preach sermons pertaining to politics. Religious lectures may not contain any words or phrases or stories reflecting political views. The members of Sangha must distance themselves from politics, political parties, or members of political parties. The government prohibited any organization of the Sangha other than the nine state-recognized monastic orders under the authority of the State Clergy Coordination Committee (Sangha Maha Nayaka Committee). The government prohibited all religious clergy from being members of any political party.

The government continued to restrict the building of religious structures by minority religious groups and limited their educational and proselytizing activities, especially Christian and Muslim groups that actively proselytize among Buddhists.

On September 2, authorities of Kyauktada Pabedan Township informed the leader of the Full Gospel Assembly Church in downtown Rangoon that they could no longer hold worship services there because it was a residential area. The mostly Chin congregation had been meeting there for more than 10 years without incident. The following week they hired a room in a hotel for their worship, but the hotel declined to rent the room to them again.

Reports of suppression of religion in Chin State continued during the year. A Chin human rights group reported that in January, Burmese soldiers destroyed a 50-foot hillside cross in Matupi, Chin State. In some cases Chin Christian residents were reportedly forced to erect Buddhist shrines in place of the crosses.

In most regions of the country, Christian and Muslim groups that sought to build small churches or mosques on side streets or other inconspicuous locations occasionally were able to proceed, but only based on informal approval from local authorities. These groups reported that formal requests encountered long delays, generally were denied, and could be reversed by a more senior authority. In June 2004 a Chin human rights group reported that a more senior military official reversed a local commander's decision to allow construction of a new Baptist church in southern Chin State.

The government discriminated against non-Buddhists at the upper levels of the public sector. There are no non-Buddhist members in the SPDC, in the cabinet, or among active flag rank officers of the armed forces. The government actively discouraged Muslims from entering military service, and Christian or Muslim military officers who aspired to promotion beyond the rank of major were encouraged to convert to Buddhism. In some ethnic minority areas, such as Chin State, there were reports that the SPDC offered troops financial and career incentives to marry Christian Chin women, teach them Burmese, and convert them to Buddhism.

The government discouraged proselytizing by all clergy. Evangelizing religions, like some Christian denominations and Islam, were most affected by these restrictions. In general the government has not allowed permanent foreign religious missions to operate in the country since the mid-1960s, when it expelled nearly all foreign missionaries and nationalized almost all private schools and hospitals.

Although authorities appear to have moved away from a campaign of forced conversion, there continued to be evidence that other means have been used to entice non-Buddhists to convert to Buddhism. Christian Chins were pressured to attend Buddhist seminaries and monasteries and were encouraged to convert to Buddhism. In April 2004 an exile Chin human rights group reported that local authorities forced 15 Chin pastors to participate in Buddhist New Year events to demonstrate “unity” with Burman Buddhists. The same human rights group claimed that local government officials placed the children of Chin Christians in Buddhist monasteries in which they were given religious instruction and converted to Buddhism without their parents' knowledge or consent. Reports suggested that the government sought to induce members of the Naga ethnic group in Sagaing Division to convert to Buddhism by similar means.

Religious publications remained subject to control and censorship (see section 2.a.). Neither Bibles nor Korans may be imported. However, with the government's permission, Bibles in indigenous languages could be printed locally. Most Muslims

object to the concept of translating the Koran; however, should someone so desire, the Koran may be translated only into the Burmese language and only after receiving the permission of the Press Scrutiny Board to publish and distribute it to the community.

Citizens and permanent residents of the country were required to carry government-issued national registration cards that often indicated religious affiliation and ethnicity. There appeared to be no consistent criteria governing whether a person's religion was indicated on his or her identification card. Citizens also were required to indicate their religion on some official application forms, such as for passports.

Societal Abuses and Discrimination.—During the year there were reports of small clashes in Rangoon and Arakan State between Muslims and Buddhist monks. The most serious of these occurred in Kyauk Pyu, Arakan State, in January. During several days of violence, two Muslims were killed and one Buddhist monk was severely injured. Some Muslim groups blamed the government for trying to increase tensions between Buddhists and Muslims as part of a “divide and rule” strategy. Reportedly in May 2004 local Buddhist villagers in Kyun Su Township, Tanintharyi Division, attacked and destroyed the properties of 14 Muslim families.

There was one synagogue in Rangoon. It serves a Jewish congregation of only eight local families. There were no reports of anti-Semitic acts.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Although the government restricted freedom of movement, most citizens were able to travel within the country, with a few exceptions such as Muslims traveling to, from, and within Rakhine State and some opposition political party members. However, citizens' movements were monitored, and they were required to notify local officials of their whereabouts (see section 1.f.). Movement was limited in areas of armed conflict. Citizens were subjected to arbitrary relocation. Authorities prohibited NLD members, who traveled to Rangoon to attend party functions, from lodging in the capital overnight.

The government continued to hold NLD leaders Aung San Suu Kyi and U Tin Oo under house arrest and rigorously curtailed the freedom of movement of other opposition political leaders. Early in 2003 government-affiliated groups increasingly harassed democratic opposition members during travel outside of Rangoon, culminating in the attack in May 2003 and the subsequent arrest, detention, and eventual release of most of the survivors (see sections 1.d.). The government maintained close control over ethnic leaders' movements, requiring them to seek permission from the government before making any domestic trips.

Ethnic minority areas previously affected by conflict, such as the large Karen areas of Irrawaddy Division, continued to experience tight controls on personal movement, including frequent military checkpoints, monitoring by MAS, and military garrisons. “Informal taxes,” or bribes, were extracted at checkpoints in border areas. In Rakhine State, many controls and checkpoints applied only to the Muslim population (see section 5).

The government tightly controlled the movement of Muslim Rohingyas, who are not granted full citizenship rights, in Buthitaung, Kyaukdaw, Maungdaw, and Rathetaung townships along the Bangladesh border. The government also required other noncitizens, generally ethnic South Asians or Chinese, to obtain prior permission to travel internally. Nonetheless, the country's borders with China, Thailand, Bangladesh, and India remained very porous with significant undocumented migration and commercial travel occurring.

An ordinary citizen needs three documents to travel outside the country: a passport from the Ministry of Home Affairs; a revenue clearance from the Ministry of Finance and Revenue; and a departure form from the Ministry of Immigration and Population. In response to the trafficking in persons problem, the government tightened the documentation process in ways that hinder or restrict international travel for women, particularly those under 25 years of age.

New passport procedures went into effect in August 2004 allowing citizens to retain their passports after completing trips abroad through their validity dates, namely: one year for incidental travel; three years for dependents; four years for employment; and 18 months for those traveling on business. In January the government announced that new passports would be issued within a week. However, it still frequently took several months to receive a passport, particularly if the applicant was unwilling to offer a bribe as incentive for speedier service.

The government carefully scrutinized prospective travel abroad for all passport holders. Rigorous control of passport and exit visa issuance perpetuated rampant corruption, as applicants were forced to pay bribes of up to \$300 (300 thousand

kyat), the equivalent of a yearly salary. The board that reviews passport applications denied passports on political grounds. College graduates who obtained a passport (except for certain official employees) were required to pay a fee to reimburse the government for the cost of their education.

Citizens who emigrated legally generally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return.

The government loosened its restrictions on travel outside of Rangoon by foreign diplomats and foreign UN employees based in Rangoon to allow travel to designated tourist sites without prior permission; all other travel required advance permission. The government waived the requirement for employees of the ICRC. The government required all foreign and local residents, except diplomats, to apply for authorization to leave the country.

Restrictions on nonresident foreigners' travel to some areas of the country were relaxed. The government also inaugurated a "visa on arrival" system for tour groups, which still required predeparture application for a visa via the Internet. The country's embassies now generally issue tourist visas, valid for one month, within 24 hours of application. However, certain categories of applicants, such as human rights advocates, journalists, diplomats, and political figures regularly were denied entry visas unless traveling under the aegis of a sponsor acceptable to the government and for purposes approved by the government.

The abrogated 1974 constitution did not provide for forced exile, and the government generally did not use forced exile. However, the pressure applied to Buddhist nun Daw Thissawaddy to depart the country was tantamount to exile.

The government has not established legal arrangements to accept Burmese citizens deported from other countries; however, in the past, the government has accepted the return of several thousand illegal migrants from Thailand and had begun preliminary discussions with international organizations on the potential repatriation of Karen refugees living in Thailand.

Harassment, fear of repression, and deteriorating socio-economic conditions continued to force many citizens to leave for neighboring countries and beyond. In border regions populated by minority ethnic and religious groups, the government continued its practices of forced labor, confiscation of land, compulsory contributions of food and money, and forced relocations. During the year there were credible reports that security forces burned villages in Nyaunglebin District of Bago Division and prevented the villagers from returning (see section 1.g.).

These policies produced hundreds of thousands of refugees in neighboring countries such as Thailand, India, Malaysia, and Bangladesh. The UNHCR reported that 30 thousand to 40 thousand Chin refugees and economic migrants continued to live in difficult conditions on the Indian side of the border at the end of the year. It also reported that there were approximately 22 thousand Muslim Rohingya refugees from Rakhine State living in two official camps in Bangladesh and more than 6 thousand living in a squalid unofficial camp near Teknaf, Bangladesh. In addition, reliable sources said there were more than 100 thousand illegal Rohingya migrants who have settled near Cox's Bazaar in southeast Bangladesh.

Rohingya Muslims who returned to Rakhine State were not stigmatized for having left but were discriminated against for being Rohingya. Returnees claimed that they faced restrictions on their ability to travel, to engage in economic activity, to get an education, and to register births, deaths, or marriages. During the year many Muslim youth from Rakhine State accepted to universities and medical schools outside Rakhine State were unable to enroll due to the travel restrictions imposed upon them.

In February 2004 the government gave permission to the office of the UN High Commissioner for Refugees (UNHCR) to send assessment teams into areas of Karen State, Mon State, and Tanintharyi Division (along the Thai border) previously off limits. The government cooperated with UNHCR in allowing initial familiarization visits to begin planning for local villages to receive some or all of the refugees now resident in Thailand. In February the UNHCR reported that conditions remained unsuitable for the repatriation of refugees from Thailand. In April the government withdrew permission, without giving any explanation, for UNHCR to continue visiting these areas. At year's end the government allowed local staff of UNHCR to visit areas in the vicinity of the Thai border.

Internally Displaced Persons (IDPs).—There were a large number of IDPs in the country. According to NGOs based in Thailand, there were more than 500 thousand IDPs in the country at year's end.

During the year, despite sporadic peace overtures between the SPDC and the KNU, the military continued to abuse thousands of villagers and drove them from their homes, particularly during military campaigns in Karen, Kayah, and Shan

States (see section 1.f.). Christian Solidarity Worldwide (CSW) and Thai-based NGOs reported that in early 2004 more than five thousand Karen and Karenni persons were displaced in the area along the Karen-Karenni state border because of army offensives. CSW also reported that the army and its allied Karenni Solidarity Organization launched offensives that displaced more than one thousand Karenni villagers living near the Karen State border.

Karen groups reported that armed hostilities in Karen State stopped as of February 2004. However, there were credible reports of renewed attacks on Karen populations close to Taungoo in Bago Division beginning in September 2004 and continuing during the year (see section 1.g.).

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees.

There were no reports that persons formally sought asylum in the country during the year. There were no reports of forced repatriation.

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

Citizens did not have the right to change their government. The SPDC continued to prevent the Parliament elected in 1990 from convening. The junta continued its systematic use of coercion and intimidation to deny citizens the right to change their government.

Since 1962, active duty military officers have occupied the most important positions in the central government and in local governments, and the SPDC placed active duty or retired military officers in most key senior-level positions in all ministries. At year's end, active duty or retired military officers occupied 36 of 38 ministerial-level posts, including prime minister, and also the mayoral posts in Rangoon and Mandalay.

Elections and Political Participation.—Following the NLD's victory in the 1990 elections, the junta refused to implement the election results and disqualified, detained, or imprisoned many successful candidates (see sections 1.d. and 1.e.). In 2004 at least four NLD MPs-elect fled the country. During the year it was believed that only one MP-elect fled the country.

In 1998 the NLD leadership joined other prodemocracy parties to organize the Committee to Represent the People's Parliament (CRPP) on the basis of written delegations of authority from a majority of the surviving MPs-elect of the 1990 Parliament. The CRPP considered itself as acting on behalf of the Parliament until the Parliament is convened. In retaliation the government launched a sustained and systematic campaign to destroy the NLD without formally banning it; the authorities pressured many thousands of NLD members and local officials to resign and closed party offices throughout the country. During the year at least five MPs-elect were imprisoned, including Hkun Htun Oo, Kyaw Khin, Kyaw Min, Kyaw San, and Saw Hlaing. One MP-elect, Dr. Myint Naing, was released on March 8. At year's end a total of 14 MPs-elect remained in prison for political reasons. Some have been in prison since the early 1990s under harsh conditions.

In the 1990 election, 392 NLD members won seats. Of that number, 130 remained elected members. Self-exiles (19), deaths (73), and forced resignations or barring (170) accounted for the balance. Those in the last category resigned for various reasons. For example the USDA staged rallies of "no confidence" against some of the elected members. The USDA and government officials pressured the families, as well as the members themselves.

Elected MPs were harassed and pressured to resign. In 2004 local authorities in northern Shan State pressured Sai Tun Aung of the Shan Nationalities League for Democracy to resign. Than Htay, an elected NLD member from Lashio, resisted pressure from the government to leave his post. Consequently, the police arrested him because his son, who owned a legally registered shop selling electronic equipment, allegedly sold an "illegal" cordless telephone and electronic equipment to a customer.

In addition, the NLD expelled or suspended 46 of its members for breach of party discipline or to forestall government efforts to ban the entire party. Nine of the expelled MPs were allowed to become independent MPs by the government election commission. The CRPP has not disqualified any elected members.

On February 17, the government reconvened the NC, first convened from 1993–96 and in recess since its last session from May through July 2004, as part of a seven-step democracy road map that would nullify the results of the 1990 election and adopt a new constitution. The government convened the NC with more than one thousand handpicked delegates, including representatives from 17 ethnic cease-fire

groups. However, it effectively barred participation by the major political parties, including the NLD and others that won seats in the 1990 elections, and prohibited free debate on the drafting of a new constitution. The government threatened 5 to 20 years in prison for any criticism of the process. The NC recessed on March 31, reconvened again on December 5, and was still in session at the end of the year.

In his August report to the UNGA, the UNSRHR expressed his belief that, "The exclusion of important and representative political actors from the process, the restrictions placed on their involvement, the intolerance of critical voices and the intimidation and detention of prodemocracy activists render any notion of a democratic process devoid of meaning." He went on to say, "if the inherent procedural restrictions are not amended and the representatives of the democratic opposition are not involved in the National Convention, any constitution that emerges will lack credibility."

In a statement submitted to the UNGA in August 2004, the UNSRHR said it was "essential" that the government resume cooperation with the UN Secretary General's special envoy Tan Sri Razali Ismail. Nevertheless, Foreign Minister Nyan Win declined to meet with Razali on the sidelines of the ASEAN Regional Forum in Laos in July.

Women were excluded from political leadership. There were no female or ethnic minority members of the SPDC, cabinet, or Supreme Court.

Members of certain minority groups also were denied full citizenship and a role in government and politics (see section 5).

Government Corruption and Transparency.—Corruption was systemic at all levels of the government and society. It was considered by economists and businesspersons to be one of the most serious barriers to investment and doing business in the country. A complex and capricious regulatory environment fostered corruption.

The authorities rarely and inconsistently enforced the anticorruption statute—they usually did so only when the junta's senior generals wanted to take action against an official whose egregious corruption had become an embarrassment. In November 2004 the SPDC published an explanation of deposed prime minister Khin Nyunt's ouster that included charges of "bribery and corruption." Khin Nyunt was convicted in a secret trial in Insein Prison on a litany of charges, including bribery, corruption, and insubordination, and was sentenced to a 44-year prison term. The government suspended the sentence and on July 21, he was transferred from prison to his home for indefinite house arrest. Hundreds of Khin Nyunt's family and associates were detained or interrogated in the wake of his ouster. As many as 26 of Khin Nyunt's military associates were tried and sentenced during the year on a variety of corruption charges. Their sentences ranged from 12 to 142 years' imprisonment; some also received multiple life sentences. The junta also claimed it had convicted 186 "personnel" from the military and three civilian departments for their involvement in corruption at Muse, a border checkpoint near China that was controlled by Khin Nyunt's intelligence service.

The government did not provide access to most official documents, nor is there a law allowing for it. Most government data is classified or controlled. Government policymaking was not transparent, with decision-making confined to the top layers of government, and new government policies rarely were published or explained openly.

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

The government did not allow domestic human rights organizations to function independently, and it remained generally hostile to outside scrutiny of its human rights record.

In addition to the ICRC and several UN agencies, approximately 35 nonpolitical, international humanitarian NGOs operated in the country. A few others have established a provisional presence while undertaking protracted negotiations necessary to establish permanent operations in the country. While some government ministries demonstrated an increased willingness in 2004 to engage on previously taboo subjects such as trafficking in persons, HIV/AIDS, child soldiers, and education, by mid year many international humanitarian NGOs and UN agencies reported increasing government pressure to curtail their activities in ethnic areas, and access by international personnel became more difficult. The restrictions eased somewhat by the end of the year for some, but not all, NGOs and UN agencies.

The government increased travel restrictions on foreign journalists, NGO staff, some UN agency staff, and diplomats in some regions. Human rights advocates regularly were denied entry visas unless traveling under the aegis of a sponsor acceptable to the government and for purposes approved by the government (see section 2.d.). The government's monitoring of the movements of foreigners, its frequent in-

terrogation of citizens concerning contacts with foreigners, its restrictions on the freedom of expression and association of citizens, and its practice of arresting citizens who pass information about government human rights abuses to foreigners all impeded efforts to collect or investigate human rights abuses. Reports of abuses, especially those committed in prisons or ethnic minority areas, often emerged months or years after the abuses allegedly were committed and seldom could be verified.

The government also placed severe operational restrictions on several NGOs, humanitarian, and religious organizations in the capital. In October the Rangoon office of Spirit in Education Movement, a Thai-based NGO that provides training for local Burmese students on community leadership and sustainable development, was raided, and at least one member was reportedly detained.

Some international NGOs and UN agencies were required to have a government representative accompany them on field visits, at the NGOs' expense, although this rule was not consistently enforced (see section 1.f.).

The ICRC continued to implement most of its assistance programs to civilians (protection, physical rehabilitation, basic hygiene, and healthcare) with the exception of Shan State, where it had to suspend its activities due to restrictions of access to conflict areas, which prevented it from carrying out normal, independent humanitarian operations.

In 2003 the government arrested 11 and sentenced 9 persons to death for "conspiracy against the government," for their alleged role in a coup plot. A court sentenced to death Naing Min Kyi, Shwe Man, and Aye Myint, in part for having contacts with the ILO and the Thai-based exile labor group, the FTUB. Subsequent ILO diplomatic efforts led to a special appeals court reducing the death sentences to three years' imprisonment for Naing Min Kyi and Aye Myint. The special court reduced Shwe Man's sentence to life in prison. An October 2004 decision further reduced Shwe Man's sentence to five years, and the sentences of the others to two years. After continuing efforts by the ILO, Naing Min Kyi and Aye Myint were released from prison on January 3, and Shwe Man was released on April 29. Aye Myint was rearrested on August 28 for allegedly providing legal assistance to farmers whose land was confiscated by the Light Infantry Battalion 40 and redistributed among the military, local authorities, and the USDA. On October 31, the Daik Oo Township court in Bago Division sentenced Aye Myint to seven years' imprisonment on charges of "spreading false news, knowing or having reason to believe that it is not true," an allusion to the allegation he advised the farmers to inform the ILO about their case. He remained in prison at year's end.

In February 2004 the government and the UNHCR signed an agreement to allow UNHCR access to previously off-limits conflict areas in Karen State and Tanintharyi Division (see section 2.d.). The UNHCR subsequently made "assessment" trips to the region, but in April the government withdrew permission to UNHCR to visit these areas.

Despite repeated requests, the government did not permit the UNSRHR to visit the country during the year. In 2003 the UNSRHR visited the country twice. In his interim report to the UNGA in August, the UNSRHR noted, "the situation regarding the exercise of fundamental rights and freedoms has not substantially changed" since his last report. He noted that he "constantly receives reports of restrictions and violations of basic rights and freedoms."

The government's Human Rights Committee was chaired by the minister of home affairs and included the chief of police. During the year members of the Human Rights Committee attended seminars on trafficking hosted by UN agencies. The government received ILO complaints of labor violations and stated that it was conducting investigations into the violations. Some officials were arrested and prosecuted in January for forced labor violations and spent several months in jail before being released (see section 6.c.).

Section 5. Discrimination, Societal Abuses and Trafficking in Persons

The SPDC continued to rule by decree and was not bound by any constitutional provisions concerning discrimination.

Women.—Domestic violence against women, including spousal abuse, was a problem; however, because the government did not release statistics regarding spousal abuse or domestic violence, it was difficult to measure. The government-affiliated MAAF sometimes lobbied local authorities, including the police, to investigate domestic violence cases involving spousal abuse.

Rape is illegal; however, spousal rape is not a crime unless the wife is under 12 years of age. Married women often lived in households with extended families, where social pressure tended to protect the wife from abuse. The government did not release statistics regarding rape; however, the government stated that rape was not common in populous urban areas, but occurred more often in remote areas.

Nonetheless, it was generally considered unsafe for women to travel during hours of darkness without a male escort, and employers typically had to supply a bus or truck to return female workers to their homes at night. Use of taxis at night was considered particularly hazardous for women because of the risk of rape or robbery. Prostitutes traveling at night typically had to pay substantial additional fees to taxi operators or risk being raped, robbed, or turned over to the police. There were credible reports from NGOs and diplomatic sources that prostitutes taken into police custody were sometimes raped or robbed by the police. Incidents of rape in conflict areas and other ethnic minority areas continued (see section 1.g.).

Prostitution is prohibited by law and punishable by three years in prison; however, it was growing in prevalence in urban areas, particularly in some of Rangoon's "border towns" and "new towns," populated chiefly by poor families relocated forcibly from older areas of the capital. In 2003 there were credible reports that a large number of female prostitutes were imprisoned and subjected to physical and verbal abuse while incarcerated. The government and at least one international NGO operated schools and other rehabilitation programs for former prostitutes.

There were no laws against sexual harassment.

Consistent with traditional culture, women kept their names after marriage and often controlled family finances. However, women remained underrepresented in most traditional male occupations, and women continued effectively to be barred from a few professions, including the military officer corps. Poverty affected women disproportionately. Women did not receive equal pay for equal work on a consistent basis. Women legally were entitled to receive up to 26 weeks of maternity benefits; however, in practice these benefits often were not accorded them.

There were no independent women's rights organizations, although there were several with some relationship to the government. The MWAF, established in December 2003 and chaired by the wife of Prime Minister General Soe Win, was the leading "nongovernmental" women's rights organization. With branches in all 14 states and divisions, it was the primary government organization responsible for safeguarding women's interests. The Myanmar Maternal and Child Welfare Association, another government-controlled agency, provided assistance to mothers and children. The Myanmar Women Entrepreneurs' Association, a professional society for businesswomen, provided loans to women for starting new businesses.

Children.—Children under the age of 18 constituted approximately 40 percent of the population. Children were at high risk as destitute parents took them out of school to beg or to work in factories and teashops. Some were placed in orphanages. With few or no skills, increasing numbers of children worked in the informal economy or in the street, where they were exposed to drugs, petty crime, risk of arrest, sexual abuse and exploitation, and HIV/AIDS.

There was no adequate child protection or juvenile justice system. Efforts in this regard were severely constrained by lack of resources. The Department of Social Welfare (DSW) was in charge of the provision of limited social welfare services, and there were only a few officially appointed social workers.

The government cooperated with the UN Committee on the Rights of the Child. In June 2004 the committee's chairman visited the country. The UN Children's Fund (UNICEF) reported close working relationships with the DSW and the Ministry of Education, where it worked to support primary education and instruction in minority languages. Faith-based organizations, Buddhist monks and nuns, and private community-based groups also provided educational and other support for children.

The government continued to allocate minimal resources to public education. According to the official government figures for fiscal year 2005–06 (April through March), official expenditures for all civilian education has been earmarked at 8.9 percent of the national budget. However, other leading international organizations place the actual amount much lower. Public schooling was ostensibly provided free through the 10th standard (around age 16). However, on average, public school teachers' pay was equal only to approximately \$5.30 (5,300 kyat) per month, far below subsistence wages, forcing many teachers to leave the profession, or demand extra payments from their students. Thus, many families had to pay to send their children to school, even at the primary level. According to a Kachin women's group in Thailand, families in Kachin State had to pay as much as \$300 (300 thousand kyat) for their children to attend 10th standard, an amount above the national average annual income. In some areas where families were not able to afford unofficial payments, teachers generally ceased work. In response to official neglect, private institutions began to provide assistance in education, despite a legal ban on private schools.

Education is compulsory through the 4th standard. UNICEF reported that 50 percent of primary school students dropped out of school before finishing the 4th stand-

ard. Rates of school attendance and educational attainment decreased during the year, largely due to increasing economic hardship, causing students to seek work as domestic helpers or waiters at urban teashops. There was no difference in the attendance rate of boys and girls.

The government promoted Buddhist monastic schools in rural areas and subsidized Buddhist universities in Rangoon and Mandalay. In ethnic minority areas, the government often banned teaching in local languages.

Children also suffered from the government's severe neglect of health care. According to official government figures, the budget for the Ministry of Health in fiscal year 2005–06, amounted to only 3.3 percent of total government expenditures. The government conservatively projected defense expenditures to be 24 percent of the budget, a figure that many international observers considered unrealistically low. There were no reports that the government discriminated between boys and girls in the provision of health care. Estimated mortality rates for children under 5 years of age range from 66 (Ministry of Health, 2003) to 109 (UNDP, 2004) deaths per thousand live births. Of these deaths, almost three-quarters occur within the first year of life, with infant mortality rates from the same sources ranging from 50–77 deaths per thousand live births, respectively. Of these infant deaths, many occurred in the first month of life. All data sources estimated rural mortality to be at least 25 percent higher than urban mortality, with the highest mortality in “hilly areas” and the “central plains.” According to UNICEF, up to 56 percent of child deaths from age 6 to 59 months could be attributed to the effects of malnutrition and infection. Nationwide, the prevalence of underweight and stunting among children was 32 percent and wasting is 8.6 percent. During the year the head of the World Food Program (WFP) estimated that 33 percent of children were chronically malnourished in spite of WFP's food-for-work programs in Shan State and the central dry zone.

The law prohibits child abuse. The government stated that child abuse was not a significant problem; however, the government did not release supporting statistics. In May 2004 the UN Committee on the Rights of the Child met to consider the country's second periodic report. The committee issued its concluding observations, noting that it remained “seriously concerned at the lack of appropriate measures, mechanisms, and resources to prevent and combat domestic violence, including physical and sexual abuse and neglect of children; the limited number of services for abused children; as well as the lack of data on the aforementioned.”

Child prostitution and trafficking in girls for the purpose of prostitution—especially Shan girls who were sent or lured to Thailand—continued to be a major problem. In Rangoon and Mandalay, diplomatic representatives noted widespread employment of female prostitutes who appeared to be in their early teens and for whom there was reportedly a high demand. Additionally, some brothels offered young teenage “virgins” to their customers for a substantial additional fee. The June 2004 UN Committee on the Rights of the Child report commented: “The committee is concerned over the increasing number of child victims of sexual exploitation, including prostitution and pornography, especially among those engaged in child labor and street children. Concern is also expressed at the programs for the physical and psychological recovery and social reintegration of child victims of such abuse and exploitation which remain insufficient and inadequate.”

In a report released in May titled *Driven Away*, the Kachin Women's Association of Thailand documented trafficking of Kachin girls and women to China ostensibly to work, but who were forced into prostitution or to become brides to Chinese men who could not find local brides. This was alleged to be the result of China's “one child” policy and the traditional Chinese preference for male children. Based on interviews with 85 Kachin women who managed to escape their captors, 10 percent were trafficked domestically and up to half became brides of Chinese men, some in distant northeastern provinces of China.

The official age of enlistment in the army is 18 years; however, voluntary enlistment was permitted by minors from the age of 15. As a policy, the government stated it did not conscript child soldiers; however, recruiters frequently ignored the policy. At a press conference held on March 15 the government admitted that “inefficient” recruiters conscripted underage children, but claimed that the government had “taken action” against as many as five such recruiters in 2003. The government also claimed to have sent home 75 forcibly recruited child soldiers in 2003 and another 50 in 2004. In January 2004 the government established the Committee for Preventing Recruitment of Child Soldiers (CPRCS), which met again in August 2004 and purportedly issued new rules and regulations to punish those who recruit child soldiers. In March 2004 diplomatic observers received a report that the authorities had arrested more than a dozen children in Rangoon and forced them into military service. In the past army recruitment drives targeted children to meet quotas for

the ostensibly all-volunteer army, but anecdotal evidence, at least in Rangoon, suggested this practice was now not as common.

In June 2004 the UN Committee on the Rights of the Child report welcomed the establishment of the government's CPRCS but noted the UN committee remained "concerned by the impact of the armed conflicts on children, especially the use of children below the age of 15 years as soldiers by both government armed forces and armed ethnic groups."

There was evidence of continued forced recruitment of child soldiers by the army.

On April 23, two underage soldiers defected from the Burmese Army to the side of the Karenni National Progressive Party during fighting, according to international media sources. Private Myo Min, age 15, and Private Soe Thu, age 16, reported that they were both from the Light Infantry Brigade 112 of Division 55, based in Kalaw, Shan State. Myo Min said he was forcibly recruited in December 2004 from Shwebo, Sagaing Division, where he was working as a waiter. He was given the choice of joining the army or going to prison. He opted to be a soldier but was not allowed to inform his mother and feared she still did not know what happened to him. After more than four months of training, authorities transferred him to Thit Paung Zeik Camp. He deserted less than a month later. Soe Thu, who shared a similar experience as Myo Min, had been in the military for six months before he ran away.

During the year, the ILO was unsuccessful in resolving the case of Private Aung Myo Paing, 16, who deserted his regiment (LIB 6) near Shwepyitha. He approached the ILO for assistance to retire from the army. The ILO issued a letter to the CPRCS requesting that he be allowed to leave. Nevertheless, the regiment commander court-martialed him and he was sentenced to one year's imprisonment. In another case, a child soldier who reportedly deserted his unit was arrested and ordered to serve in a frontier zone.

The ILO assisted in obtaining the release of some underage soldiers who had been forcibly recruited. In 2004 the ILO notified the government of nine allegations of forced recruitment of children into the military. Two of the cases involved boys who had been sentenced to prison, or who were facing court martial for desertion. The government has cooperated with some of the ILO investigations and also conducted its own investigations and reported to the ILO on eight of these cases, but claimed no incidents of forced recruitment. In two cases the military released the boys, who returned home, but there was no further action. In five cases the government insisted the boys were above 18 years old. The government was unable to find one of the alleged child soldiers.

According to a UN source, in November 2004, a military conscription unit of three soldiers visited Se Ywa village of Thongwa Township, Rangoon Division. Four youths were required to accompany the soldiers to the military conscription center at Mingaladon, Thongwa Township. Residents say that the youths were subsequently sent to Military Training Center No. 6 in Patheingyi. The parents of the students filed complaints with the CPRCS.

In 2004 the Burmese Army organized tours of two recruitment centers for UN representatives, who naturally found no evidence of recruitment of underage children on these visits. International observers were not allowed unfettered access to investigate independently charges of forced conscription by the military.

Several international NGOs and agencies promoted the rights of children in the country, including ICRC, World Vision, Save the Children UK, CARE, UNICEF, the UN Development Program, and foreign governments. UNICEF expanded its operations in 2004 to open a separate child protection section. In July 2004 UNICEF, in conjunction with the Supreme Court of Burma, ran a "National Workshop on Juvenile Justice and Child Protection" that concluded an action plan aimed at strengthening the existing juvenile justice system.

Ethnic minority cease-fire groups and insurgent armies also forcibly conscripted child soldiers, and there were significant numbers of child soldiers drafted into these forces, particularly the United Wa State Army. Inaccessibility to the areas where these groups operate made it difficult to obtain reliable data on the extent of the problem among ethnic armies.

Trafficking in Persons.—On September 13, the government enacted the Anti Trafficking in Persons Law. This new law replaces a combination of different laws previously used to address trafficking, such as those that prohibit kidnapping; the Suppression of Prostitution Act; and the Child Law, which include provisions against the sale, abuse, or exploitation of children.

There are laws specifically against child prostitution and child pornography; however, they were not effectively enforced. An NGO reported in May 2004 that the government arrested, tried, and convicted a foreigner for sexual abuse of a child. This was reportedly the first such conviction. Reports from Thailand indicated that the

rising incidence of HIV infection there increased the demand for supposedly “safer,” younger prostitutes, many of whom came from Burma. Trafficking of children within the country also appeared to be a growing problem; however, there were no reliable statistics regarding its extent.

According to the government, 342 traffickers received jail sentences ranging from under 5 years (78 convicted) to life imprisonment (2 convicted) from July 2002 to July 2004. The largest number (177) received sentences of between 5 and 10 years. According to the government, it filed 474 cases during the same period, resulting in 485 convictions, including some multiple convictions. The government did not distinguish between human traffickers and smugglers, so the actual number of traffickers convicted was probably less. Government data show Thailand was the primary destination for trafficking victims (nearly 80 percent), with much smaller numbers going directly to China, Bangladesh, and India. The Ministry of Home Affairs also reported that it had distributed information about human trafficking to some 702 thousand persons living in border areas during the period from 2001 to 2004.

Officials recognized the importance of preventing trafficking and prosecuting traffickers. The government expanded cooperation in this area with international and local NGOs. In April 2004 the government issued the Mutual Assistance in Criminal Matters law, which allows international cooperation to pursue transnational crime (including trafficking).

The Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) met in Rangoon in October 2004, to sign a Memorandum of Understanding pledging mutual cooperation on the problems involved and to develop an action plan. Senior government and cabinet-level officials from Burma, Cambodia, China, Laos, Thailand, and Vietnam participated. In March Burmese officials attended follow-up COMMIT meetings with their counterparts in Hanoi to complete a regional action plan to prevent trafficking.

In 2004 UN agencies and NGOs credited the government for demonstrating political will to combat trafficking and for improvement in cooperation with the international community. In March 2004 the government formed a new office of transnational organized crime, headed by a police brigadier general, to handle non-narcotics related transnational crimes. This office includes a 40-person unit responsible for trafficking in persons.

The government made limited progress on trafficking in persons during the year. The government’s pervasive security controls, restrictions on the free flow of information, and lack of transparency prevented a comprehensive assessment of trafficking in persons activities in the country. While experts agreed that human trafficking from the country was substantial, no organization, including the government, was able or willing to estimate the number of victims. The government did not allow an independent assessment of its reported efforts to combat the problem.

Trafficking of women and girls to Thailand and other countries, including China, India, Bangladesh, Taiwan, Pakistan, Malaysia, Japan, and countries in the Middle East, for sexual exploitation, factory labor, and as household servants, was a problem. Shan and other ethnic minority women and girls were trafficked across the border from the north; Karen and Mon women and girls were trafficked from the south. There was evidence that internal trafficking generally occurred from poor agricultural and urban centers to areas where prostitution flourished (trucking routes, mining areas, and military bases) as well as along the borders with Thailand, China, and India. Men and boys also reportedly were trafficked to other countries for sexual exploitation and labor. While most observers believed that the number of these victims was at least several thousand per year, there were no reliable estimates.

Human traffickers appeared to be primarily free-lance, small-scale operators using village contacts that fed victims to more established trafficking “brokers.”

The Ministry of Home Affairs stated there was no complicity of government officials in trafficking; however, corruption among local government officials was widespread. NGOs reported that government officials were complicit in trafficking, although it appeared limited to local or regional officials turning a blind eye to trafficking activities. NGOs also reported that individual police officials were likely involved in extorting money from economic migrants and others leaving the country.

In recent years the government made it difficult for single women to obtain passports or marry foreigners, ostensibly to reduce the outflow of women as victims of trafficking (see sections 1.f. and 2.d.). In addition regulations forbid females under the age of 25 from crossing the border unless accompanied by a guardian. However, most citizens who were forced or lured into prostitution crossed the border into Thailand without passports. According to the DSW, the government has begun to help locate families of trafficking victims and to assist in their repatriation.

The government has a repatriation center on the Thai-Burma border, which has processed an estimated 10,500 illegal migrants (not just trafficking victims) since 2001. In 2004 as many as 29 female trafficking victims were repatriated from Malaysia and Thailand and were reunited with their families. In the first 6 months of the year, Malaysia and Thailand reportedly repatriated to Burma 76 female trafficking victims, an increase from the previous year.

The MWAFF and the DSW provided some counseling and job training for trafficking victims before they were returned to their families. The DSW also provided training to government officials on the recognition and provision of assistance to victims of human trafficking. The government provided medical attention and shelter to trafficking victims returning from Thailand. However, government funding for these programs was very limited. There were no reports of victims being arrested after their return to Burma. There were no reports of trafficking victims filing suit against traffickers.

Several NGOs offered poverty alleviation and education programs designed to counter trafficking. Reportedly these programs have been moderately successful.

Persons with Disabilities.—The government did not actively discriminate against persons with disabilities in employment, access to health care, education, or in the provision of other state services, but there were few resources assisting persons with disabilities. There were no laws mandating accessibility to buildings, public transportation or government facilities, and persons with disabilities faced societal discrimination. There were several small, local and international organizations that assisted persons with disabilities, but most such persons had to rely exclusively on their families to provide for their welfare.

Military veterans with disabilities received benefits on a priority basis, usually a civil service job at equivalent pay. In principle official assistance to nonmilitary persons with disabilities included two-thirds of pay for up to one year of a temporary disability and a tax-free stipend for permanent disability; however, the government did not provide any private sector job protection for persons who became disabled.

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, and two for children. The government provided inadequate funds for schools and programs for the disabled. Local NGOs ran four schools for the blind.

The ICRC continued to provide rehabilitation services to victims of landmine injuries, both civilian and military amputees. Besides running an orthopedic rehabilitation center in Hpa-an, Karen State, it also had an active outreach program to identify and refer vulnerable amputees from remote border villages to the ICRC's prosthetic services.

National/Racial/Ethnic Minorities.—Wide-ranging governmental and societal discrimination against minorities persisted. Animosities between the country's many ethnic minorities and the Burman majority, which has dominated the government and the armed forces since independence, continued to fuel active conflict that resulted in serious abuses during the year. These abuses included reported killings, beatings, torture, forced labor, forced relocations, and rapes of Chin, Karen, Karenni, Shan, Mon, and other ethnic groups by SPDC soldiers. Some armed ethnic groups also may have committed abuses but on a much smaller scale than the Burmese Army (see sections 1.a., 1.c., 1.f., and 1.g.).

Only persons who were able to prove long familial links to the country were accorded full citizenship. Native-born but nonindigenous ethnic populations (such as Chinese, Indians, Bengalis, and Rohingyas) were denied full citizenship and were excluded from government positions. Members of the Rohingya Muslim minority in Rakhine State continued to experience severe legal, economic, and social discrimination. The government denied citizenship to most Rohingyas on the grounds that their ancestors did not reside in the country for one year prior to the start of British colonial rule in 1824, as required by the country's highly restrictive citizenship law.

In June 2004 the UN Committee on the Rights of the Child expressed concern "over the situation of the children of the Bengali people residing in Northern Rakhine Region, also known as the Rohingyas, and of children belonging to other ethnic, indigenous or religious minorities; and in particular, that many of their rights are denied, including the rights to food, to health care, to education, to survival and development, to enjoy their own culture and to be protected from discrimination."

Rohingya Muslims did not have access to state run schools beyond primary education because the government reserved secondary state schools for citizens. Those excluded were also ineligible for most civil service positions.

Forced labor of Muslims continued to be widespread in Rakhine State. Forced labor of minority ethnic groups was still prevalent in eastern border areas and in Chin State (see section 6.c.).

Persons without full citizenship faced restrictions in domestic travel (see section 2.d.). They also were barred from certain advanced university programs in medicine and technological fields.

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 language of instruction in state schools. Even in ethnic minority areas, most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages.

There were reports that the government resettled groups of Burmans to various ethnic minority areas (see section 1.f.).

There were ethnic tensions between Burmans and nonindigenous ethnic populations, including South Asians, many of whom were Muslims, and a rapidly growing population of Chinese, most of whom emigrated from Yunnan Province. Chinese immigrants increasingly dominated the economy of the northern part of the country.

Other Societal Abuses and Discrimination.—Many citizens viewed homosexuals with scorn. Penal code provisions against “sexually abnormal” behavior were applied to charge gays and lesbians who drew unfavorable attention to themselves. Nevertheless, homosexuals had a certain degree of protection through societal traditions. Transgender performers commonly provided entertainment at traditional observances. Some were spirit (*nat*) worshipers and, as such, they had special standing in the society. They participated in a well-established week-long festival held near Mandalay every year. The event was considered a religious event, free of sexual overtones or activities, and was officially approved by the government. No one, including the military or police, interfered with the festival.

HIV-positive patients were discriminated against, as were the doctors who treated them.

Section 6. Worker Rights

a. The Right of Association.—The 1926 Trade Unions Act, which remains in effect, permits workers to form trade unions only with the prior consent of the government; however, no free trade unions existed in the country.

There were no internationally affiliated unions because unions were banned. The government forbade seafarers who found work on foreign vessels through the Seafarers Employment Control Division from contacts with the International Transport Workers’ Federation (ITWF), and the government often refused to document seafarers who were abroad. Absent proper documentation, it was impossible for a seafarer to find regular employment abroad.

According to reliable sources in Thailand, on May 19, unidentified armed men abducted Moe Aung, leader of the Burma Seafarers’ Union, an affiliate of the ITWF, from his residence in Ranong, Thailand and took him to a Burmese infantry base at 8th Mile in Kawthoung, Burma. He reportedly died in custody three days later on May 22.

The government criminalized contact with the Thai-based FTUB, claiming it was a “terrorist group”; however, the government has not presented this case to the ILO through the relevant formal procedure. During this year and in preceding years, the government arrested and sentenced persons in part for their contacts with the FTUB and other Thai-based exile groups, and one such prisoner, Aung Myint Thein, died while in custody (see sections 1.a., 1.b., 1.d., 2.a., 2.b, and 6.b.).

b. The Right to Organize and Bargain Collectively.—The government does not allow unions; therefore, workers did not have the right to organize and bargain collectively. The government’s central arbitration board, which once provided a means for settling major labor disputes, has been dormant since 1988, although the Department of Labor reportedly played an arbitration role in settling some disputes since then. Township-level labor supervisory committees existed to address minor labor concerns.

The government unilaterally set wages in the public sector. In the private sector, market forces generally set wages; however, the government pressured joint ventures not to pay salaries greater than those of ministers or other senior government employees. Some joint ventures circumvented this with supplemental pay or special incentive systems. Foreign firms generally set wages near those of the domestic private sector, but followed the example of joint ventures in awarding supplemental wages and benefits.

According to the law, workers generally were prohibited from striking, although a small number of workers are purportedly accorded the right to strike. On April

17, authorities arrested four female workers at Gustom Molinel Garment Factory at Hlaing Thaya Industrial Zone on charges of inciting a workers' strike on April 9. A judge dismissed the case, and the four women were released to their families on May 2, after signing undertakings not to engage in such activities again. On November 8, workers of X-Square Footwear Factory in Hlaing Thaya Industrial Zone protested having to work overtime without pay. Their grievances were resolved, and there were no arrests.

There are no export processing zones; however, there were special military-owned industrial parks, such as Pyin-Ma-Bin, near Rangoon, which attracted foreign investors, and the two thousand-acre Hlaing Thaya Industrial Zone in Rangoon where several companies operated. National labor laws were applicable in all industrial zones and across all industries, however they were not always enforced evenly.

c. Prohibition of Forced or Compulsory Labor.—Forced or compulsory labor remained a widespread and serious problem, particularly targeting minority groups. The penal code provides for the punishment of persons who imposed forced labor on others. In 2004 and during this year, the ILO reported eight cases brought to court under this provision, either by alleged victims or by the authorities after cases were raised by the ILO liaison officer. Of the eight, two were dismissed, and one person withdrew his charges. Three cases were processed and on January 31, a judge in Kawhmu Township Court sentenced four local government officials to eight-month jail sentences for using forced labor. The officials received early releases in July. In a separate but related case, Ma Su Su Nway successfully prosecuted local officials from Kawhmu Township on forced labor charges. Another local official who was not charged subsequently filed a countersuit against Ma Su Su Nway for “insulting and disrupting a government official on duty.” Su Su Nway was sentenced to 18 months' imprisonment on October 13.

During the year other cases in which government officials were prosecuted by the authorities after cases were raised by the ILO liaison officer resulted in an additional four officials being given prison terms for imposing forced labor.

Throughout the country, international observers verified that the government routinely forced citizens to work on construction and maintenance projects. Citizens also were forced to work in the military-owned industrial zones.

Reports of forced labor for building and maintaining economic infrastructure have declined from a peak during the mid-1990s, particularly in the ethnically Burman central regions.

In contrast, the government's use of forced labor in support of military garrisons or operations remained particularly serious in ethnic or religious minority regions. The ILO has corroborated UNHCR's reports of a “serious resurgence” in forced labor in Rakhine State, where the prime minister had ordered the military to construct six new bridges. The ILO continued to call upon the government to stop the use of forced labor; however, the local authorities have ignored the central government's instructions to cease the practice, particularly when under pressure from the same central government to complete certain public works projects on time.

On September 8, AI released a report titled *Myanmar, Leaving Home*, in which it documented the continuing human rights abuses in the country. The report pointed out that, as armed resistance to the government lessens and the Burmese army establishes itself in former hostile territory, the requirement for porters has decreased. However, the decreasing need for porters has been replaced with an increase in forced labor as the military needs new barracks and other infrastructure. The report also notes that the KNLA and the DKBA are also guilty of some of the very same abuses as the Burmese army, including forced confiscation of food from already malnourished villagers who are forced to provide rice, livestock, and other valuables to the soldiers of both sides.

On November 12, 70 Chin villagers from Kone Khaung village in Mrauk U Township, Rakhine State, were forced to work as porters for the Light Infantry Battalion 377. They had to carry supplies to Kalama Mountain, a distance of 10 miles, and had to supply their own rice, adding another 6.5 pounds to their loads. In November another report told of six villages being forced to build a new base for the Border Security Force at A-Ngu Maw, Rathetaung Township, Rakhine State. Not only were the villagers required to work for free, they also had to provide building supplies including timber, bamboo, and thatch.

The Rangoon-based ILO liaison office reported that the government's order to end forced labor had been widely, if unevenly, disseminated, but its impact on reducing forced labor was limited and not sustained.

Over the past five years, the ILO and other international agencies have seen changes in the government's approach to conscripting forced labor. The ILO reported that military units no longer tended to issue written orders to village heads to provide forced labor and instead gave verbal instructions. The ILO also reported that

in some cases the government substituted demands for forced labor with demands for forced contributions of materials, provisions, or money. Throughout the year, there were frequent and widespread reports of soldiers forcing contributions of rice and other commodities from ethnic minority villagers. In 2004 the ILO reported that it appeared the government occasionally paid for forced labor, but the payments were usually well below prevailing wage rates.

The ILO reported that since 2002, the government increasingly substituted prisoners not sentenced to hard labor for civilians as forced laborers, possibly due to international pressure not to use civilians. There reportedly were approximately 70 camps scattered around the country, but many were temporary, existing only until the completion of a specific work project. In the past the military took prisoners from jails around the country for use as porters. For instance, in 2003 during its offensive against the KNLA, the army reportedly used more than 300 prisoners as porters.

Authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations (see section 6.d.).

On December 30, local peace and development council (PDC) authorities in Myothit Village, Nga-Thaing Gyaung Township, Irrawaddy Division, arrested carpenter Ko Than Htaik, detained him at the village PDC office, and severely beat him. The authorities accused him of failing to provide involuntary labor in cutting trees to build a road and not providing funds for village militia training. On December 31, his family admitted him to the local hospital where he died soon after as a result of the severe beating. The Yaykyay police arrested local PDC officials who were involved in the beating, including Aung Myint Thein, chairman of the village PDC.

On November 1, a 35-year-old man from Tharat Cho village in Ponnagyan Township, Rakhine State, died two days after returning home seriously ill as a result of labor forced on him by the military. Battalion 550 of the Burmese Army forced him to help construct a military base.

During the year reports of forced labor for smaller projects in villages nationwide persisted. In 2003 the local chairman of Chaungnet Village in Magway Division forced one person from each household to clear the bushes on Rangoon-Magway Highway. Those who refused were fined five dollars (five thousand kyat). The authorities also continued to use forced labor countrywide to maintain existing civil infrastructure, including transportation and irrigation facilities.

Beginning in 2004, the first year that private citizens voluntarily approached the ILO to report alleged violations, until September 2005, the ILO office in Rangoon received 102 cases of forced labor to investigate. The ILO forwarded 59 of these cases to the government's committee on forced labor. The committee responded to all the cases and a total of ten persons were found guilty and sentenced. The committee did not implement adequate mechanisms for the reporting, investigation, and prosecution of incidents of forced labor. In May, the ILO stopped accepting cases because the government indicated that it would prosecute any person who made what the government deemed a "false" complaint of forced labor.

In ethnic regions, reports of forced labor were common. According to credible NGO sources, villagers were ordered to build or repair military camp infrastructure and to perform other tasks within the camps, such as standing guard. The same sources also reported that villagers were required to bring lumber, at their own expense, to construct and repair military facilities. In May 2004 the ILO office in Rangoon witnessed a case of villagers in Tiddim and Falam Townships in Chin State forced to widen the main road between the two towns. In 2004 AI reported several cases in Buthitaung and Maungdaw, northern Rakhine State. In these cases the military (members of a border task force consisting of the police, military intelligence, internal security, customs officials, and the immigration and manpower department) commandeered villagers to stand sentry, build roads, cut wood, and to construct government buildings. The India-based Chin Human Rights Organization (CHRO) also reported several cases of forced labor in southern Chin State during the year. In these cases local military officials forced village leaders to provide workers for road projects, military building construction, and farm work. The CHRO reported local military officials arrested one village chief in June 2004 because his village's workers did not complete their assigned road-building task.

The ILO and other international observers reported a decline in forced labor and other abuses in Karen State since the KNU and SPDC achieved a temporary cease-fire in January 2004. However, in 2003 the KNU released credible but unconfirmed reports of widespread use of forced labor in conflict areas along the eastern border. In 2003 soldiers forcibly recruited 500 porters in Mone Township to carry food sup-

plies for the army. Those unable to carry a load had to pay five dollars (five thousand kyat) each.

During the year the ILO was required to follow general regulations applicable to diplomatic travel. ILO international staff could travel unaccompanied, but central government officials alerted local authorities to their movements. Relations between the ILO and the government reached new lows by mid-year, when the International Labor Conference in Geneva in June highlighted the government's continued lack of cooperation with the ILO. In the second half of the year, government-affiliated organizations—including the USDA, MAAF, and the War Veterans Organization—carried out a high profile campaign of mass rallies at which the ILO was criticized and the government was urged to sever relations with the international organization. This public condemnation of the ILO and aura of intimidation further constrained the ILO's ability to travel and to implement effectively its mandate. The ILO Liaison received a series of personal death threats, which the government disregarded.

In October the government verbally stated its intention to withdraw from ILO, but did not act on the threat. At the November ILO governing board meeting, members noted the serious deterioration of ILO relations and the forced labor situation. The board called upon the government to ensure the safety of the liaison officer and to allow him to conduct his work effectively. The board also urged the government to stop prosecuting victims of forced labor who bring claims and continue efforts to eliminate forced labor. At year's end, government officials gave verbal assurances of the liaison officer's safety and his ability to resume work.

The ILO office in Rangoon has reported several cases in which the organization's local contacts have been detained and interrogated for providing information to the ILO about forced labor. During the year, Naing Min Kyi, Shwe Man, and Aye Myint were released from prison. In 2003 a court sentenced all three to death in part for having contacts with the ILO and the FTUB (see Section 4). However, on August 28 authorities in Bago rearrested lawyer Aye Myint. He was sent to Bago Prison in late September. On October 31, he was sentenced to seven years imprisonment. The authorities were reportedly displeased with him for providing legal assistance to poor farmers whose land was confiscated without any compensation by Light Infantry Brigade 40.

The family of Win Lwin, who died while performing forced labor in Magway Division in December 2004, filed a case against the government. In October the government sued the villagers and the family's lawyer, saying they supplied false information to the ILO.

On November 5, Aung Myint Thein, died in prison while he was under trial. According to authorities, his father, Myint Thein, 77, confessed during the trial that he and his son had visited Thailand several times to contact the FTUB. After Aung Myint Thein's death, FTUB reportedly verified that he was a member of their group. Myint Thein received an eight-year prison sentence (see sections 1.a and 2.a.).

Forced recruitment of soldiers was widespread. Credible reports indicated that the government would not allow soldiers to leave the army at the end of their enlistment without first recruiting three or four replacements, even if it required forced recruitment. Forced recruitment of police forces followed the same pattern.

The law does not specifically prohibit forced and bonded labor by children, and forced labor by children continued to be a serious problem (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets a minimum age of 13 for the employment of children, but in practice the law was not enforced. Child labor has become increasingly prevalent and visible. Working children were highly visible in cities, mostly working for small or family enterprises. In the countryside, children worked in family agricultural activities. Children working in the urban informal sector in Rangoon and Mandalay often began work at young ages. In the urban informal sector, child workers were found mostly in the food processing, street vending, refuse collecting, light manufacturing industries, and as teashop attendants. According to 2002 official statistics, 6 percent of urban children worked, but only 4 percent of working children earned wages; many were employed in family enterprises.

The law does not specifically prohibit compulsory labor by children, and children were subjected to forced labor. Authorities reportedly rounded up teenage children in Rangoon and Mandalay and forced them into porterage or military service (see section 5).

The DSW provided support and schooling for a small number of orphaned children or others who were in some other way estranged from their families. One of the aims of this assistance was to help the children become more capable of resisting exploitation in the future.

e. Acceptable Conditions of Work.—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The minimum daily wage for salaried public employees was \$0.13 (136 kyat) for what was in effect an eight-hour workday. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned by senior officials provided a worker and family with a decent standard of living. Low and falling real wages in the public sector fostered widespread corruption and absenteeism. In the private sector, urban laborers earned approximately \$0.50 to \$1.00 (500 to 1,000 kyat) per day, while rural agricultural workers earned approximately half that rate. Some private sector workers earned substantially more: a skilled factory worker earned approximately \$3 (3 thousand kyat) per day.

A surplus of labor, a poor economy, and lack of protection by the government continued to foster substandard conditions for workers. The 1964 Law on Fundamental Workers Rights and the 1951 Factories Act regulate working conditions. There is a legally prescribed 5-day, 35-hour workweek for employees in the public sector and a 6-day, 44-hour workweek for private and state enterprise employees, with overtime paid for additional work. The law also allows for a 24-hour rest period per week, and workers are permitted 21 paid holidays per year; however, in practice such provisions benefited only a small portion of the country's labor force, since most of the labor force was engaged in rural agriculture or in the informal sector. The laws were generally enforced in the government sector, but there were frequent violations by private enterprises.

Numerous health and safety regulations existed, but in practice the government did not make the necessary resources available to enforce the regulations. Although workers in principle may remove themselves from hazardous conditions, in practice many workers could not expect to retain their jobs if they did so.

CAMBODIA

Cambodia is a constitutional monarchy with an elected government and a population of approximately 13.1 million. Following elections in 2003, the Cambodian People's Party (CPP), led by Prime Minister Hun Sen, and the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC), led by Prince Norodom Ranariddh, formed a coalition government in 2004. However, the CPP dominated the government, with most power concentrated in the hands of the prime minister. Although the civilian authorities nominally controlled the security forces, in practice security forces answered to the CPP leadership.

Unlike in 2004, there were no reported political killings. Nevertheless, the government's human rights record worsened, as the country's fragile democracy suffered several setbacks, particularly in the areas of political participation and freedom of speech. The government undertook actions that served to neutralize its critics through a limited number of arrests of journalists, leaders of civil society, human rights activists, and members of the political opposition. In February the National Assembly removed parliamentary immunity from three opposition members of parliament (MPs) to pursue possible criminal cases against them. The government used the weak and often politically biased judiciary to file defamation suits to arrest, silence, and intimidate civil society and critics of government policy. The following human rights problems were reported:

- extrajudicial killings
- impunity of security forces
- abuse of detainees, often to extract confessions
- harsh prison conditions
- arbitrary arrest and prolonged pretrial detention
- a weak judiciary and denial of the right to a fair trial
- government control of or influence over the content of television and radio broadcasts
- government interference with freedom of assembly
- domestic violence and discrimination in the workplace against women
- child abuse
- trafficking in women and children
- land disputes and lack of fair resolutions
- antiunion activity by employers and nonenforcement of labor laws

- child labor

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Contrary to previous years, there were no reports of politically motivated killings. There were five killings of Sam Rainsy Party (SRP) activists during the year, but none were proven to be politically motivated. However, extrajudicial killings continued to occur.

On March 21, government security forces killed five protestors and injured eight others in the village of Kbal Spean while attempting to carry out an eviction. The provincial court investigated charges of murder, attempted murder, voluntary manslaughter, and battery against 66 police officers and 52 villagers. On August 4, the court announced that charges were dropped against all except a military policeman. On August 30, the victims' families lodged criminal complaints with the Phnom Penh Appeals Court. At year's end the court had not taken any action.

On March 23, 19 inmates and a prison director died during an attempted escape from Trapoeung Phlong Prison, also known as CC3, in Kampong Cham Province. Security forces reportedly shot and killed 17 inmates during the escape attempt and 2 thereafter. The prison director, whom inmates severely injured during the jail-break, died two days later from injuries sustained after being inadvertently shot by prison guards. Prison authorities delayed a week after the incident before allowing humanitarian groups to provide medical care to 11 injured inmates, and they did not grant access to human rights groups and journalists to investigate the incident until 5 months later.

On January 18, an investigating judge in the Kratie Provincial Court dropped charges and freed two persons arrested for involvement in the August 2004 killing of a member of the military. Nongovernmental organizations (NGOs) reported that the judge persuaded the victim's spouse to accept financial compensation in exchange for withdrawing the criminal suits.

On February 15, a soldier from a paratroop unit was sentenced to 15 years in prison for the May 2004 killing of Ros Sanannareth, a factory-level union leader. The soldier also was ordered to pay \$2 thousand (8.4 million riel) in punitive damages to the victim's spouse. Savannareth's spouse and daughter received political asylum in a third country.

On July 8, the Supreme Court upheld the July 2004 appeals court decision overturning the verdict of an investigating judge to drop charges against two persons arrested for the January 2004 killing of union activist Chea Vichea. On August 1, the Phnom Penh Municipal Court sentenced the suspects to 20 years in prison. Local and international NGOs and the diplomatic community widely denounced the outcome of the trial. The UN special representative for human rights in Cambodia stated that the prosecution failed to present evidence linking the defendants to the crime and disregarded fundamental principles of a fair trial, such as presumption of innocence and impartiality of the court.

There were no developments in the cases of a FUNCINPEC deputy village chief or a Sam Rainsy Party (SRP) activist, who were killed in separate incidents in January 2004 in Kompot Province. There also were no developments in the case of the 2003 killing of Sam Bunthoeun, a Buddhist abbot who encouraged monks to register for elections after a pro-CPP Buddhist patriarch had forbidden them to do so. At year's end no suspects had been arrested for the 2003 killing of Chuor Chetharith, a reporter for pro-FUNCINPEC Taprohm Radio and official in the Ministry of the Interior (MOI). The case of the village chief accused of the 2003 killing of an SRP activist's daughter was pending in the appeals court at year's end.

A credible NGO report indicated that members of the military, military police, and civilian police forces were implicated in 40 cases of extrajudicial killings. The report found that perpetrators were apprehended and prosecuted in 23 percent of those cases, while the rest escaped prosecution or remained at large.

At year's end no legal action had been taken against a police officer who in July 2004 killed a prisoner awaiting trial in Takeo Province. Reports indicated that he had been transferred to a different position.

There were no developments in the 2003 case in which antiriot police shot a union striker during a demonstration; a policeman was killed in the same incident. Several 2003 high-profile cases remained unsolved. These included the killing of Judge Sok Sethamony of the Phnom Penh Municipal Court, shot on his way to work, and Touch Srey Nich, a popular singer paralyzed after being shot by unidentified gunmen.

The number of landmine casualties remained high. There were 871 landmine and unexploded ordinance (UXO) casualties reported in the year, resulting in 173

deaths, 175 amputations, and 523 other injuries. There were 898 landmine and UXO casualties in 2004 and 772 in 2003.

On February 15, the Supreme Court upheld the life sentence of Chhouk Rin, a former Khmer Rouge commander, for his role in a 1994 train ambush in Kampot Province. Authorities arrested Chouk Rin on October 25 and sent him to Prey Sar Prison to serve his sentence.

Vigilante justice persisted, as well as killings of alleged witches and sorcerers. During the year vigilante mob violence resulted in at least 22 deaths of suspected thieves and the severe injury of many others. In January villagers killed a man suspected of stealing a cow. In February approximately 100 villagers attacked and killed a man suspected of stealing a motorbike. In June a mob beat to death a teenage boy who was suspected of attempting to steal a ladder. In July a man killed an elderly woman with an axe; he told police that 20 villagers had paid him to kill the alleged sorceress. In August two gunmen killed a man believed responsible for killing their relatives with his magic power. Prosecutions of those responsible for mob violence were rare. NGOs cited public loss of confidence in the police and judiciary along with the prevalence of rampant corruption within those institutions as driving forces behind the pervasiveness of mob violence.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture and physical abuse of prisoners; however, beatings and other forms of physical mistreatment of prisoners continued to be a serious problem. There were credible reports that military and civilian police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. According to the government, the number of inmates detained in the country's 24 prisons increased from 7,423 in 2004 to 9,373. A local NGO that monitored 17 of the prisons reported that during the year 308 inmates were pretrial detainees who had been held longer than the 6-month maximum detention period established by law. Of 189 inmates interviewed by a local NGO, 25 claimed they were tortured upon their arrival at prison, and 52 others claimed they were tortured while in police custody. Members of the police and security force who carried out abuse often were protected from prosecution or disciplinary action by local government authorities, despite occasional central government efforts to curtail or eliminate violations of prisoners' rights and address problems of accountability.

On April 29, a commune police chief and another police officer without a warrant forcibly arrested a man because of a personal dispute from the previous day. The policemen suspended the man upside down from the ceiling of the police station, where he was interrogated, beaten, and forced to confess to a robbery in which he had no involvement. The victim was released later that night. Following a provincial police officer's urging, the victim accepted financial compensation and withdrew his criminal complaint from the provincial court. No legal action was taken against the police chief, and the case was terminated.

On November 8, a 15-year-old female prisoner filed a complaint with a local NGO, alleging that a guard threatened her with a gun after she refused his sexual advances. The prisoner later alleged that, in retaliation, prison authorities deprived her of sufficient clothing, food, and bathing time. A formal complaint was filed by the NGO with a provincial prosecutor, and the accused prison guard was suspended while the prosecutor investigated the complaint.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards and were life threatening. Prison conditions remained harsh, and government efforts to improve them continued to be hampered by a lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, medical and sanitation problems, food and water shortages, malnutrition, and poor security. A local NGO that monitored 23 of the country's 24 prisons noted that the population of those prisons had grown and the average number of inmates placed in a 7-by-8-meter cell had increased from 45 to between 50 and 60. In August 2004, Tackhmau Prison, with a capacity of 110 prisoners, held 266. In some prisons, after escape attempts authorities used shackles and held prisoners in small, dark cells. Government ration allowances for purchasing prisoners' food routinely were misappropriated and remained inadequate, exacerbating malnutrition. Regulations permitted families to provide prisoners with food and other necessities, and prisoners depended on such outside assistance; however, families often were compelled to bribe prison officials to be allowed to provide assistance. During the year NGOs reported that 89 prisoners died for lack of food or medication, or of disease contracted or aggravated while incarcerated.

In March, 19 inmates and the director of Trapoeung Phlon Prison were killed in an attempted jailbreak. In July 2004 a pretrial detainee under police custody in Takeo Province was beaten to death (see section 1.a.).

In most prisons there was no separation of adult prisoners and juveniles, of male and female prisoners, or of persons convicted of serious crimes and persons detained for minor offenses.

The government generally continued to allow international and domestic human rights groups to visit prisons and provide human rights training to prison guards. However, NGOs reported that at times cooperation from local authorities was limited. For example, human rights NGOs were not given access to investigate the incident surrounding the attempted escape in March at the Trapoeung Phlon Prison until five months after it occurred (see section 1.a.). The MOI continued to require that lawyers, human rights monitors, and other visitors obtain permission prior to visiting prisoners. The MOI withheld such permission in some politically sensitive cases. NGOs were not allowed to interview prisoners in private. There were credible reports that inmates' relatives had to bribe prison authorities to gain access to visit inmates. There also were reports of corrupt officials who demanded bribes before releasing inmates who had served their full jail terms.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government generally did not respect these prohibitions. During the year a number of persons were arrested without warrants, and human rights groups reported 88 cases of persons illegally detained by police.

Role of the Police and Security Apparatus.—The General Commissariat of the National Police, which is under the supervision of the MOI, manages all civilian police units. The police forces are divided into those who have the authority to make arrests, those who do not have such authority, and the judicial police. Military police are permitted to arrest civilians only when authorized by local governments. During the year there were reports that police, prosecutors, investigating judges, and presiding judges received bribes from illegal businesses and released suspects due to corruption. There was a climate of impunity for some criminals.

Police, prosecutors, and judges are required by law to investigate all complaints, including those of police abuses, but in practice judges and prosecutors rarely conducted an investigation prior to a public trial. The presiding judge passes down the verdict based on written reports from police and witness testimonies. In general police received little professional training. Police who failed to prevent or respond to societal violence were rarely disciplined.

Arrest and Detention.—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; however, authorities routinely held persons for extended periods before charging them. The law requires police to obtain a warrant from a prosecutor prior to making an arrest, but police may arrest anyone caught in the act of committing a crime without a warrant. Many prisoners, particularly those without legal representation, had no opportunity to seek release on bail. Accused persons legally are entitled to a lawyer, but prisoners routinely were held for several days before gaining access to a lawyer or family members. According to the UN High Commissioner on Human Rights (UNHCHR), such prolonged detention largely was a result of the limited capacity of the court system.

On October 11, police detained independent radio station owner Mam Sonando on defamation charges following an interview broadcast on his station that criticized the government's border policies. On October 15, police detained Rong Chhun, president of the Cambodian Independent Teachers' Association and also Cambodia Watchdog Council (CWC) member, on defamation charges following the release of a public statement that criticized the government's border policies. On December 31, police arrested human rights advocates Kem Sokha and Yeng Virak for activities related to a December 10 rally in Phnom Penh (see section 2.a.). Sonando and Chhun were denied bail. The UN special representative for human rights, the diplomatic community, and various international NGOs condemned the arrests and urged authorities to drop the charges against the men. Although the government gave these political detainees the same protections as other detainees, it did not permit regular access to them.

The investigating judge gathers evidence before determining whether to try a case. An NGO reported that during the year there were 308 complaints of pretrial detention that lasted longer than the prescribed 6 months. The suspected killers of union leader Chea Vichea were detained for almost 18 months prior to their trial on August 1. Opposition parliamentarian Cheam Channy was detained for more than six months before the military court tried him on August 8; court officials claimed that the delay was the result of appeals made to the courts. International

and local NGOs widely criticized Cheam Channy's arrest and detention as illegal under criminal law. In addition human rights observers called his arrest and subsequent detention a violation of the law for trying a civilian charged with civilian crimes in the military court (see section 1.e.).

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, but the government did not respect this provision. The courts were subject to influence and interference by the executive branch, and there was widespread corruption among judges, prosecutors, and court officials.

The court system consists of lower courts, an appeals court, and a Supreme Court. The constitution also mandates a Constitutional Council, which is empowered to review the constitutionality of laws, and a Supreme Council of the Magistracy, which appoints, oversees, and disciplines judges. The composition of both councils heavily favored the CPP.

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. If a defendant cannot afford an attorney, the court is required to provide the defendant with free legal representation; however, the judiciary 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 access government-held evidence relevant to their cases; however, in practice it could be difficult for them to obtain such access, especially if the case was political or involved a high-ranking government official or well-connected member of the elite.

Defendants are entitled by law to the presumption of innocence and the right of appeal, but due to pervasive corruption, defendants often were expected to bribe judges to secure a verdict. A citizen's right to appeal sometimes was limited by difficulty in transferring prisoners from provincial prisons to the appeals court in Phnom Penh. Many appeals thus were heard in the absence of the defendant.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and the government did not ensure due process.

On August 1, the Phnom Penh Municipal Court found Born Samnang and Sok Sam Ouen guilty of the murder of Chea Vichea (see section 1.a.). On August 9, the military court sentenced opposition party MP Cheam Channy to seven years' imprisonment for fraud and organizing an illegal armed force (see section 1.a.). On December 22, opposition leader Sam Rainsy was sentenced in absentia to 18 months in jail for defaming FUNCINPEC President Prince Norodom Ranariddh and PM Hun Sen. The cases were marked by serious irregularities, and the verdicts led to widespread condemnation by NGOs and the diplomatic community. The UN special representative for human rights denounced the outcome of the trials, stating that the defendants were sentenced to long prison terms on the basis of noncredible criminal investigations and court hearings.

Judges and prosecutors often had little legal training. In 2003 the Royal School for Judges and Prosecutors reopened and accepted its first class of students since the 1960s. Following their legal internships in late 2004, the 55 graduates were appointed as judges and prosecutors to courts throughout the country. The introduction of newly trained lawyers also resulted in significant improvements for defendants provided with counsel, including a reduced pretrial detention period and improved access to bail; however, there remained a critical shortage of trained lawyers, particularly outside Phnom Penh. Persons without means to secure counsel often were effectively denied the right to a fair trial.

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 content of written confessions that they were forced to sign. In cases involving military personnel, military officers often exerted pressure on judges of civilian 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 sometimes appeared to enjoy impunity. On May 5, the 23-year-old son of a senior military official was accused of killing 3 persons in a hit-and-run accident in Phnom Penh. The traffic police and the prosecutor closed the criminal case after the young man's family paid financial compensation to the families of the dead. On June 9, police found the body of a 20-year-old man in a house that belonged to the family of a provincial police chief. The victim apparently had been electrocuted and had

one of his fingers cut off. At year's end authorities had taken no legal action, and the criminals remained at large.

Although the courts prosecuted some members of the security forces for human rights abuses, impunity for most of those who committed human rights abuses remained a problem. On August 4, an investigating judge of the Battambang Provincial Court dropped charges against more than 100 soldiers, civilian police, and military police involved in a March eviction in Kbal Spean during which 5 persons were killed and many others injured (see section 1.a.). Most national and local government officials continued to lack the political will and financial resources to act effectively against military or security officials suspected of human rights abuses.

The Judicial Reform Council made no significant progress in fulfilling its mandate to develop and implement reform measures. In 2002 the government established a second legal and judicial reform council amid criticisms that the council's cochairs, a cabinet minister and the supreme court president, lacked sufficient independence. In 2003 the Council for Legal and Judicial Reforms (CLJR) produced a draft justice sector program and held workshops with civil society, donors, and other interested parties. During 2004 the CLJR cooperated with donors to implement the program and forwarded numerous draft laws to the National Assembly for approval, including draft laws on the Statute of Magistrates, the administrative court, and amendments to the law on the Organization and Functioning of the Supreme Council of Magistracy. In addition, in November 2004 the CLJR forwarded action plans for legal reform goals to the Council of Ministers. The government, in cooperation with legal experts from donor countries, completed draft laws of the criminal and civil codes and was reviewing them at year's end.

In March the Supreme Council of the Magistracy dismissed a judge and a deputy prosecutor of the Phnom Penh Municipal Court for misconduct in their judicial functions. A judge and a prosecutor were suspended for a year without pay. According to the minister of justice, the judges and prosecutors were subject to investigation for inappropriate actions, including illegal release of felony criminals. Legal observers charged that the council was subject to political influence and did not effectively protect the independence of the judiciary. In accordance with the March 3 "Iron Fist" anticorruption order, on May 5 Prime Minister Hun Sen dismantled the secretariat of the council. Legal critics regarded the dismantling as executive branch interference with the judiciary. On December 21, the Battambang Provincial Court sentenced three judges, two deputy prosecutors, and two court clerks to four years' imprisonment each on charges of corruption and corruption-related conspiracy.

Human rights groups continued to report that the government demonstrated its control of the courts by ordering the rearrest of suspects released either by the courts or through extrajudicial processes. Judges cited examples of interference from high-ranking officials tasking them to make rulings in line with political priorities.

Lawyers also noted that, in violation of the law, some police and prison officials, with apparent support from other government officials, have denied them the right to meet prisoners in private or for adequate lengths of time. After the 2003 anti-Thai riots, family members and human rights groups noted they did not have access to the 57 individuals detained by the government while the investigation was in progress.

There is a separate military court system, which suffered from deficiencies similar to those of the civilian court system. The legal distinction between the military and civil courts sometimes was ignored in practice, and civilians have been called for interrogation by military courts with no apparent jurisdiction in their cases.

In 2001 a law was promulgated to establish Extraordinary Chambers to bring Khmer Rouge leaders to justice for genocide, crimes against humanity, and war crimes committed from 1975 through 1979. In 2003 the UN General Assembly approved a draft agreement between the UN and the government for prosecution of crimes committed during the Democratic Kampuchea (Khmer Rouge) period. In October 2004 the National Assembly unanimously ratified the agreement with the UN and passed the amendments necessary to make the tribunal operational. The agreement outlined a 3-year budget of \$56.3 million for the trials of senior Khmer Rouge leaders. Donor nations pledged contributions of \$43 million, and the government pledged to contribute the remaining \$13.3 million. However, the prime minister later announced that the government could provide only \$1.3 million. Despite the funding shortfall, the government and the UN proceeded with the establishment of the Khmer Rouge Tribunal (KRT) and appointed the director of the KRT administration and the UN representative to the KRT.

Political Prisoners.—On February 3, the National Assembly stripped opposition MP Cheam Channy of his parliamentary immunity and arrested him on charges of organized crime and fraud following government allegations that he formed an illegal army. On August 9, a military tribunal convicted Channy and sentenced him

to seven years' imprisonment. NGOs and the diplomatic community strongly condemned the verdict as a breach of due process that raised fundamental questions about the country's progress toward rule of law. Although the government gave Channy the same protections as other prisoners, it did not permit regular access to him.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the privacy of residence and correspondence and prohibits illegal searches; however, police routinely conducted searches and seizures without warrants. There were no reports that the government monitored private electronic communications.

Due to the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership often has been unclear, and most landowners lacked adequate formal documentation of ownership. Following the end of the Khmer Rouge insurgency, a rush to gain possession of lands near potentially lucrative cross-border trade routes exacerbated the ownership problem. Widespread land speculation has fueled disputes and increased tensions between poor rural communities and wealthy speculators. In 2002 the Ministry of Land Management, Urban Planning, and Construction established the Cadastral Commission to settle disputes over land that had not been registered or given a land certificate. The commission continued to perform its functions slowly due to a lack of finances, training, and experience. The courts under the Ministry of Justice remained responsible for resolving disputes in cases where land had been registered or disputants had been given land titles.

During the year the Ministry of Land Management, Urban Planning, and Construction began implementing a 2001 land law to protect land ownership and deeds. Problems of inhabitants being forced to relocate continued to occur when powerful officials or businessmen colluded with local authorities. One NGO reported receiving complaints during the year of 130 cases of land disputes that affected 7,885 families. Another NGO reported 335 cases during the same period. Some persons also used the court system to intimidate the poor and vulnerable into exchanging their land for meager compensation. The poor often had no legal documents to support their land claims and lacked faith in the judicial system to rule favorably on their behalf due to the corruption within the judiciary. Some of those expelled successfully contested these actions in court, but the majority lost their cases.

The use of land concessions by government officials for personal economic and political gains has increased the number of land disputes throughout the country. The UN special representative for human rights sharply criticized the government's land policies in a November 2004 report and called for full disclosure of information concerning all land concessions. Despite promising donors in October 2004 that he would stop issuing concessions, Prime Minister Hun Sen reversed this position in March. In early December the government released hundreds of documents containing in-depth information on economic land concessions, something donor nations had persistently requested.

On March 21, a mass eviction took place in the village of Kbal Spean, near the Thai border at Poipet, resulting in the shooting deaths of 5 villagers and injuries to at least 40 more. In 1997 district authorities had moved some current residents onto the land, which the residents cleared of trees and mines. However, a 2003 appeals court decision awarded the land in dispute to the village chief. Hundreds of civilian and military police were deployed to protect demolition workers who, in enforcing a 2003 appeals court eviction order, destroyed the homes of more than 200 families. An interministerial committee was established after the incident to investigate the case. A provincial court charged 55 villagers, including the 5 dead, with physical assault, and 63 police and a civilian for intentional killings. In August the court dropped all charges due to lack of evidence. Later in August the provincial authority reportedly again ordered the villagers to move off the land. In December approximately 200 villagers traveled to Phnom Penh to seek prime ministerial intervention to solve their dispute. The families, with assistance from an NGO, also lodged a complaint with the appeals court, but at year's end no action had been taken.

During the year indigenous Phnong in Monduliri Province launched a series of protests to block encroachment on communal land by the Wuzhichan Group, a Chinese company. These protests culminated on June 16, when approximately 40 police officers used water hoses to disperse 800 mostly Phnong hill tribe members. The members had gathered to demand that the provincial authority stop the company's activities on historically communal land that is also an ancestral gravesite. Wuzhishan reportedly had received more than 80 thousand hectares of concession in Monduliri for a tree plantation, a size violating the concession limit of 10 thousand hectares. On June 17, the Council of Ministers ordered suspension of the com-

pany's activities, but the company largely ignored the order. On July 7, villagers planned to protest continued government inaction, but roadblocks set up by local authorities prevented all but 300 to 400 protestors from reaching the provincial capital. In August the interministerial committee provided compensation to the villagers and a 10-thousand-hectare concession to the company. The villagers were not satisfied with the committee's solution, and at year's end the conflict remained unresolved.

In September the UN special representative on housing rights reported that the country had a worrisome pattern of land disputes between elites and the poor and that some local authorities and businessmen intimidated poor residents to accept eviction. The special representative reported that the prevalence of land confiscation stemmed from the country's lack of suitable land laws, clear property lines, and adequate legal systems, and that it was compounded by a culture of impunity, corruption, and the uncertain roles of civil and military officials.

A dispute originally affecting approximately 1,800 families over a road project between Phnom Penh and Ho Chi Minh City continued. Although most claims were settled, approximately 300 additional families submitted grievances to an interministerial resettlement committee for an increase in compensation, charging that the amount offered was inadequate.

After an October 2004 speech by Prime Minister Hun Sen concerning redistribution of land from speculators to the poor, thousands of villagers in Sihanoukville began a program of land grabbing on vacant plots owned by wealthier members of the community or absentee landlords. Authorities issued arrest warrants for 29 persons in connection with the act and eventually arrested 17 suspects, who were later released.

In November 2004 a major land dispute occurred involving hundreds of villagers in Pursat and Kompong Chhnang and the Pheapimex Company. The dispute involved a 31,500-hectare land concession granted to Pheapimex by the government. During protests in front of the company's worksite, an unknown person threw a grenade into the crowd of villagers, injuring eight persons. At year's end police had not made any arrests, and the company had ceased its operations.

There were reports of 5 cases of relocations that affected more than 500 families due to community development projects by the Phnom Penh Municipality. In December 2004 local officials and a real estate development company began pressing residents to leave Koh Pich, a small island in the Tonle Bassac River near Phnom Penh. The island's more than 300 families (most of whom were farming families living there since the 1980s) were offered a small amount of money, resettlement on marginal land in a nearby province, and food. Residents were subjected to a variety of threats and intimidating acts. Many residents sold their land out of fear and left the island. An NGO represented the remaining residents in negotiations and enabled them to obtain better compensation. Residents with the strongest land ownership claims remained on the island, hoping for a higher rate of compensation. In November the Phnom Penh Municipal Court issued an eviction order for the residents remaining on the island. NGOs asserted that the municipal court did not have jurisdiction in the Koh Pich case and that the dispute should be decided by the Cadastral Commission. At year's end all but five families, which had strong supporting documents, accepted the compensation offered and agreed to move off the land.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press; however, the government increasingly did not respect these rights in practice. The government used the weak and often politically biased judiciary to file defamation suits under the criminal code to arrest and silence antigovernment critics and outspoken civil society leaders. The media increasingly practiced self-censorship due to fear of government reprisal. The constitution implicitly limits free speech by requiring that it not adversely affect public security. The constitution also declares that the king is "inviolable."

The 1995 press law provides journalists with a number of rights, including a prohibition on prepublication censorship and protection from imprisonment for expressing opinions. However, it also includes a vaguely worded prohibition on publishing articles that affect national security and political stability. The press published a large number of news items critical of the government, including frequent, highly personal criticism of the prime minister, the national assembly president, and other senior officials. However, the government has increasingly used the older UN Transitional Authority in Cambodia law to prosecute journalists, civil society leaders, human rights activists, and members of the political opposition under criminal defamation charges rather than use the 1995 press law, which treats defamation as a civil matter.

All major political parties had reasonable and regular access to the print media. In general newspapers were aligned politically. Although the press law does not specifically permit newspapers, major newspapers that published in the Khmer language received support from various political parties. There were an estimated 20 Khmer-language newspapers published regularly; more than half were considered pro-CPP, one-third were considered to support FUNCINPEC, and 1 was considered to support the SRP. Although the three largest circulation newspapers were considered pro-CPP, most newspapers criticized the government frequently, particularly with respect to corruption. Prime Minister Hun Sen and National Assembly President Prince Norodom Ranariddh frequently came under strong attack by opposition newspapers.

The government, military forces, and ruling political party continued to dominate the broadcast media and influence the content of broadcasts. According to a 2001 UNHCHR report, the procedures for licensing and allocation of radio and television frequencies to the media were not impartial. The SRP and independent human rights advocacy groups aligned with the opposition have been unable to obtain broadcast licenses. The Ministry of Information allowed local French radio station FM 92 to broadcast live programming in Khmer originating from Radio France International in Paris.

There were seven television stations, all controlled or strongly influenced by the CPP. Government control severely limited the content of television and radio broadcasting. The government-controlled national television and radio stations broadcast taped sessions of national assembly debates; however, in several instances these broadcasts were censored. National radio and television stations regularly broadcast some human rights, social action, public health, education, and civil society programming produced by domestic NGOs.

On October 11, authorities detained Mam Sonando, radio journalist and owner of independent radio station Beehive/FM 105, for alleged defamation regarding the Cambodia-Vietnam Border Agreement. On October 15, CWC member and labor leader Rong Chhun was detained on defamation charges following the release of a public statement that he signed criticizing the government's border policies. Prison authorities denied access to human rights organizations and reporters and refused bail to both men. CWC members Man Nath, Ear Channa, and Chea Mony fled the country after the government issued warrants for their arrests. The government filed a request for their extradition. Prince Sisowath Thomico fled the country after the government charged him with defamation for criticizing government policies. Several journalists also fled to Thailand fearing prosecution for their reporting on the border agreement; they later returned to resume their work as reporters and at year's end had not faced prosecution. On December 31, police arrested Kem Sokha, CCHR president and prominent human rights activist, and Community Legal Education Center Director Yeng Virak on defamation charges stemming from the display of a banner during an International Human Rights Day rally in Phnom Penh on December 10. The government held both men responsible since they were involved in the event's organization. The UN special representative for human rights, NGOs, and the diplomatic community condemned the arrests and called for the immediate release of Sonando, Chhun, Virak, and Sokha; there also were calls for criminal proceedings to be immediately dropped against the three CWC members and Prince Thomico Sisowath.

There was no decision in the lawsuit filed in September 2004 against a military officer by a journalist alleging that the officer beat him and threatened him with a gun to stop a report on extortion and illegal logging. There were no developments in the 2003 killing of Chuor Chetharith, a reporter for pro-FUNCINPEC Taprohms Radio and former FUNCINPEC aide. While the case was still technically under investigation, it was unlikely that anyone would stand trial for the crime.

The CCHR-produced *Voice of Democracy* radio program, which included independent and often antigovernment views, was dropped by a pro-FUNCINPEC radio station in June 2004 after the program criticized the party's leader. Nevertheless, the program remained extremely popular, and in December the program also started broadcasting its program on the SRP-aligned radio station FM 93.5. Since 2003 the Ministry of Information has refused to grant the CCHR a license to operate a radio station, claiming that Phnom Penh had too many radio stations and newspapers. Nevertheless, FM 93.5 was able to increase its broadcasting capacity under its existing license from 5 kilowatts to 10 kilowatts during the year, expanding its range of coverage up to 100 kilometers from Phnom Penh.

Although the government increasingly used criminal defamation suits to silence its critics, defamation and libel suits against the media decreased compared to 2004, with only three newspapers charged with defamation during the year. In September the Supreme Court upheld a 2001 ruling by the Phnom Penh Municipal Court in

favor of Foreign Minister Hor Namhong in his defamation suit against a *Cambodia Daily* journalist. The Supreme Court fined the journalist approximately \$7,500 (30 million riel) for a newspaper article that quoted allegations by the late senator Keo Bubthouk against Hor Namhong regarding events at the Khmer Rouge camp Boeng Trabek during the 1975–79 Pol Pot regime. The second defamation case was settled out of court. The third case involved a Koh Kong provincial border police officer who filed a defamation lawsuit with the Phnom Penh Municipal Court in September against *Kampuchea Tngai Nih* for an article that accused him of helping a fugitive flee the country. In August Prime Minister Hun Sen's chief of bodyguards threatened to file a defamation lawsuit against pro-opposition newspaper *Moneakseka Khmer* for alleging that he was involved in a 1997 grenade attack on an opposition rally, but at year's end no formal charges had been filed.

Media access to national assembly sessions is mandated by the constitution. The government broadcasts national assembly sessions on national television and radio; however, it continued to restrict media access to government facilities. Since 2003 the National Assembly has banned journalists from entering its grounds without authorization from the assembly's secretary general. In October police barred journalists from entering the grounds of the Phnom Penh Municipal Court after the court's top officials signed an order interpreted to be a total ban on reporters' access to the courthouse. The following day court officials clarified that the order required reporters to obtain permission to interview court officials and required written permission for journalists to bring recording devices into the courtroom. In practice reporters were not given free access to the courts.

Government authorities confiscated publications during the year. In February the government seized two thousand copies of a report documenting illegal logging and alleged corruption in the Aural Wildlife Sanctuary. The report was published by Global Witness, an NGO that monitored logging activities. However, the report remained easily accessible online and through distribution of an earlier printing.

The government did not restrict Internet access.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of peaceful assembly, but the government did not respect this right in practice. The government required that a permit be obtained in advance of a march or demonstration. The government routinely did not issue permits to groups critical of the ruling party. Throughout the year the government cited the 2003 anti-Thai riots, the need for stability, and public security as reasons for denying permits. Police forcibly dispersed groups that assembled without a permit, often resulting in minor injuries to some demonstrators. The government granted permission for an NGO coalition to hold a gathering in commemoration of International Human Rights Day on December 10, which organizers estimated that eight thousand persons attended. Although the government's authorization to hold the event initially appeared to be a positive step forward, the subsequent arrests of two of its organizers marked a significant setback to human rights (see section 2.a.).

During the year the government forcibly broke up multiple protests, including 8 protests by garment factory workers who had been denied permits, resulting in 100 injuries and 20 temporary detentions. In January district and military police set up roadblocks near the site of a public forum in Phnom Penh and stopped the cars of CCHR director Kem Sokha and opposition leader Sam Rainsy in a purported search for weapons. In February a CCHR-organized public forum in Svay Rieng Province was abruptly ended when an unidentified man began photographing the faces of persons trying to speak during the rally. On June 24, a provincial court sentenced two taxi drivers to one-year suspended prison sentences and five years' probation for incitement in a January protest against a highway toll increase. In January and September, police dispersed demonstrations by the opposition Khmer Front Party and arrested seven protestors, who were released after signing a pledge not to participate in an unauthorized protest in the future. During the year local authorities banned three meetings organized by the SRP.

In early June the prime minister warned those participating in public forums that they should be careful and stated that the authorities could not be blamed if the public became irate and took matters into their own hands. On September 4, the prime minister publicly urged supporters of the ruling parties to cease disrupting the public forums. Following a suggestion by the prime minister, the supreme patriarch of Buddhist monks issued a ban on political debates and public forums in pagodas.

In August authorities shut down a forum in Kompong Speu Province on the justification that they could not guarantee the safety of speakers after a group of approximately 40 persons started shouting pro-CPP slogans and pointing aggressively

at the panel of speakers. Also in August authorities disrupted a dialogue organized by CCHR with villagers in Sihanoukville. Earlier that morning the second deputy commune chief and the village chief, escorted by more than 20 police officers, ordered the owner of the house where the meeting was to be held to cancel the scheduled event. Police also entered the offices of the Khmer Kampuchea Krom Association in Phnom Penh and seized placards and banners that called on the Vietnamese government to respect their rights.

The government also failed to protect peaceful demonstrators from violence. At an unauthorized Students for Democracy (SMD) protest on September 27, a group of counterprotestors (whom a witness described as members of the pro-CPP Pagoda Boy Association) emerged to violently challenge the SMD protestors. Human rights organizations reported that police failed to establish order and prevent the assaults and instead seized the signs and detained the nonviolent SMD protestors, who were later released.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice; however, the government did not enforce effectively the freedom of association provisions of the labor law (see section 6.a.).

The government did not coerce or forbid membership in political organizations. Political parties normally were able to conduct their activities freely and without government interference. However, in a closed session on February 3, the National Assembly removed the immunity of three opposition parliamentarians, including opposition leader Sam Rainsy and two other opposition MPs from the SRP. One SRP MP was arrested that same day; Rainsy and the other MP, Chea Poch, fled the country rather than face possible arrest (see section 3). In August a military court sentenced MP Cheam Channy to seven years' imprisonment. SRP activist Khom Piseth was convicted in absentia.

Human rights organizations reported that some local authorities warned members of certain political parties that if they continued to support those parties, they would face a loss of residency rights, confiscation of property, and a ban on using local infrastructure.

Membership in the Khmer Rouge, which ruled the country from 1975 to 1979 and after its overthrow conducted an armed insurgency against the government, is illegal, as is membership in any armed group.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution also prohibits discrimination based on religion, and minority religions experienced little or no official discrimination. Buddhism is the state religion, and more than 95 percent of the population was Buddhist. Ethnic Cham Muslims constituted most of the remaining population.

In 2003 the Ministry of Cults and Religions issued an order prohibiting public proselytizing; however, this order was enforced only during the two-hour lunch period.

Societal Abuses and Discrimination.—Minority religions experienced little or no societal discrimination. There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice; however, there were reports that provincial authorities barred ethnic minority villagers from leaving Mondolkiri Province to attend an NGO workshop outside the province. In 2004 there were several reports of restrictions on villagers in Mondolkiri and Ratanakiri provinces after the Montagnard (hill tribes) unrest in neighboring Vietnam.

The government placed no restrictions on foreign travel. The government also did not restrict emigration or the return of citizens who had left the country.

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

In 2002 the government signed a memorandum of understanding (MOU) with the United States to facilitate the return of deportable Cambodian nationals; 139 persons had been repatriated from the United States by year's end. An NGO provided reintegration assistance to those repatriated.

Protection of Refugees.—The law provides for the granting of asylum or refugee status, and the country is a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, in practice the government did not consistently respect the law and has not implemented legislation pertaining to the 1951 UN convention.

In January the governments of Vietnam and Cambodia and the UN High Commissioner for Refugees (UNHCR) signed an MOU to resolve the situation of approximately 750 Montagnards under UNHCR protection in Phnom Penh. In accordance with the MOU, Montagnards from the Central Highlands of Vietnam seeking asylum in Cambodia would either be resettled to a third country if accorded refugee status or be sent back to Vietnam, voluntarily or involuntarily. There was a report that four Vietnamese Montagnards seeking asylum were deported without review, despite a UNHCR presence in the country. The UNHCR maintained its Phnom Penh office but closed its Ratanakiri office in April 2004 in response to requests from local authorities. However, since July 2004 the UNHCR has made numerous trips to Ratanakiri to collect groups of Montagnards who have fled Vietnam. The government permitted the UNHCR to transport these asylum seekers to Phnom Penh, where the UNHCR processed them for potential resettlement abroad. On July 20, the government deported to Vietnam 94 asylum seekers whom the UNHCR had determined not to be refugees. NGOs that witnessed the event raised concerns about the use of excessive force and the possible use of electric shock batons during the deportation, but the UNHCR reported that proper restraint had been used. There were unconfirmed reports that Vietnamese authorities offered incentive awards to Cambodian border police who returned Vietnamese refugees to Vietnam and that Vietnamese secret police were active on the Cambodian side of the border. In January NGOs reported that Cambodian border police deported six Montagnard asylum seekers to Vietnam before UNHCR representatives were able to review their cases. In September the Ratanakiri deputy police commissioner warned villagers that they would be prosecuted for human trafficking crimes if they assisted Montagnards to enter Cambodia. Montagnard asylum seekers continued to enter the country from Vietnam through the end of the year. There were reports of at least one and possibly two incidents in which Montagnards were returned to Vietnamese territory in December.

Asylum seekers who reached the UNHCR office in Phnom Penh were processed with government cooperation. During the year 224 Montagnard asylum seekers and 25 other individuals arrived at the UNHCR refugee facilities in Phnom Penh. The UNHCR also processed 784 Montagnards who had arrived in previous years.

Following the October 11 detention of radio journalist Mam Sonando and CWC member Rong Chhun stemming from criticism of a proposed border agreement with Vietnam, several activists sought asylum abroad. Three civil society leaders from CWC sought refugee protection in Thailand and were granted refugee status by the UNHCR. CWC member Chhan Channy was resettled in Norway in November. However, the government sought extradition of two members to face defamation charges.

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

The constitution provides citizens the right to change their government peacefully, and citizens generally exercised this right in practice through periodic elections on the basis of universal suffrage. Suffrage is voluntary for all citizens above the age of 18.

Elections and Political Participation.—Voter turnout for the most recent elections, held in 2003, was approximately 83 percent. The CPP won 73 seats in the election, FUNCINPEC 26 seats, and the SRP 24 seats. In July 2004 the CPP and FUNCINPEC formed a nominal coalition government, but the CPP dominated the government. All election observer groups noted improvements in the elections; however, they concluded the elections still fell short of international standards. Politically motivated violence remained a problem but was less than during previous elections. The government took action against only some alleged perpetrators and addressed other misconduct inconsistently.

Technical problems with the registration process and preparation of voter lists effectively disenfranchised many citizens in the elections. There also were incidents of voter intimidation by local officials. The National Election Commission (NEC) failed to establish a credible process to resolve election complaints. The appointment of NEC members by the MOI was not transparent and left the NEC open to charges of political influence by the ruling CPP.

During the elections there were improvements in media access for registered parties, and open political debate and multiparty debates were televised nationally for the first time; however, electronic media coverage heavily favored the ruling CPP. In 2003 at least six private radio and television stations refused to sell air time to political parties, a move that critics viewed as CPP-inspired; however, five other private radio stations sold airtime to political parties. The National TV of Cambodia was the sole television station to broadcast news of the general elections.

Some NGOs and political parties alleged that membership in the dominant CPP party provided advantages, such as gifts or access to government emergency aid.

In 2002 the government held its first nationwide commune, local-level elections. During the election campaign period, NGOs reported 25 FUNCINPEC and SRP activists and candidates were killed under suspicious circumstances, including 7 killings that human rights monitoring organizations agreed were politically motivated. The election results loosened the CPP's long hold on local governance. CPP commune chiefs remained in 99 percent of the 1,621 communes; however, as a result of the elections, power was shared with other parties in all but 148 communes. The transfer of power to the newly elected commune councilors was smooth. At year's end the MOI had not issued instructions for elected commune councils to implement the Commune Administration Law describing the power, duties, and functions of the councils.

In a closed session on February 3, the National Assembly voted to remove the immunity of opposition party members Sam Rainsy, Chea Poch, and Cheam Channy. Human rights groups and the diplomatic community condemned the suspension of immunity as a major setback for democracy in the country. Later that same day, police arrested Cheam Channy on charges of fraud and organizing an illegal armed force (see section 1.e.). Rainsy and Poch fled the country because they feared arrest. On August 8, the military court sentenced Channy and, in absentia, SRP member Khom Piseth to seven years' imprisonment. Poch returned to the country in early August to face charges of defamation. On December 22, a municipal court convicted Sam Rainsy in absentia and sentenced him to 18 months' imprisonment. At year's end Rainsy remained in a third country. Diplomatic officials protested Channy's trial by the military court and serious irregularities in the proceedings. The UN special representative for human rights expressed concern that the courts were increasingly being used as an instrument of the executive to silence opposition voices.

Traditional culture limited the role of women in government; however, women took an active part in the 2003 elections. The number of women in the National Assembly, Senate, and high-level government positions increased. There were 22 women in the 123-seat National Assembly, 9 women in the 61-seat Senate, and 24 women working as ministers, secretaries of state, undersecretaries of state, and NEC officials. Women also served as advisors, and there were 14 female judges at the municipal, provincial, and appeals court levels. After the 2002 local elections, women held 933 (8.3 percent) of the 11,261 commune council seats.

Minorities also took part in the government. There were 4 members of minorities—2 Cham and 2 tribal—in the National Assembly. There also were 6 members of minorities—2 Cham, 2 tribal, and 2 Thai—in the Senate. At least eight officials in senior positions in the government were from minority groups.

Government Corruption and Transparency.—Corruption was considered endemic and extended throughout all segments of society, including the executive and legislative branches of government. In January the prime minister instructed the Ministry of National Assembly-Senate Relations and Inspection to prepare a draft anticorruption law. Prime Minister Hun Sen announced his "Iron Fist" campaign to combat judicial corruption on March 3, which led to the dismissal of three judges and one prosecutor and the one-year suspension of two judges and two prosecutors. In addition three judges, two deputy prosecutors, and two court clerks were each sentenced to four years in prison. Public perception of corruption was widespread. Meager salaries contributed to "survival corruption" among low-level public servants, while a culture of impunity enabled corruption to flourish among upper-level officials.

There was no law providing for or prohibiting public access to government information. In August the National Assembly ratified the National Archives Law, which allows unlimited access to informational documents in the public archive. However, access to other unspecified government documents would be granted only after 20 years and documents affecting national security and preservation of personal lives would be released after 40 and 120 years, respectively. In practice the government occasionally denied access to information, citing reasons of confidentiality or national security.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government generally cooperated with human rights workers in performing their investigations; however, there were numerous reports of lack of cooperation or even intimidation by local authorities throughout the country.

There were approximately 40 NGOs involved in human rights activities; however, only a small portion of them were actively involved in organizing training programs or investigating abuses.

While the central government generally was cooperative, human rights NGOs faced a variety of threats and harassment from local officials. These took the form of restrictions on gatherings sponsored by NGOs, verbal intimidation, threats of legal action, bureaucratic obstruction, and other acts of interference. On July 5, Pursat provincial authorities temporarily detained three human rights workers after they photographed houses being demolished by soldiers during an eviction. The human rights workers were released after a few hours, following intervention by local police and court officials.

In July the Phnom Penh-based advisor of Global Witness, an NGO that monitors illegal logging, was denied reentry into the country and had his visa revoked. Immigration officials confirmed that he and four other international Global Witness staff were banned from entering the country. Unlike in 2004, there were no credible threats against local NGO staff providing shelter to trafficked victims and conducting antitrafficking advocacy and investigations.

In January the government and the UNHCHR signed an MOU that extended UNHCHR's activities in the country for two years. During the year the UNHCHR conducted activities related to human rights and the judiciary, and it maintained its headquarters in Phnom Penh and a regional office in Battambang.

The Cambodian Human Rights Committee, which the government established in 1998, was largely inactive. The committee did not have regular meetings or a transparent operating process. In April 2004 the committee issued a report for the first quarter of the year detailing mob killings, but it did not address the killing of union leader Chea Vichea and other serious human rights issues.

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

The constitution prohibits discrimination based on race, sex, color, language, religious beliefs, or political views; however, the government did not generally protect these rights.

Women.—Local and international NGOs reported that violence against women, including domestic violence and rape, was common. The law prohibits rape and assault. Spousal rape and domestic abuse are not recognized as separate crimes. A case of spousal rape could be prosecuted as “rape,” “causing injury,” or “indecent assault,” but such charges were rare. One NGO reported 59 cases of domestic violence from January to August, including 10 deaths. The MOI’s antitrafficking department investigated 398 cases of violence against women and children, resulting in the arrest of 431 perpetrators and rescue of 431 victims. Of the 431 arrests, 218 were for rape. A legal advocacy NGO reported having worked on 265 cases of violence against women and children, including trafficking, domestic violence, and rape. Of the 265 cases, 95 were tried during the year, of which 39 resulted in convictions. The other cases were acquitted by the court either for lack of evidence or because the victims withdrew their complaints. Authorities normally declined to become involved in domestic disputes, and the victims frequently were reluctant to issue formal complaints.

Prostitution is prohibited constitutionally; however, there is no specific legislation against working as a prostitute. Trafficking in women for the purpose of prostitution was a serious problem, despite laws against procuring and kidnapping for purposes of sexual exploitation (see section 5, Trafficking). Sex tourism was a problem, fueled by pervasive poverty and the perception of impunity. Despite sporadic crackdowns on brothel operators in Phnom Penh, prostitution and trafficking related to it persisted. Estimates of the number of working prostitutes ranged from 14,725 to 18,250.

The labor law has provisions against sexual harassment in the workplace, and the International Labor Organization (ILO) reported that sexual harassment in the industrial sector was rare. However, a local NGO study conducted on women working in the beer promotion industry reported widespread harassment: 83 percent experienced derogatory behavior, 80 percent faced unwanted sexual touching, 54 percent were physically abused, and 60 percent had been threatened, sometimes at gun point. A large number of NGOs provided training for poor and vulnerable women that addressed social problems such as spousal abuse, prostitution, and trafficking. A local media center produced and broadcast programming on women’s issues. NGOs provided shelters for many women in crisis.

The constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice women had equal property rights, the same legal status to bring divorce proceedings, and equal access to education and some jobs; however, cultural traditions continued to limit

the ability of women to reach senior positions in business and other areas. In September the National Assembly passed a domestic violence law to prevent domestic violence and protect victims from domestic abuse. The law breaks from the cultural tradition of noninvolvement in domestic life, allowing citizens and government authorities to intervene to prevent domestic abuse. The Ministry of Women's Affairs, mandated to protect the rights of women and promote gender equality in society, produced the *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. Demographic trends and a history of conflict have resulted in increasing female participation in the labor force. According to a 2001 labor force survey, women made up 52 percent of the population, 60 percent of agricultural workers, 85 percent of the business work force, 70 percent of the industrial work force (due to the high proportion of women working in garment factories), and 60 percent of all service sector workers (dominated by the tourism industry). Women often were concentrated in low-paying jobs and largely were excluded from management positions. Men made up the vast majority of the military, police, and civil service.

Children.—The constitution provides for children's rights, and the government made the welfare of children a specific goal. The government relied on international aid to fund most child social welfare programs, resulting in only modest funds for problems that affect children.

Children were affected adversely by an inadequate education system. Education was free, but not compulsory, through grade nine. Many children either left school to help their families in subsistence agriculture, began school at a late age, or did not attend school at all. A Ministry of Education (MOE) report issued in 2005 stated that 91 percent of eligible children were enrolled in primary school but only 26 percent of eligible students attended junior high and 9 percent attended high school. Despite an extensive school construction program, schools were overcrowded and lacked sufficient equipment. In rural areas, schools often provided only a few years of education. According to MOE data, 46 percent of schools lacked drinking water and 37 percent had no toilets. Teachers' salaries were irregularly paid and inadequate to support a decent standard of living, leading to demands for unofficial payments from parents, which the poorest families could not afford. The government did not deny girls equal access to education; however, families with limited resources often gave priority to educating boys. In many areas, schools were remote and transportation was a major problem. This especially affected girls because of safety concerns in traveling between their homes and schools.

Children frequently suffered from malnutrition, and the health care system was inadequate. According to the 2004 Cambodia Inter-Censal Population Survey, infant mortality was estimated at 66 per 1,000. It was also estimated that the mortality rate for children between the ages of 1 and 4 years was 17 per 1,000.

Child abuse was believed to be common, although no statistics were available. A domestic NGO estimated that more than 1,200 street children in Phnom Penh had no relationship with their families and more than 10 thousand children worked on the streets but returned to their family homes in the evenings. It was estimated that there were between 500 and 1,500 children living with their families on the streets in provincial towns. A local NGO reported a monthly intake of approximately 60 street children into its shelter for vocational and literacy training. The NGO reported observing 80 to 100 new children on the street every month. The Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MOSAVY) provided lower statistics, reporting 3,084 street children nationwide. In June 2004 the governor of Phnom Penh began a controversial roundup of street children who were deemed "an eyesore to the outside tourists." The media reported that government officials stated the children were being sent to an NGO in Banteay Meanchey Province for drug rehabilitation. Many children were released on the roadside outside the city and subsequently returned to Phnom Penh; however, some children were never accounted for, and no NGO claimed to have received them.

Sexual intercourse with a person under age 15 is illegal; however, child prostitution and trafficking in children occurred (see section 5, Trafficking). In 2000 the government adopted a five-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement (see section 5, Trafficking). A local NGO reported having investigated 29 cases of child sexual exploitation, which resulted in the arrest of 5 foreign pedophiles. Three perpetrators were charged and awaiting trial. Two pedophiles were sentenced to 15 and 10 years' imprisonment, respectively. Child rape remained a serious issue; a local NGO reported 65 cases of rape involving children below 10 years of age during the year; the youngest victim was 4 years old.

The illegal purchase and sale of children for prostitution was a problem. During the year raids on brothels rescued underage girls who were trafficked for prostitution.

Child labor was a problem in the informal sector of the economy (see section 6.d.).

Trafficking in Persons.—The 1996 Law on the Suppression of Kidnapping, Trafficking, and Exploitation of Humans (the trafficking law) prohibits trafficking in persons; however, persons were trafficked to, from, and within the country. The trafficking law establishes a prison sentence of 15 to 20 years for a person convicted of trafficking in persons under 15 years of age; the penalty is from 10 to 15 years for trafficking persons age 15 or older. In October 2004, at the Coordinated Mekong Ministerial Initiative Against Trafficking meeting, the country joined five other countries in the region in signing a memorandum on regional antitrafficking cooperation. In March the six governments approved a plan of action to serve as a blueprint to build cooperation amongst the countries. The trafficking law contains no provisions to protect foreign victims from being charged under the country's immigration laws, but during the year there were no reported cases of trafficking victims being treated as illegal immigrants.

While the government has increased arrests and prosecutions of traffickers and continued its support for prevention and protection programs through collaboration with foreign and domestic NGOs and international organizations, its antitrafficking efforts continued to be hampered by reports of corruption and a weak judicial system. According to the MOI, police investigated 612 cases of child sexual exploitation, rape, debauchery, and human trafficking. During the year police arrested 397 offenders, of whom 73 were for human trafficking. A legal advocacy NGO brought 47 trafficking cases to court, of which 15 went to trial. Convictions were obtained against 8 traffickers with sentences ranging from 2 to 15 years' imprisonment and civil compensation issued to victims ranging from \$120 to \$715 (500 thousand to 3 million riel). In June a Dutch man acquitted in 2004 by the Phnom Penh Municipal Court was convicted of debauchery by the appeals court and sentenced to 10 years in prison in addition to paying \$250 (1 million riel) to each of his 6 victims.

Several government ministries were active in combating trafficking. In 2000 the government adopted a five-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement. The government has established mechanisms for monitoring and reporting on the plan and has established a Department of Anti-Human Trafficking and Juvenile Protection. There were specialized MOI antitrafficking divisions in all provinces and municipalities. In June three new hotlines were established in provincial towns to receive reports of human trafficking and sexual exploitation. During the year the hotlines received 732 calls, of which 330 were related to trafficking and sexual exploitation. These cases fell into 4 categories: rape (190 cases), child sexual exploitation (50), human trafficking (70), and debauchery (24). MOSAVY worked with the International Organization for Migration (IOM) to repatriate trafficked victims from Thailand to Cambodia and from Cambodia to Vietnam. However, repatriation to Vietnam continued to be a long and arduous process. In addition the MOSAVY worked with the United Nations Children's Fund and local NGOs to manage community-based networks aimed at preventing trafficking. The Ministry of Women's Affairs continued a public education campaign against trafficking, focusing on border provinces. In October the government signed an MOU with Vietnam on bilateral cooperation to eliminate trafficking in women and children and assist victims of trafficking.

The country is a source, destination, and transit country for men, women, and children trafficked for the purposes of sexual exploitation and labor. A 2003 study estimated the number of trafficking victims in the sex industry to be approximately 2 thousand victims, approximately 80 percent of whom were Vietnamese women and girls. Some Vietnamese women and girls were trafficked through the country for exploitation in the commercial sex trade in other Asian countries.

Children were trafficked to Thailand and Vietnam for begging, soliciting, street vending, and flower selling. These children frequently were placed into debt bondage to beg or sell, or they formed part of organized begging rings even when there was no debt or economic hardship involved. One study by MOSAVY found that 76 percent of trafficked persons returned from Thailand came from families who owned land, 93 percent owned their own house and had no debt on the land or house, and 47 percent of trafficked persons stated that their mother was the facilitator. There was an increase in the trafficking of women to Malaysia to work in the sex industry.

Trafficking victims, especially those trafficked for sexual exploitation, faced the risk of contracting sexually transmitted diseases, including HIV/AIDS. In some cases victims were detained and physically and mentally abused by traffickers, brothel owners, and clients.

Traffickers used a variety of methods to acquire victims. In many cases victims were lured by promises of legitimate employment. In other cases acquaintances, friends, and family members sold the victims or received payment for helping deceive them. Young children, the majority of them girls, were often "pledged" as collateral for loans by desperately poor parents; the children were responsible for repaying the loan and the accumulating interest. Local traffickers covered specific small geographic areas and acted as middlemen for larger trafficking networks. Organized crime groups, employment agencies, and marriage brokers were believed to have some degree of involvement.

It was widely believed that some law enforcement and other government officials received bribes that facilitated the sex trade and trafficking in persons. In March four officials were suspended for extorting money from brothel owners in exchange for release from custody. In July the officials were formally charged. At year's end the criminal investigation was in progress, and one of the officials was placed in pretrial detention.

The MOSAVY referred trafficking victims to NGOs, which provided most assistance to the victims. The government participated as a partner in a number of these efforts; however, its contributions were hampered severely by limited resources. Some victims were encouraged by NGOs and the MOI to file complaints against perpetrators; however, in the general climate of impunity, victim protection could be problematic, and victims were known to be intimidated into abandoning their cases. The MOSAVY reported that from January to July, 261 victims were rescued, rehabilitated, and reintegrated into their families. During the year the MOSAVY also repatriated 145 women and children from Thailand and 1,216 from Vietnam, reintegrating the victims with their families. MOSAVY repatriated 13 trafficked Vietnamese girls. There were no reports of trafficked victims punished as illegal migrants.

During the year NGOs worked with the Ministry of Women's Affairs to repatriate 23 victims of sex trafficking from Malaysia, bringing to 40 the number of repatriated victims from Malaysia since 2003. The MOI was conducting an investigation into the trafficking of women and girls to Malaysia for sex.

In each of the provinces and municipalities, the government has established specialized antitrafficking and juvenile protection divisions, which raided a number of brothels and rescued numerous victims, including underage workers. The government provided most rescued victims with protection and worked with NGOs either to reunite the victims with their families or place them in a shelter. Trafficking victims, especially those exploited sexually, faced societal discrimination, particularly in their home villages and within their own families, as a result of having been trafficked.

In December 2004 the MOI's Antitrafficking and Juvenile Protection Police raided a notorious Phnom Penh hotel, detaining 8 suspected traffickers and placing 83 women and girls from the hotel under NGO care. A day after the raid the suspects were released by police, and a mob of family members and other unidentified persons removed or caused to be released 91 women and girls from the NGO shelter, including the 83 women and girls taken from the hotel. Authorities did not determine how many of these women and girls were trafficking victims. The government's interministerial report on the incident was widely criticized by NGOs and the diplomatic community as lacking credibility. The hotel continued to operate freely until a September 7 police raid, which led to the rescue of three trafficking victims and the arrest of four individuals for their involvement in human trafficking, including the hotel's owner. Authorities closed the hotel, and it remained closed at year's end.

The government used posters, television, radio, and traditional local theater to raise public awareness of human trafficking. The Ministry of Women's Affairs, in conjunction with IOM, continued its major information campaign to raise awareness of trafficking in persons and safe migration. The IOM continued to work with the ministry throughout the year to expand the project to all provinces.

Persons with Disabilities.—The government does not require that buildings or government services be accessible to persons with disabilities. The government prohibits persons with even minor disabilities from being teachers in public schools. In the most recent figures available dating from 1999, it was reported that there were 170 thousand persons with disabilities, including 24 thousand persons missing at least 1 limb and 6,744 persons missing more than 1 limb. Disability due to landmines accounted for 11.5 percent of persons with disabilities, while disability due to congenital problems and disease accounted for 53 percent. Programs administered by various NGOs brought about substantial improvements in the treatment and rehabilitation of persons who had lost limbs, 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 does not make any concerted effort to assist them in becoming more civically engaged. The Rehabilitation Department of the MOSAVY is responsible for making policy to protect the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The rights of minorities under the 1996 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 nation and culture. Some 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. In spite of the 2001 land law, which calls for the registration of communal lands of indigenous people, little has been done to implement communal land titling. NGOs have called for a moratorium on land sales and land concessions affecting indigenous communities.

International and local NGOs have been active in educating the indigenous communities about their land rights. In June a group of approximately 800 Phnong minorities protested against a company’s incursion on to their ancestral lands (see section 1.f.). NGOs organized regional and provincial workshops for the indigenous communities to discuss traditional methods of land management and land titling laws; however, there were reports that provincial authorities placed some restrictions on minority villagers traveling to attend workshops outside their provinces (see section 2.d.).

Other Societal Abuses and Discrimination.—Societal discrimination against those infected with HIV/AIDS remained a problem in rural areas; however, discrimination was moderated by HIV/AIDS awareness programs. There was no official discrimination against those infected with HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The labor law provides workers with the right to form professional organizations of their choosing without prior authorization, and all workers are free to join the trade union of their choice. However, the government’s enforcement of these rights was selective. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations, although a few unions attempted to intimidate workers who wanted to withdraw. Unions may affiliate freely, but the law does not address explicitly their right to affiliate internationally.

The law does not apply to civil servants, including teachers, judges, and military personnel, or to household servants. Personnel in the air and maritime transportation industries were not entitled to the full protections of the law but were free to form unions. The law applies to all local and foreign workers.

Most workers were subsistence rice farmers, and although there was an expanding service sector, most urban workers were engaged in small-scale commerce, self-employed skilled labor, or unskilled day labor. Only a small fraction (estimated at less than 1 percent) of the labor force was unionized, and the nascent trade union movement was very weak. Unions suffered from a lack of resources, training, and experience. Unions were concentrated in the garment and footwear industries, where approximately 40 to 50 percent of the 280 thousand workers were union members. The Cambodian Tourism and Service Workers Federation, formed in 2003, represented more than 3,700 hotel, casino, and airport workers.

Due to prohibitions against public sector employees forming unions, the Cambodia Independent Teachers Association (CITA) is registered as an “association” and represented 7,850 members in 18 provinces and municipalities. Local and provincial authorities, acting on the government’s orders, banned most of CITA’s activities. Another public sector association, the Cambodian Independent Civil Servants’ Association, was registered in January and represented more than 200 members from ministries, provincial departments, and commune councils throughout the country.

The law requires unions and employer organizations to file a charter and list of officers with the Ministry of Labor and Vocational Training (MOLVT). The MOLVT has registered 832 factory unions, 24 national labor federations, and 2 national confederations (alliances of several like-minded federations) since the law went into effect in 1997, including 202 unions, 5 federations, and 1 confederation during the year. There were no complaints that the government failed to register unions or

labor federations; however, some unions and federations complained of unnecessary delays and costs. Although all unions collected dues from members, none was able to operate without outside sources of financial support.

Of the 24 national labor federations, 15 were allied with the government, including 11 that were part of the progovernment Cambodian Confederation of Trade Unions (CCTU). The remaining nine federations were independent of government ties; many of them had pro-opposition leanings or support. There was credible evidence of management involvement in some labor unions. In some factories, management appeared to have established their own unions, supported promanagement unions, or compromised union leaders. Independent union leaders complained that the CCTU frequently intervened in the affairs of other unions, extorted money from management in exchange for discouraging workers from conducting legal strikes and demonstrations, and threatened rival union leaders. In December one union federation withdrew from the CCTU.

The government's enforcement of the right of association and freedom from antiunion discrimination was poor, and MOLVT was significantly less active than its pre-July 2004 predecessor, the Ministry of Social Affairs, Labor, Vocational Training, and Youth. The government's enforcement efforts were further hampered by a lack of political will and by confused financial and political relationships with employers and union leaders. The government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay staff adequate salaries. The MOLVT often decided in favor of employees but rarely used its legal authority to penalize employers who defied its orders.

During the year there were credible reports of antiunion harassment by employers, including the dismissal of union leaders, in 20 garment factories and other enterprises. Employers sometimes relied on the courts to dismiss or punish union leaders. In four cases, union leaders were charged with inciting workers to strike and destroying private property. On several occasions dismissed union leaders accepted cash settlements after unsuccessfully appealing to the government to enforce laws requiring their reinstatement. At other times the government upheld labor rights. For example, according to MOLVT statistics, the MOLVT fined 68 companies for law violations and sued 6 companies on behalf of workers during the year.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively, but the government's enforcement of these rights was inconsistent. Wages were set by market forces, except in the case of civil servants, whose wages were set by the government.

Since passage of the 1997 labor law, there has been confusion about the overlapping roles of labor unions and elected shop stewards. The law provides unions the right to negotiate with management over wages and working conditions and allows unions to nominate candidates for shop steward positions. The law provides shop stewards the right to represent the union and sign collective bargaining agreements; however, in practice most factories elected shop stewards before a union was present in the enterprise. Many unions had no legally enforceable right to negotiate with management if a nonunion shop steward had been elected. In addition the law specifically protects elected shop stewards from dismissal without permission from the MOLVT, but it grants no such protection to elected union leaders. In 2000 MOLVT issued a regulation that gave trade unions roles comparable to those of shop stewards and extended protection from dismissal to certain union officers within an enterprise; however, these protections for union leaders have not proved effective.

During the year there were 15 collective bargaining agreements registered with the MOLVT, most of which were conciliation agreements, which did not meet international collective bargaining standards. Only five genuine collective bargaining agreements existed within the garment industry. These agreements provided additional health and welfare provisions such as extra sick leave and maternity leave, factory clinic upgrades, and union-controlled welfare funds.

A 2001 regulation established procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The regulation also established requirements for employers and unions regarding collective bargaining and provided union leaders with additional protection from dismissal. The Bureau of Labor Relations facilitated the process of union registration and certification of "most representative status" for unions, a status that entitled a union representing an absolute majority of workers in a given enterprise to represent all of the workers in that establishment. The MOLVT granted most representative status to 23 unions. Other unions that have applied for this status but not received it complained of unnecessary bureaucratic delays.

The law provides for the right to strike and protects strikers from reprisal. The MOLVT reported that 67 strikes occurred during the year, most of which violated prestrike legal requirements. 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, and arbitration), a union organizing committee vote by secret ballot, and a seven-day advance notice to the employer and Ministry of Labor. Union leaders, in contrast, maintained that twice as many strikes had actually taken place, the majority of which were legal. Unions complained that a severe lack of MOLVT involvement led to a dramatic increase in industrial action from July 2004 until June.

The government allowed most strikes held at factories but denied worker requests to hold protest marches outside of the factory district. Police intervention at strikes generally was minimal and restrained, even in those cases where property damage occurred. Police presence at the few marches that occurred tended to be excessive and often included a specialized police intervention unit.

On January 20, police arrested two union leaders, including Chea Mony, president of the Free Trade Union of the Workers of the Kingdom of Cambodia, for illegally organizing a labor strike in Phnom Penh, which prompted an outcry from workers and human rights groups. The two men were released from police custody on the same day in exchange for promising to stop conducting illegal protests.

On February 15, anti-riot police fired assault rifles and used electric batons to break up a protest by approximately one thousand workers demanding redundancy payment from a garment factory that was closed. Observers estimated that 18 protesters were injured in the clash between workers and the police.

On May 11, three union leaders from the Federation Union of Solidarity were arrested on charges of extorting money from a garment factory. They were released a week after negotiations with a high-ranking government official; at year's end their case was pending in court.

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. In some cases strikers were pressured by employers to accept compensation and leave their employment.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including forced labor by children, but the government did not enforce its provisions adequately. Involuntary overtime remained widespread. Under the law, legal overtime work cannot exceed two hours daily and must be voluntary; however, in practice overtime was often extended beyond the legal limit, and employers used coercion to force employees to work. Workers often faced fines, dismissal, or loss of premium pay if they refused to work overtime.

There also were reports of isolated cases of forced labor by domestic servants.

Forced child labor was a serious problem in the commercial sex industry (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government has adopted laws to protect children from exploitation in the workplace. The labor 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.

In late August the National Assembly ratified ILO Convention 182 on the worst forms of child labor. The king signed it into law in October.

Law enforcement was often weak. No aspect of the law was adequately enforced in the formal employment sector, including the provisions against child labor. No employer has been prosecuted for violating laws against child labor. MOLVT has responsibility for child labor issues 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. Within the formal sector, labor inspectors conducted routine inspections of some industries, such as garment manufacturing (where the incidence of child labor is negligible), but in some industries with the highest child labor risk, labor inspections were entirely complaint-driven.

Of children between ages 5 and 17, 53 percent were employed; one-third of these children were above 14. Approximately 71 percent of them worked in agricultural, farming, or forestry activities; 21 percent in sales or service; and 7 percent in production work.

The constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry (see section 5). Law enforcement agencies failed to combat child prostitution in a sustained, consistent manner. Widespread corruption, lack of transparency, inadequate resources, and staffing shortages remained the most challenging obstacles.

e. Acceptable Conditions of Work.—The law requires the MOLVT to establish minimum wages based on recommendations from the Labor Advisory Committee, a

group that had not met since July 2004. By law the minimum wage may vary regionally. In 2000 the Labor Advisory Committee approved a minimum wage equivalent to \$45 per month, but this extended only to the garment and footwear industries. Most garment and footwear factories respected the minimum wage. There was no minimum wage for any other industry.

Garment workers earned an average wage equivalent to \$65 per month, including overtime and bonuses. Prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living. Civil service salaries also were insufficient to provide a decent standard of living, requiring government officials to secure outside sources of income, in many cases by obtaining second jobs or collecting bribes.

The law provides for a standard legal workweek of 48 hours, not to exceed 8 hours per day. The law stipulates time-and-a-half for overtime and double time if overtime occurs at night, on Sunday, or on a holiday; however, the government did not enforce these standards effectively. Workers in many garment factories reported that overtime was excessive or involuntary or that they were required to work seven days per week. Similarly, outside the garment industry, regulations on working hours were rarely enforced.

The law states that the workplace should have health and safety standards adequate to ensure workers' well-being. The government enforced existing standards selectively, in part because it lacked trained staff and equipment. 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. The government issued several instructions on workplace standards, and more detailed regulations awaited approval by the Labor Advisory Committee before they could be promulgated. Penalties are specified in the law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who removed themselves from unsafe working conditions risked loss of employment.

CHINA

The People's Republic of China (PRC) is an authoritarian state in which, as specified in its constitution, the Chinese Communist Party (CCP) is the paramount source of power. Party members hold almost all top government, police and military positions. Ultimate authority rests with the 24-member political bureau (Politburo) of the CCP and its 9-member standing committee. General Secretary Hu Jintao holds the three most powerful positions as CCP general secretary, president, and chairman of the Central Military Commission (CMC). The party's authority rested primarily on the government's ability to maintain social stability; appeals to nationalism and patriotism; party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, and the government continued to commit numerous and serious abuses. There was a trend towards increased harassment, detention, and imprisonment by government and security authorities of those perceived as threatening to government authority. The government also adopted measures to control more tightly print, broadcast and electronic media, and censored online content. Protests by those seeking to redress grievances increased significantly and were suppressed, at times violently, by security forces. There were notable developments in legal reforms during the year. However, some key measures to increase the authority of the judiciary and reduce the arbitrary power of police and security forces stalled. The government adopted new religious affairs regulations expanding legal protection for some activities of registered religious groups but was criticized for failing to protect unregistered groups.

The following human rights problems were reported:

- denial of the right to change the government
- physical abuse resulting in deaths in custody
- torture and coerced confessions of prisoners
- harassment, detention, and imprisonment of those perceived as threatening to party and government authority

- arbitrary arrest and detention, including nonjudicial administrative detention, reeducation-through-labor, psychiatric detention, and extended or incommunicado pretrial detention
- a politically controlled judiciary and a lack of due process in certain cases, especially those involving dissidents
- detention of political prisoners, including those convicted of disclosing state secrets and subversion, those convicted under the now-abolished crime of counterrevolution, and those jailed in connection with the 1989 Tiananmen demonstrations
- house arrest and other nonjudicially approved surveillance and detention of dissidents
- monitoring of citizens' mail, telephone and electronic communications
- use of a coercive birth limitation policy, in some cases resulting in forced abortion and sterilization
- increased restrictions on freedom of speech and the press; closure of newspapers and journals; banning of politically sensitive books, periodicals, and films; and jamming of some broadcast signals
- restrictions on the freedom of assembly, including detention and abuse of demonstrators and petitioners
- restrictions on religious freedom, control of religious groups, and harassment and detention of unregistered religious groups
- restrictions on the freedom of travel, especially for politically sensitive and underground religious figures
- forcible repatriation of North Koreans and inadequate protection of many refugees
- severe government corruption
- increased scrutiny, harassment and restrictions on independent domestic and foreign nongovernmental organization (NGO) operations
- trafficking in women and children
- societal discrimination against women, minorities, and persons with disabilities
- cultural and religious repression of minorities in Tibetan areas and Muslim areas of Xinjiang
- restriction of labor rights, including freedom of association, the right to organize and bargain collectively, and worker health and safety
- forced labor, including prison labor

There were several positive human rights developments during the year. The government returned authority to approve death sentences to the Supreme People's Court, supported local experiments to record police interrogation of suspects, and limited the administrative detention of minors, the elderly, pregnant women, and nursing mothers. In March government officials stated that family bible studies in private homes need not be registered with the government and said that the law permitted religious education of minors, but problems continued in both areas. The National People's Congress (NPC) adopted amendments to the law protecting women's rights and interests, including one outlawing sexual harassment. The government ratified International Labor Organization (ILO) Convention 111 prohibiting discrimination in employment. The government also hosted visits by international human rights monitors.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—During the year politically motivated and other arbitrary and unlawful killings occurred. While no official statistics on deaths in custody were available, state-run media reported that law enforcement officials killed 460 persons and seriously injured more than 100 through abuse or dereliction of duty in 2003.

In December police shot and killed at least three protesters in Dongzhou village, Guangdong Province, the first known shooting of public protesters by security forces since 1989. Villagers claimed that as many as 20 villagers were shot and killed by paramilitary riot police, with approximately 40 others missing. The government said the shooting occurred after protesters threw explosives at police and claimed that

three protesters were killed. It suspended an official responsible for the incident, pending an investigation.

An unconfirmed, published report said that authorities beat a petitioner to death in Beijing in April.

Trials involving capital offenses sometimes took place under circumstances involving severe lack of due process and with no meaningful appeal. Executions often took place on the day of conviction or failed appeal. In Xinjiang, executions of Uighurs whom authorities accused of separatism but which some observers claimed were politically motivated were reported (see section 5). The government regarded the number of death sentences it carried out as a state secret. However, in March 2004 an NPC deputy asserted that nearly 10 thousand cases per year “result in immediate execution,” a figure Supreme People’s Court (SPC) and Ministry of Justice officials stated was exaggerated. Foreign experts estimated that the country executed between 5 thousand and 12 thousand persons each year. The SPC announced its intention to take back from provincial courts the authority to approve all death sentences, an authority given to provinces during the government’s 1983 anticrime “strike hard” campaign. During the year judges were hired and an administrative division established to conduct reviews of death sentences, but the SPC had not yet begun exercising its authority (see section 1.e.). Media reports stated that approximately 10 percent of executions were for economic crimes, especially corruption. NPC officials insisted during the year that there were no plans to abolish the death penalty for economic crimes.

b. Disappearance.—The government used incommunicado detention. 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. Citizens who were reportedly detained with no or severely delayed notice included blind legal activist Chen Guangcheng, attorney Zhu Jiuju, petitioner advocate Hou Wenzhuo, and writer Yang Maodong (also known as Guo Feixiong). In 2004 Jiang Yanyong and his wife were detained and held incommunicado for several weeks in connection with a letter he wrote to government leaders asking for reconsideration of the 1989 Tiananmen massacre.

As of 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.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law forbids prison guards from extorting confessions by torture, insulting prisoners’ dignity, and beating or encouraging others to beat prisoners; however, police and other elements of the security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. Officials acknowledged that torture and coerced confessions were chronic problems and began a campaign aimed at curtailing these practices. Former detainees credibly reported that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse.

After a November visit, UN Special Rapporteur on Torture Manfred Nowak concluded that torture remained widespread, although the amount and severity decreased. He reported that beatings with fists, sticks, and electric batons were the most common tortures. Cigarette burns, guard-instructed beatings by fellow inmates, and submersion in water or sewage were also reported. Nowak further found that many detainees were held for long periods in extreme positions, that death row inmates were shackled or handcuffed 24 hours per day, and that systematic abuse was designed to break the will of detainees until they confessed. Procedural and substantive measures to prevent torture were inadequate. Nowak found that members of some house church groups, Falun Gong adherents, Tibetans, and Uighur prisoners were specific targets of torture. The government said Nowak’s preliminary report was inaccurate because he had visited only three Chinese cities (Beijing, Lhasa, and Urumqi) and urged him to revise conclusions in his final report.

Since the crackdown on Falun Gong began in 1999, estimates of Falun Gong adherents who died in custody due to torture, abuse, and neglect ranged from several hundred to a few thousand (see section 2.c.). In October Falun Gong adherents Liu Boyang and Wang Shouhui of Changchun, Jilin Province, reportedly died in custody after being tortured by police.

During the year police continued to use torture to coerce confessions from criminal suspects, although the government made efforts to address the problem of torture. A one-year campaign by the Supreme People’s Procuratorate (SPP) to punish officials who infringed on human rights, including coercing confessions through torture or illegally detaining or mistreating prisoners, ended in May. The campaign uncovered more than 3,700 cases of official abuse.

A series of wrongful convictions in murder cases came to light in which innocent persons were convicted on the basis of coerced confessions. Among them, Nie Shubin of Hebei Province, who was executed in 1995 for a murder-rape, was exonerated in January after the true killer confessed. She Xianglin of Hubei Province was exonerated in March of murdering his wife in 1994 after she reappeared alive and well. The SPP campaign resulted in the prosecution of 1,924 officers and 1,450 convictions. Among them, a Gansu Province police officer was sentenced to life in prison in January for torturing a suspect to death. In June three Yunnan Province police officers were sentenced to one year in prison for torturing a suspect and rendering him disabled. At the campaign's conclusion, the SPP announced that preventing coerced confessions was its most important supervisory priority. Scholars advocated reform of police interrogation practices. In one highly publicized experiment, officials ordered audio and videotaping of police interrogations. Suspects in a few locations were offered the opportunity to have a lawyer present during interrogation.

During the year there were reports of persons, including Falun Gong adherents, sentenced to psychiatric hospitals for expressing their political or religious beliefs (see section 1.d.). Some were reportedly forced to undergo electric shock treatments or forced to take psychotropic drugs.

Petitioners and other activists sentenced to administrative detention also reported being tortured. Such reports included being strapped to beds or other devices for days at a time, beaten, forcibly injected or fed medications, and denied food and use of toilet facilities. A petitioner reportedly choked to death from force-feeding in a police-run psychiatric hospital in Beijing, according to a released inmate. Mao Hengfeng, a Shanghai housing petitioner who reportedly suffered various forms of torture while in reeducation-through-labor, was released in September, but authorities continued to monitor and harass her.

Prison and Detention Center Conditions.—The Ministry of Justice administered more than 700 prisons with a population of over 1.5 million inmates, according to official statistics. In addition some 30 jails for juveniles housed approximately 22 thousand juvenile offenders. The country also operated hundreds of administrative detention centers, which were run by security ministries and administered separately from the formal court system (see section 2.d.).

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and frequently degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation. Prison capacity became an increasing problem in some areas. Food often was inadequate and of poor quality, and many detainees relied on supplemental food and medicines provided by relatives; some prominent dissidents were not allowed to receive such goods. Political prisoners were segregated from each other and placed with common criminals, who sometimes beat political prisoners at the instigation of guards. Newly arrived prisoners or those who refused to acknowledge committing crimes were particularly vulnerable to beatings. In January 2004 political dissident He Depu was reportedly beaten by guards at Beijing No. 2 Prison and made deaf in one ear. Authorities acknowledged He's deafness, but asserted that he was already deaf when he entered prison. Prolonged use of electric shocks and use of a rack-like disciplinary bed were reported. Inner Mongolian cultural activist Hada was among those reportedly tortured. Chinese prison management forced prisoners to engage in labor, both as punishment and a source of funding (see section 6.c.).

Officials confirmed that executed prisoners were among the sources of organs for transplant. No national law governed organ donations nor were there reliable statistics on how many organ transplants using organs from executed prisoners occurred, but a Ministry of Health directive explicitly states that buying and selling human organs and tissues is not allowed. Transplant doctors stated publicly in 2003 that "the main source [of organ donations] is voluntary donations from condemned prisoners," but serious questions remained concerning whether meaningful or voluntary consent from the prisoners or their relatives was obtained.

Adequate, timely medical care for prisoners continued to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment. Labor activist Yao Fuxin suffered a heart attack in prison in August and foreign residents Yang Jianli and Wang Bingzhang previously suffered strokes in prison. In all three cases, authorities rejected their requests for outside medical care. Yao and fellow labor activist Xiao Yunliang also had to withstand frequent prison transfers while in ill health.

According to an NGO report, the government recently confirmed that Abidjan Obulkasim, a Uighur student imprisoned in 1995 on charges of counterrevolutionary activities, died in prison in 2003 of tuberculosis. Other prisoners with health concerns included democracy activists Qin Yongmin, Hua Di, Wang Sen, and He Depu; Internet writers Yang Zili and Luo Yongzhang; labor activists Hu Shigen and Zhang

Shanguang; Inner Mongolian activist Hada; and religious prisoners Zhang Rongliang, Liu Fenggang, Xu Yonghai, Gong Shengliang, Bishop Su Zhimin, and other underground Catholic bishops. During the year some political prisoners went on hunger strikes to protest their treatment, including Shandong Province legal advocate Chen Guangcheng, Anhui Province democracy activist Zhang Lin, and writer Yang Maodong (Guo Feixiong).

Acknowledging guilt was a precondition for receiving certain prison privileges, including the ability to purchase outside food, make telephone calls, and receive family visits. Prison officials often denied privileges to those, including political prisoners, who refused to acknowledge guilt or obey other prison rules. After foreign resident Yang Jianli refused to wear his prison uniform and engaged in acts of civil disobedience, prison staff prohibited him from communicating with his lawyer, obstructed family visits, transferred him to another facility, and reportedly placed him on an abusive labor team. Foreign citizen and Falun Gong member Charles Lee staged a hunger strike to protest forced "reeducation" sessions he received in prison, where he remained at year's end. Some prominent political prisoners, however, received better than standard treatment.

Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons. Beating deaths occurred in administrative detention and reeducation-through-labor facilities. While the 2003 death of Sun Zhigang in a custody-and-repatriation camp for illegal migrants led the State Council to abolish that system, the government failed to enact proposed legislation to reform the system of reeducation-through-labor. The reform reportedly stalled because of objections from public security forces.

Sexual and physical abuse and extortion were reported in some detention centers. Falun Gong activists reported that police raped female practitioners, including an incident in November at the Dongchengfang police station in Tunzhou City, Hebei Province, in which two women were raped while in detention. Forced labor in prisons and reeducation-through-labor camps was common. Juveniles were required by law to be held separately from adults, unless facilities were insufficient. In practice, children sometimes were detained without their parents, held with adults, and required to work (see sections 1.d. and 6.c.).

The government generally did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to most international human rights organizations. However, the government hosted visits by the UN high commissioner for human rights and the UN special rapporteur for torture and permitted them to visit prisons (see section 4). In July the government and the International Committee of the Red Cross (ICRC) agreed to terms permitting the ICRC to open an office in Beijing. The office opened, although the agreement did not grant the ICRC access to prisons. Working-level meetings with foreign government officials on a prison labor memorandum of understanding continued during the year and included a few prison visits (see section 6.c.).

d. Arbitrary Arrest or Detention.—Arbitrary arrest and detention remained serious problems. The law permits police and security authorities to detain persons without arresting or charging them. It also permits sentencing without trial to as many as four years in reeducation-through-labor camps and other administrative detention. Because the government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to new or continued arbitrary arrest or detention. According to 2003 government statistics, more than 260 thousand persons were in reeducation-through-labor camps. Foreign experts estimated that more than 310 thousand persons were serving sentences in these camps in 2003. According to published SPP reports, the country's 340 reeducation-through-labor facilities had a total capacity of about 300 thousand persons. In addition the population of special administrative detention facilities for drug offenders and prostitutes grew rapidly following a campaign to crack down on drugs and prostitution. In 2004 these facilities held more than 350 thousand offenders, nearly three times as many as in 2002. The government also confined some Falun Gong adherents, petitioners, labor activists, and others to psychiatric hospitals.

Among those specially targeted for arbitrary detention or arrested during the year were current and former China Democracy Party activists, Falun Gong practitioners, domestic and foreign journalists, unregistered religious figures, and former political prisoners and their family members. Business associates of released Uighur political prisoner Rebiya Kadeer were detained in Xinjiang from May to December. Her relatives were also harassed on several occasions after her March release abroad (see sections 2.c. and 5).

Role of the Police and Security Apparatus.—The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police,

the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. The Ministries of State and Public Security were responsible for internal security. SPP and SPC officials admitted that courts and prosecutors often deferred to the security ministries on policy matters and individual cases. The PLA was responsible for external security, but also had some domestic security responsibilities.

The Ministry of Public Security (MPS) coordinates the country's law enforcement, which is administratively organized into local, county, provincial, and specialized police agencies. Recent efforts have been made to strengthen historically weak regulation and management of law enforcement agencies; however, judicial oversight was limited, and checks and balances were absent. Corruption at the local level was widespread. Police officers reportedly coerced victims, took individuals into custody without due cause, arbitrarily collected fees from individuals charged with crimes, and mentally and physically abused victims and perpetrators.

Arrest and Detention.—Extended, unlawful detention remained a problem, although the government claimed to have eliminated it. In March both the SPP and the SPC told the NPC that they had resolved all cases of extended, unlawful detention. Nonetheless, a number of politically sensitive individuals were held for periods longer than that authorized by law, including journalists Zhao Yan and Ching Cheong. In some cases, investigating security agents or prosecutors sought repeated extensions, resulting in pretrial detention of a year or longer. It was uncertain how many other prisoners were similarly detained.

According to the law, police may unilaterally detain a person for up to 37 days before releasing him or formally placing him under arrest. After a suspect is arrested, the law allows police and prosecutors to detain him for up to six and one-half months before trial while the case is further investigated. Dissident Yang Jianli was held without conviction for more than two years before his verdict and five-year sentence was announced in May 2004.

The law stipulates that authorities must notify a detainee's family or work unit of his detention within 24 hours. However, failure to provide timely notification remained a serious problem, particularly in sensitive political cases (see section 1.b.). Under a sweeping exception, officials are not required to provide notification if doing so would "hinder the investigation" of a case. In some cases police treated those with no immediate family more severely.

According to regulations, public security organs had broad discretion to detain administratively suspects without supervision from a court or other outside bodies for up to 15 days, with the possibility of consecutive detention periods of up to 45 days. During the year the NPC passed the Security Administration Punishments Law, which banned administrative detention of minors, the elderly, pregnant women, and nursing mothers, created a maximum time for interrogation, and revised the maximum period of this type of detention to 20 days. The law provided for administrative review of detention decisions. It also expanded the number and type of offenses subject to administrative detention to include illegal demonstrations, disturbing social order in the name of religion, invasion of privacy, and publication that incites ethnic or national hostility or discrimination. Police continued to hold individuals without granting access to family members or lawyers, and some trials continued to be conducted in secret. Detained criminal suspects, defendants, their legal representatives, and close relatives were entitled to apply for bail; however, in practice few suspects were released pending trial.

The reeducation-through-labor system allows non-judicial panels of police and local authorities, called Labor Reeducation Committees, to sentence persons to up to three years in prison-like facilities. The committees have authority to extend an inmate's sentence for an additional year. Defendants were legally entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law through the court system (see section 1.e.). They could appeal for a reduction in, or suspension of, their sentences; however, appeals rarely were successful. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for prostitutes and those soliciting prostitutes) and "custody and training" (for minors who committed crimes). Li Guoqing was detained for three months in a mandatory drug rehabilitation center in Pingdingshan, Henan Province. Published reports said Li was given electric shocks until he signed a confession saying he took drugs and was then incarcerated at the center. Medical tests taken after his release supported his claim that he had never used drugs. A special form of reeducation centers was used to detain Falun Gong practitioners who had completed terms in reeducation-through-labor but whom authorities decided to continue detaining.

According to foreign researchers, the country had 20 *ankang* institutions (high-security psychiatric hospitals for the criminally insane) directly administered by the Ministry of Public Security. Some dissidents, persistent petitioners, and others were

housed with mentally ill patients in these institutions. Patients in these hospitals were reportedly given medicine against their will and forcibly subjected to electric shock treatment. The regulations for committing a person into an anfang psychiatric facility were not clear. Credible reports indicated that a number of political and trade union activists, underground religious believers, persons who repeatedly petitioned the government, members of the banned China Democratic Party, and Falun Gong adherents were incarcerated in such facilities during the year. These included Wang Miaogen, Wang Chanhao, Pan Zhiming, and Li Da, who were reportedly held in an anfang facility run by the Shanghai Public Security Bureau. In August Wang Wanxing, who unfurled a banner in Tiananmen Square on the third anniversary of the 1989 massacre, was released from a Beijing anfang run by the Ministry of Public Security and sent abroad. After his release, he described conditions in the anfang as “basically sadistic” and said he witnessed a petitioner held in the facility who choked to death from force-feeding.

In 2004 the government attempted to resolve a motion that would have expelled China from the World Psychiatric Association (WPA) for using psychiatric facilities to incarcerate political prisoners. During the year, a WPA delegation visited the country without reaching a consensus.

Administrative detention was frequently used as a vehicle to intimidate political activists and prevent public demonstrations (see section 2.b.).

Authorities arrested persons on charges of revealing state secrets, subversion, and common crimes to suppress political dissent and social advocacy. Citizens also were detained and prosecuted under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, and government activity. The number of persons executed each year has been deemed by the government to be a state secret. Information could retroactively be classified a state secret by the government. Approximately 10 citizens writing on the Internet were detained on state secrets and subversion charges during the year (see section 2.a.).

The government used house arrest as a nonjudicial punishment and control measure against dissidents, released political prisoners, family members of political prisoners, petitioners, underground religious figures, and others it deemed politically sensitive or troublemakers. House arrest was characterized by complete isolation in one’s own home or another location under lock and guard. In some cases house arrest involved constant monitoring, but the target of house arrest was occasionally permitted to leave the home to work or conduct errands. When outside the home, the subject of house arrest was usually, but not always, under surveillance. No publicly available laws or regulations governed conditions for house arrest.

Former senior leader Zhao Ziyang died in January after spending more than 15 years under house arrest in Beijing for his support of students during Tiananmen in 1989. Zhao’s former aide Bao Tong remained under similar surveillance in his home. In March Jiang Yanyong was released after spending more than eight months in house arrest because he wrote to government leaders in 2004 requesting an official reassessment of the 1989 crackdown. He was formally detained for two months in June 2004 and was monitored in his home after release. His wife, who was detained at the same time as Jiang, was released earlier but forbidden to travel abroad until mid-year. At year’s end Jiang remained unable to travel abroad. In September blind legal advisor and family planning whistleblower Chen Guangcheng was released by security authorities after four days of formal detention, but he was immediately placed under house arrest in Yinan County, Shandong Province. Local police and other government officials took turns monitoring him. Several underground Catholic priests and bishops were under house arrest for varying periods during the year. The longest serving among them may be Bishop Su Zhimin, who has reportedly been detained in a form of house arrest in Baoding, Hebei Province, since 1997. Government officials claimed they took no coercive actions against him (see section 2.c.). Tibetan nun Phuntsog Nyidrol remained under constant surveillance and could not travel freely despite expiration of her parole in February (see Tibet addendum).

Scores of other dissidents and activists reported regularly being placed under house arrest during sensitive political events, such as the NPC session or visits by foreign dignitaries, including the visit of the UN high commissioner for human rights in August and the November visit of the UN special rapporteur on torture. Authorities in Xinjiang used house arrest and other forms of arbitrary detention against those accused of the “three evils” of extremism, splittism, and terrorism, including at the time of Xinjiang’s 50th anniversary celebration in October. Because authorities failed to distinguish carefully between peaceful activities supporting independence, “illegal” religious activities, and violent terrorism, it was difficult to determine whether raids, detentions, arrests, or judicial punishments were targeted at those peacefully seeking political goals, those seeking worship, or those engaged

in violence (see section 5). Others held under house arrest for varying periods during the year included Tiananmen activist Qi Zhiyou, Internet writer Liu Di, underground Catholic bishops Jia Zhiguo and Wei Jingyi, members of the Tiananmen Mothers organization and the Independent PEN Center for Freedom to Write. Family members of some detained political prisoners reported being under house arrest or other surveillance for nearly one-third of the year.

The CCP used a form of discipline known as *shuang gui* for violations of CPC discipline, but there were reports of its use against nonparty members. *Shuang gui* is similar to house arrest and can be authorized without judicial involvement or oversight.

e. Denial of Fair Public Trial.—The law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice the judiciary was not independent. It received policy guidance from both the government and the CCP, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the government frequently interfered in the judicial system and dictated court decisions. Trial judges decide individual cases under the direction of the trial committee in each court. In addition the CCP's law and politics committee, which include representatives of the police, security, procuratorate, and courts, had the authority to review and influence court operations at all levels of the judiciary; in some cases the committee altered decisions. Party and political leaders were known to instruct courts and judges on the handling of individual cases. People's congresses also had authority to alter court decisions, but this happened rarely. Corruption often influenced judicial decision-making and safeguards against corruption were vague and poorly enforced (see section 3). The people's congresses appointed judges at the corresponding level of the judicial structure. Judges received their court finances and salaries from those government bodies and could be replaced by them. This sometimes resulted in local authorities exerting undue influence over the judges they appointed and financed.

The SPC is the highest court, followed in descending order by the higher, intermediate, and basic people's courts. These courts handle criminal, civil, and administrative cases, including appeals of decisions by police and security officials to use reeducation through labor and other forms of administrative detention. There were special courts for handling military, maritime, and railway transport cases.

Trial Procedures.—Trials took place before a judge, who was often accompanied by "people's assessors," lay persons hired by the court to assist in decision-making. According to law, people's assessors had authority similar to judges, but in practice they deferred to judges and did not exercise an independent jury-like function.

There was no adversary system, no presumption of innocence, and judges and prosecutors typically used an inquisitorial style of questioning the defendant, who was often the only witness. The law affords no right to remain silent, no protection against double jeopardy, and no law governing the type of evidence that may be introduced.

The mechanism that allows defendants to confront their accusers was inadequate; according to one expert, only 1 to 5 percent of trials involved witnesses. Accordingly, most criminal trials consisted of the prosecutor reading statements of witnesses who neither the defendant nor his lawyer had an opportunity to question. Defense attorneys had no authority to compel witnesses to testify or to mandate discovery, although they could apply for access to government-held evidence relevant to their case. In practice, pretrial access to information was minimal and the defense often lacked adequate opportunity to prepare for trial.

The law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation, although police often circumvented defendants' right to seek counsel. Individuals who faced administrative detention were not granted the right to seek legal counsel. Government-employed lawyers were often reluctant to represent defendants in politically sensitive cases and defendants frequently found it difficult to find an attorney. In some sensitive cases, lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to speak during trials. In practice criminal defendants often were not assigned an attorney until a case was brought to court. Even in nonsensitive criminal trials, only one of every seven defendants had legal representation, according to credible reports citing internal government statistics.

Although the government did not publish a conviction rate, more than 98 percent of defendants whose cases were closed in 2004 were sentenced to criminal punishment; less than 0.5 percent of all defendants were found not guilty. In many politically sensitive trials, which rarely lasted more than several hours, the courts hand-

ed down guilty verdicts immediately following proceedings. Defendants who refused to acknowledge guilt often received harsher sentences than those who confessed. There was an appeals process, but appeals rarely resulted in reversed verdicts. Appeals processes failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. Nationwide, original verdicts were changed on appeal in only 0.34 percent of all cases, including capital cases.

SPC regulations require all trials to be open to the public, with certain exceptions, such as cases involving state secrets, privacy, and minors. The legal exception for cases involving state secrets was used to keep politically sensitive proceedings closed to the public and in some cases even to family members. Under the regulations, foreigners with valid identification are allowed the same access to trials as citizens, but in practice foreigners were permitted to attend court proceedings by invitation only. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as "state secret" cases, fill all available seats with security officials, or otherwise close them to the public. Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

The government still had not implemented recommendations from the UN Working Group on Arbitrary Detention's 1997 visit, and the issues identified in 1997 continued to be serious problems. First, the law lacks a presumption of innocence until proven guilty. Second, it fails to define "endangering national security," so overly broad prosecutions could and did occur. Third, the law includes no protection for those peacefully exercising rights protected by the Universal Declaration of Human Rights. Fourth, there is no real judicial control of the reeducation-through-labor system. During a return 2004 visit, the Working Group noted that the government announced plans to address deficiencies in reeducation through labor and regulate the use of psychiatric institutions in administrative detention through legislation, but there was no action on such legislation during the year.

The government offered limited legal aid and reduced fees for poor litigants. According to the Ministry of Justice, during the year 433,965 litigants in 253,665 cases received legal aid, up 48 percent and 33 percent, respectively, from the previous year. The four thousand government lawyers providing legal aid remained inadequate to meet demand. Nonattorney legal advisors and government employees provided the only legal aid options in many areas. According to government statistics, 10,458 employees provided legal aid at 3,023 legal aid institutions. New regulations required law firms and private attorneys to provide some legal aid. Criminal and administrative cases remained eligible for legal aid, although the vast majority of defendants still went to trial without a lawyer. During 2004 courts waived over \$130 million (RMB 1.09 billion) in litigation costs.

Police and prosecutorial officials often ignored the due process provisions of the law. The lack of due process was particularly egregious in death penalty cases. There were over 60 capital offenses, including nonviolent financial crimes such as counterfeiting currency, embezzlement, and corruption. Executions were often carried out on the date of conviction. The SPC reported that in 2004 it reviewed 400 serious criminal cases, including capital cases, and began the process of taking back from provincial courts the authority to approve all death sentences to ensure that more uniform standards were used (see section 1.a.). From 2003 to October, the SPC rejected 7.2 percent of death sentences it reviewed and changed 22 percent of death penalty verdicts to life imprisonment. The government regarded the number of death sentences it carried out as a state secret. Minors and pregnant women were expressly exempt from the death sentence, although in the past the government executed a few criminals who were under age 18 at the time they committed an offense.

During the year lawyers, law professors, legal journals, and jurists held seminars and publicly debated systemic legal reform.

Courts lacked the independence and authority to rule on the constitutionality of laws. In December a law was enacted permitting any organization or individual to question laws and regulations they believe contradict the constitution. Under the new law, a constitutional challenge first requires consultation with the body drafting the questioned regulation and allows only an appeal to the NPC. During the year lawyers saw little opportunity to use the constitution in litigation.

Some lawyers who tried to defend their clients aggressively faced serious intimidation and abuse by police and prosecutors, and some were detained. According to Article 306 of the Criminal Law, defense attorneys can be held responsible if their clients commit perjury, and prosecutors and judges have wide discretion in determining what constitutes perjury. According to the All-China Lawyers Association, since 1997 more than 500 defense attorneys have been detained under Article 306 and similar charges. Although over 80 percent were ultimately acquitted, the prosecutions had a chilling effect on attorneys' willingness to handle controversial de-

fense cases. In 1990 Beijing attorneys handled an annual average of 2.64 criminal cases; by 2000, the figure had dropped to 0.78. Nationwide, attorneys handled an average of only 0.72 criminal cases in 2004.

Harassment and detention of defense attorneys continued during the year. In February, Shanghai defense attorney Guo Guoting had his law license suspended and ultimately fled the country. His suspension came only days before the trial of journalist Shi Tao, whom Guo had agreed to defend against charges of leaking state secrets (see section 2.a.). The attorney who replaced Guo handling Shi's defense was unwilling to enter a not guilty plea on Shi's behalf. Guo previously defended several controversial clients, including forced eviction victims in Shanghai and their legal advisor Zheng Enchong. Zheng was sentenced in 2003 to three years' imprisonment for providing state secrets to overseas entities. After Zheng won a human rights award from the German Association of Judges in December, security officials harassed those who represented Zheng at the awards ceremony and prevented his wife from visiting him in prison.

In May Beijing attorney Zhu Jiuwu was detained in Shaanxi Province and held for four months after meeting with clients protesting land seizures involving private oil fields. Zhu was charged with unlawful assembly based on a meeting he had with his clients (see section 2.b.). The Beijing Bar Association made several unsuccessful attempts to secure Zhu's release, and attorneys hired by the bar association were refused access to him on several occasions. One of the attorneys defending Zhu, Gao Zhisheng, had his law license suspended later in the year. Zhu was released in September, but several of his clients remained detained. Among those clients, the leading organizer of the oil field protests, Feng Bingxian, was tried in December for instigating "mass social disorder" and sentenced to three years' imprisonment. The chief prosecutor at Feng's trial was part of a government working group investigating the seizure of the private oil fields and had been sued by Feng in a civil lawsuit. The prosecutor refused to stand down amid charges of conflict of interest.

In September blind legal activist Chen Guangcheng, who publicized family planning (see section 1.f.) and other abuses by local officials in Linyi City, Shandong Province, was detained in Beijing and held for four days before being forced to return to Shandong and placed under house arrest. Local officials physically abused Chen on several occasions after he tried to file lawsuits objecting to the abuses by local officials, including those involving family planning and police abuse of power. Attorneys and law professors who rallied to defend Chen were threatened with retaliation, including dismissal from university posts. In October local authorities and hired thugs beat attorneys Xu Zhiyong and Li Fanping when they tried to meet Chen at his home. Other attorneys attempting to appear in court on lawsuits Chen initiated were detained and forced to leave town. Chen remained under a form of house arrest at year's end, and the central government took no action.

In September authorities detained writer Guo Feixiong, an employee of the Gao Zhisheng law firm, as he was helping villagers attempt to recall the elected village head of Taishi, Guangdong Province. He was charged with gathering a crowd to disturb social order and held until December 29 (see section 2.b.). In December two attorneys assisting the Taishi villagers, Guo Yan and Tang Jingling, were fired by their law firms, allegedly due to government pressure.

In November the Beijing justice department closed the law firm of defense attorney Gao Zhisheng and suspended his license for one year. Authorities claimed Gao's suspension was due to his refusal to retract an open letter he wrote to Hu Jintao in October condemning abuse of Falun Gong practitioners. He was suspended shortly before the sentencing of another controversial client, house Christian pastor Cai Zhuohua (see section 2.c.). After Gao continued to fight his suspension, security officials rammed his car and threatened his life. Gao was detained, questioned, and released on several occasions.

Political Prisoners.—Government officials continued to deny holding any political prisoners, asserting that authorities detained persons not for their political or religious views, but because they violated the law; however, the authorities continued to confine citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in reeducation-through-labor camps and other forms of administrative detention. The government did not grant international humanitarian organizations access to political prisoners.

Western NGOs estimated that approximately 500 persons remained in prison for the repealed crime of "counterrevolution," and thousands of others were serving sentences under the state security law, which Chinese authorities stated covers crimes similar to counterrevolution. Persons detained for counterrevolutionary offenses included labor activist Hu Shigen; Inner Mongolian activist Hada; and dissidents Yu Dongyue, Zhang Jingsheng, and Sun Xiongying. Foreign governments urged the

government to review the cases of those charged before 1997 with counterrevolution and to release those who had been jailed for nonviolent offenses under the old statute. During the year the government held expert-level discussions with foreign officials on conducting such a review, but no formal review was initiated. However, a number of "counterrevolutionary" prisoners were released during the year, some after receiving sentence reductions. Editor Chen Yanbin, who received a sentence reduction several years ago, was released on April 12 after spending more than 14 years in prison. The government maintained that counterrevolutionary prisoners were eligible for parole and early release on an equal basis with other non-counterrevolutionary prisoners but provided no evidence to support this assertion.

The reeducation-through-labor system allows nonjudicial panels of police and local authorities, called labor reeducation committees, to sentence persons to up to three years in prison-like facilities. The committees can also extend an inmate's sentence for an additional year. Defendants were legally entitled to challenge reeducation-through-labor sentences. They could appeal for a reduction in, or suspension of, their sentences; however, appeals rarely were successful. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for prostitutes and their clients) and "custody and training" (for minors who committed crimes). Li Guoqing was detained for three months in a forced drug rehabilitation center in Pingdingshan, Henan Province. Published reports said Li was given electric shocks until he signed a confession saying he took drugs and was then incarcerated at the center. A special form of reeducation center was used to detain Falun Gong practitioners who had completed terms in reeducation through labor, but whom authorities decided to continue detaining.

Amnesty International has identified more than 80 persons by name all of who remained imprisoned or on medical parole for their participation in the 1989 Tiananmen demonstrations; other NGOs estimated that as many as 200 persons remained in prison for political activities connected to the demonstrations.

The authorities granted early release from prison to Uighur businesswoman Rebiya Kadeer in March. Many others, including journalists Zhao Yan, Shi Tao and Jiang Weiping; Internet writers Yang Zili and Xu Wei; labor activists Yao Fuxin and Xiao Yunliang; China Democracy Party cofounder Qin Yongmin; political dissident Yang Jianli; family planning whistleblower Chen Guangcheng; Su Zhimin and other underground Catholic Bishops; house Christian activists Zhang Rongliang, Cai Zhuohua, Liu Fenggang and Xu Yonghai; Uighurs Tohti Tunyaz and Dilke Tilivaldi; Tibetans Jigme Gyatso, Tenzin Deleg, and Gendun Choekyi Nyima; and Inner Mongolian cultural activist Hada remained imprisoned or under other forms of detention during the year. Political prisoners generally benefited from parole and sentence reduction at significantly lower rates than ordinary prisoners.

Criminal punishments could include "deprivation of political rights" for a fixed period after release from prison, during which the individual is denied the already limited rights of free speech and association granted to other citizens. Former prisoners also sometimes found their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and some encountered difficulty in obtaining or keeping employment and housing (see section 1.f.).

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, the authorities often did not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored; moreover, the Public Security Bureau and the Procuratorate could issue search warrants on their own authority without judicial consent, review, or consideration. Cases of forced entry by police officers continued to be reported.

During the year authorities monitored telephone conversations, facsimile transmissions, e-mail, text messaging, and Internet communications. Authorities also opened and censored domestic and international mail. The security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines. All major hotels had a sizable internal security presence, and hotel guestrooms were sometimes bugged and searched for sensitive or proprietary materials.

Some citizens were under heavy surveillance and routinely had their telephone calls monitored or telephone service disrupted. The authorities frequently warned dissidents and activists, underground religious figures, former political prisoners, and others whom the government considered to be troublemakers not to meet with foreigners. During the year police ordered many such citizens not to meet with for-

eign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or party meetings, and during the visits of high-level foreign officials. Security personnel also harassed and detained the family members of political prisoners, including following them to meetings with foreign reporters and diplomats, and urging them to remain silent about the cases of their relatives. Family members of prisoners were discouraged or prevented from meeting with the UN special rapporteur for torture.

Forced relocation because of urban development continued, and in some locations, increased during the year. Protests over relocation terms or compensation, some of which included thousands of participants, were common, and some protest leaders were prosecuted during the year (see sections 2.b. and 3). Some evictions in Beijing were linked to construction for the 2008 Olympics. In rural areas, relocation for major state projects, such as dams, and for commercial development resulted in the forced relocation of millions of persons.

The country's birth planning policies retained harshly coercive elements in law and practice. The laws restrict the rights of families to choose the number of children they have and the period of time between births. The penalties for violating the law are strict, leaving some women little choice but to abort pregnancies. In addition implementation of the policy by local officials resulted in serious violations of human rights. Reports of forced sterilizations and abortions, in violation of the national law, continued to be documented in rural areas.

The law standardizes the implementation of the government's birth limitation policies; however, enforcement varied significantly from place to place. 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. Many provincial regulations require women to wait four years or more after their first birth before making such an application. According to the UN Population Fund (UNFPA), the spacing requirement was removed in 5 and relaxed in 10 of the 30 counties across 30 provinces participating in UNFPA's "Fifth Country Program." The law requires couples that have an unapproved child to pay a "social compensation fee," which sometimes reached 10 times a person's annual income, and grants preferential treatment to couples who abide by the birth limits. Although the law states that officials should not violate citizens' rights, these rights, as well as penalties for violating them, are not clearly defined. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

Social compensation fees are set and assessed at the local level. The law requires family planning officials to obtain court approval before taking "forcible" action, such as confiscation of property, against families who refuse to pay social compensation fees. However, in practice this requirement was not always followed.

The one-child limit was more strictly applied in the cities, where only couples meeting certain conditions (e.g., both parents are only children) were permitted to have a second child. In most rural areas (including towns of under 200 thousand persons), which included approximately two-thirds of the country's population, the policy was more relaxed, generally allowing couples to have a second child if the first was a girl or had a disability. Central government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization, although reports of physical coercion to meet birth targets continued.

Provinces have responsibility to enforce the law through the implementation of regulations. All provincial-level governments except the Tibet Autonomous Region (TAR) have amended their regulations to conform to the new law. For example, Anhui Province passed a law permitting 13 categories of couples, including coal miners, some remarried divorcees, and some farm couples, to have a second child. Ethnic minorities like the Uighurs and the Tibetans are also allowed more than one child.

Seven provinces—Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin and Ningxia—require "termination of pregnancy" if the pregnancy violates provincial family planning regulations. An additional 10 provinces—Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi and Yunnan—require unspecified "remedial measures" to deal with out-of-plan pregnancies.

In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to have a child. Social compensation fees have been levied on unwed mothers.

The country's population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. Psychological and economic pressures were very common. According to provincial regulations, the fees ranged from one-

half to 10 times the average worker's annual disposable income. Those who violated the child limit policy by having an unapproved child or helping another to do so faced disciplinary measures such as job loss or demotion, loss of promotion opportunity, expulsion from the party (membership in which was an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of property. In the case of families that already had two children, one parent was often pressured to undergo sterilization. These penalties sometimes left women with little practical choice but to undergo abortion or sterilization. There were several rewards for couples who adhered to birth limitation laws and policies, including monthly stipends and preferential medical and educational benefits. The National Population and Family Planning Commission (NPFPC) expanded a number of programs to encourage smaller families. For example, new pension benefits were made available nationwide for those who adhered to birth limitation laws.

The law states that Family Planning Bureaus will conduct pregnancy tests on married women and provide them with unspecified "follow-up" services. Some provincial regulations provide for fines if women do not undergo periodic pregnancy tests. For example, in Hebei the range was \$25 to \$62 (RMB 200 to 500), and in Henan it was \$6 to \$62 (RMB 50 to 500).

Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. There continued to be sporadic reports of violations of citizens' rights by local officials attempting to reduce the number of births in their region. The most egregious reports occurred in Linyi, Shandong Province. International press reports alleged that some 130 thousand persons were detained by local officials in "population schools" to force them or their relatives to submit to abortions or sterilization procedures. Local officials profited from this illegal system by charging fees, according to media reports. At least seven thousand people were forcibly sterilized. Local rights activists documented several cases of forced late-term abortions. According to law, citizens may sue officials who exceed their authority in implementing birth-planning policy. Legal activist Chen Guangcheng remained under investigation and house arrest as a result of his work exposing the abuses in Linyi (see section 1.e.). Use of population schools as detention centers was reported in 2004 in Anhui Province.

A subsequent NPFPC investigation revealed that local officials in Linyi had violated the law. Some officials were removed from office. The NPFPC announced it would take steps to enhance the rule of law and safeguard the rights of citizens. However, promotions for local officials still depended in part on meeting population targets.

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations with the traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate these pregnancies (see section 5). The most recent official figures put the overall male to female sex ratio at birth at 116.9 to 100 (compared with the statistical norm of 106 to 100), and in some parts of the country, the ratio was even more skewed. For second births, the national ratio was 151.9 to 100. During the year the NPFPC expanded programs to raise awareness of the sex ratio imbalance and to improve protection of the rights of girls.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, although the government generally did not respect these rights in practice. The government interpreted the CCP's "leading role," as mandated in the constitution, as circumscribing these rights. The government continued to threaten, arrest, and imprison many individuals for exercising rights to free expression. Internet essayists and journalists in particular were targeted, including Hunan writer Shi Tao and *New York Times* employee Zhao Yan. The government continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. Such controls tightened during the year, and new regulations made it increasingly difficult to express views that differed from those authorized by the government on the Internet, through broadcast media and in print. Media outlets received regular guidance from the Central Propaganda Department listing topics that should not be covered, including politically sensitive topics. All media employees were under explicit orders to follow CCP directives and guide public opinion. These measures greatly restricted the freedom of journalists and Internet writers to report the news and led to a high degree of self-censorship.

The scope of permissible private speech continued to expand. Political topics could be discussed privately and in small groups without punishment, and minor criticisms of the government were common topics of daily speech. So long as the speaker

did not publish views that challenged the Communist Party or disseminate such views to overseas audiences, the range of permissible topics for private speech continued to grow. However, public speeches, academic discussions, and speeches at meetings or in public forums covered by the media remained circumscribed. Those who aired views that disagreed with the government's position on controversial topics risked punishment ranging from disciplinary action at government work units to police interrogation and detention. These restrictions and more formal restrictions on freedom of the press and academic freedom had a chilling effect on freedom of speech.

Some citizens continued to speak out and publish on controversial topics, despite the government's restrictions. For example, Ding Zilin and other family members of those killed or missing at the 1989 Tiananmen demonstration wrote an open letter to legislators seeking an official reassessment of the verdict condemning the protests, including rehabilitation of recently deceased former Party Secretary Zhao Ziyang. Guangzhou Professor Ai Xiaoming wrote an open letter to Hu Jintao protesting the beating of villagers, including the elderly, in Taishi, Guangdong Province (see sections 2.b. and 4). Afterwards, Ai was reportedly beaten and threatened. In November Huang Jingao, party secretary of Lianjiang County, Fujian Province, was sentenced to life in prison for writing a 2004 open letter critical of endemic corruption. Li Changqing, a journalist from Fuzhou who helped Huang write the open letter, was detained and charged with subversion. Lawyer Gao Zhisheng wrote an open letter criticizing the persecution of Falun Gong, resulting in the suspension of his license to practice law (see section 1.d.).

Journalists who reported on topics that met with the government's or local authorities' disapproval continued to suffer harassment, detention, and imprisonment.

In July courts rejected an appeal by two editors from Guangdong Province's *Southern Metropolitan Daily* newspaper, despite receiving a petition from over 2,300 Chinese journalists claiming that conviction of the two editors on corruption charges in 2004 was punishment for the newspaper's muckraking news coverage. Yu Huafeng continued to serve an eight-year sentence on charges of embezzlement, and former editor Li Mingyong was serving a six-year sentence on bribery charges. The newspaper's editor-in-chief Cheng Yizhong, who was imprisoned for five months in 2004 on similar charges, which were subsequently dropped, was not allowed to travel abroad to accept a UN Educational, Scientific and Cultural Organization (UNESCO) press freedom award. Other journalists who remained in prison included Liaoning Province anticorruption reporter Jiang Weiping, Jiangsu Province journalist Huang Jinxiu, and Hunan Province journalist and Internet writer Shi Tao. During the year 32 journalists and Internet writers were imprisoned.

Detention of journalists and Chinese employees working for foreign media outlets increased concern that the government was attempting to intimidate foreign correspondents and newspapers. In April Hong Kong-born journalist Cheng Xiang (more commonly known as Ching Cheong) of the *Singapore Straits Times* was detained and charged with espionage. NGOs reported he was detained while researching a story about former leader Zhao Ziyang, while the government claimed he accepted money from overseas intelligence groups. In August security officials detained and questioned a Chinese employee of the *Washington Post*. The employee was released the same day. In November two Hong Kong journalists were harassed and expelled after attempting to interview Lin Mu, a secretary to former premier Hu Yaobang. *New York Times* employee Zhao Yan remained jailed without trial after being detained in September 2004 and later formally charged with fraud and leaking state secrets. Zhao Yan's detention came shortly after the newspaper published an article correctly forecasting the resignation of Jiang Zemin as chairman of the CMC. The newspaper denied that Zhao provided any information about Jiang's retirement. A handwritten note by Zhao that prosecutors highlighted as the key incriminating evidence said nothing about Jiang.

In addition to criminal prosecution of writers, some government officials used civil lawsuits and other punishments to intimidate authors and block controversial writings. In April writer Li Jianping was detained in Zibo, Shandong Province, for posting articles critical of the CCP on foreign Web sites. Originally charged with libel, he has since been formally arrested on subversion charges. There was still no verdict from the August 2004 libel trial of Anhui Province authors Chen Guidi and Wu Chuntao over their book *China Peasant Survey (Nongmin Diaocha)*. The book, a best seller until it was banned, describes abuse and extortion of farmers by local officials, one of whom sued the authors and their publishing house for libel. Scholars and attorneys stated that the lawsuit and high damages sought of approximately \$25 thousand (RMB 200 thousand) were intended to intimidate the publisher and inhibit criticism.

The government continued to close publications and punish journalists for printing material deemed too sensitive. In March Xiao Weibin, who in 2004 was dismissed as editor of *Tongzhou Gongjin* magazine, was stripped of his post as a member of the Guangdong Province Political Consultative Congress during the year. Zhang Jian, a reporter for the *Legal Daily* who in 2004 wrote about the beating death of bible distributor Jiang Zongxiu, was sanctioned by his work unit. In December three *Beijing News* editors, Yang Bin, Sun Xuedong and Li Duoyu, were fired. To protest the firing, over 100 of the newspaper's journalists held a brief work boycott. Published reports said the editors were fired because of the newspaper's reporting on controversial events, including a land protest in Shengyou, Hebei Province (see section 2.b.).

Newspapers could not report on corruption without government and party approval, although authorities approved reports about some high-profile cases. Publishers printed such material at their own risk. During the year journalists and editors who exposed corruption scandals frequently faced problems with the authorities. The 10-year sentence meted out to journalist Shi Tao in April was seen as a form of retaliation for Shi's past work exposing corruption in Hunan and Shanxi Provinces, according to published reports.

Propaganda authorities also restricted reporting about public protests (see section 2.c.). In December media were banned from reporting on an incident in Dongzhou, Guangdong Province, in which police fatally shot at least three protesters in a land dispute. Domestic and foreign reporters were also blocked from traveling to the area. Earlier in the year, authorities blocked reporting and prevented journalists from covering protests that turned violent, including July and August protests over the recall of the village chief in Guangdong's Taishi village and a May protest in Hebei Province's Shengyou village over a land dispute that left six dead and dozens injured.

Officials continued to censor and ban some reporting on labor, health, and environmental crises. In November local and central government authorities withheld information for several days about a toxic chemical spill into the Songhua River. Reporting was restricted and Web site comments were blocked concerning several fatal mining accidents (see section 6.e.). In August *Henan Commercial News* was closed for a month, and its editor was forced to resign after it publicized the government practice of paying journalists not to write about controversial stories. The article described how local officials paid journalists from \$25 to \$1,250 (RMB 201 to RMB 10,075) not to report about a coal mine accident. It claimed the practice was a common one and that journalists from Xinhua and large media outlets were paid more than local journalists for not reporting such events.

Transparency in the health sector improved compared with the government's cover up of the initial Severe Acute Respiratory Syndrome (SARS) outbreak in 2003. Central government officials pledged to promptly report cases of avian flu but acknowledged that local authorities did not promptly report some cases. International observers acknowledged that transparency had improved with regard to avian influenza but expressed concern about delays in reporting some human and animal cases. Some academics were unable to publish results of independent research into contagious disease cases. In September authorities announced that the number of people who died in natural disasters would no longer be considered a state secret and presumably could be reported by media.

There were a few privately funded print publications but no privately owned television or radio stations or Internet portals. The censorship process for private and government media continued to shift so that censors relied mostly on self-censorship and, in a few cases, post-publication sanctions. Nonetheless, the Central Propaganda Department continued to list areas that were off limits to media, and the government maintained authority to approve all programming.

Government-approved publishing houses were the only organizations legally permitted to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish. No newspaper, periodical, book, audio, video, or electronic publication may be printed or distributed without the PPA and relevant provincial publishing authorities' approval of both the printer and distributor. Individuals who attempted to publish without government approval faced imprisonment, fines, confiscation of their books, and other sanctions. The CCP exerted control over the publishing industry by preemptively classifying certain topics as off-limits; selectively rewarding with promotions and perks those publishers, editors, and writers who adhered to CCP guidelines; and punishing with administrative sanctions and blacklisting those who did not.

Underground printing houses were targets of periodic campaigns to stop all illegal publications (including pornography and pirated computer software and audiovisual products).

Many intellectuals and scholars exercised self-censorship, anticipating that books or papers on political topics would be deemed too sensitive to be published. Overt intervention by the PPA, which was responsible for all printing and distribution in the country, and by the Party Central Propaganda Department, which provides editorial guidelines for all media, mostly occurred after publication. In November Christian pastor Cai Zhuohua was sentenced to three years in prison on charges related to his unapproved publication of religious literature (see section 2.c.). Sichuan Province scholar Wang Yi filed suit to reclaim hundreds of books he wrote that were confiscated by authorities.

In past years officials reportedly destroyed Uighur books on the grounds that Uighur groups used art and literature to distort historical fact and advocate ethnic separatism. Uighur writers and editors, including the editor of the Kashgar Literature Journal Korash Huseyin, were jailed during the year for publishing stories that authorities maintained advocated separatism (see section 5). Authorities continued to ban books containing content they deemed controversial. Among the most notable was *Serve the People*, a sexually explicit novel that officials said debased Chairman Mao's image and *Notes on Party History*, which exposed historical incidents that were embellished or purportedly fabricated by the CCP.

The authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), Radio Free Asia (RFA) and the BBC. English-language broadcasts on VOA generally were not jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. Internet distribution of "streaming radio" news from these sources often was blocked. Despite jamming overseas broadcasts, VOA, BBC, RFA, and Radio France International had a large audience, including activists, ordinary citizens, and government officials.

The government prohibited some foreign and domestic films from legally appearing in the country. Television broadcasts of foreign news, largely restricted to hotel and foreign residence compounds, occasionally suffered censorship. Politically sensitive coverage in Chinese, and to a lesser extent in English, suffered more censorship than in other languages. In the south, where television programming from Hong Kong was available, "public service announcements" frequently interrupted news items critical of the government.

In July the State Administration for Radio, Film, and Television announced regulations that banned cooperation between domestic broadcasting companies and foreign broadcasters in producing news content.

The government continued to encourage expanded use of the Internet, while monitoring use and control of content. It also took steps to increase monitoring of the Internet, restricted the information available online, and punished those who violated regulations. In March new regulations required all Web sites in the country to reregister with authorities or be closed. In July authorities required that Web sites operating under pseudonyms be reregistered using the sponsors' real names or face closure. In September the government issued Rules on the Administration of Internet News Information Services to enhance official control of online content. The regulations establish stricter registration procedures for Internet news portals and define information in online bulletin board systems and in text messages as news so that they are subject to the same regulations. In addition the guidelines include new restrictions on some content, specifically a ban against "inciting illegal assemblies, associations, marches, demonstrations, or gatherings that disturb social order." The guidelines also forbid "conducting activities in the name of an illegal civil organization."

The country's Internet control system reportedly employed between 30 thousand and 50 thousand persons and was allegedly the largest in the world. According to a 2002 Harvard University report, the government blocked at least 19 thousand sites during a six-month period and may have blocked as many as 50 thousand. At times the government blocked the sites of some major foreign news organizations, health organizations, educational institutions, Taiwanese and Tibetan businesses and organizations, religious and spiritual organizations, democracy activists, and sites discussing the 1989 Tiananmen massacre.

The number of blocked sites appeared to increase around major political events and sensitive dates. The authorities reportedly began to employ more sophisticated technology enabling the selective blocking of specific content rather than entire Web sites. Such technology was also used to block e-mails containing sensitive content (see section 1.f.). The government generally did not prosecute citizens who received dissident e-mail publications, but forwarding such messages to others sometimes did result in detention. 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 Ministry of Information Industry regulated access to the Internet while the Ministries of Public and State Security monitored its use. Regulations prohibit a broad range of activities that authorities interpreted as subversive or as slanderous to the state, including the dissemination of any information that might harm unification of the country or endanger national security. Promoting “evil cults” was banned, as was providing information that “disturbs social order or undermines social stability.” Internet service providers (ISPs) were instructed to use only domestic media news postings, record information useful for tracking users and their viewing habits, install software capable of copying e-mails, and immediately end transmission of so-called subversive material. Many ISPs practiced extensive self-censorship to avoid violating broadly worded regulations. According to a 2003 study by Reporters Without Borders of messages deemed to have “controversial content,” only 30 percent were allowed onto Chinese “chat rooms.” The site host filtered out or removed the remaining 70 percent.

Several individuals were jailed for their Internet writing during the year. Perhaps most notable was the 10-year sentence meted out to Hunan Province journalist Shi Tao in April for disclosing state secrets. According to the verdict in Shi’s case, police searched his e-mail files and found that Shi had described to an overseas Internet discussion forum a propaganda department directive barring Chinese media from covering the 15th anniversary of the Tiananmen massacre. That directive, widely circulated to Chinese journalists, was deemed a state secret. Shi had previously written extensively about corruption for *Contemporary Trade News*, and his jailing was also viewed as retaliation for such reporting. His attorney was jailed days before Shi’s March 11 trial, and a substitute attorney entered a guilty plea on Shi’s behalf.

Internet essayist Zhang Lin was detained in January and convicted in July on charges of endangering national security. The primary evidence against Zhang consisted of excerpts from 192 articles he posted online, including the words to a rock music song. Zhang was detained immediately upon returning from Beijing to mourn China’s Tiananmen-era Premier Zhao Ziyang. Zhang used the country’s constitutional guarantee of free expression in his defense, but was convicted and sentenced to five years in prison. He began a hunger strike in September.

Tsewangnorbu, a webmaster for a Web site run by the Snow Country Tibetans, was not heard from after Gansu Province security authorities shut down the Web site March 25, according to NGOs. His whereabouts remained unknown. In July, Internet writer and poet Zheng Yichun was sentenced to seven years in prison in Liaoning Province for inciting subversion. Evidence against him consisted of 63 articles and several essays he wrote calling for political reform, greater economic freedom and the end of imprisonment of writers. In December an intermediate court rejected Zheng’s appeal. In October, Shi Xiaoyu was reportedly detained in Zhejiang Province after writing about labor disputes online. His status at year’s end was unknown.

In April cyber dissident Yan Jun was released in Xian after serving a two-year sentence. Yan reportedly fled to Taiwan after his release. In June cyber dissident Huang Qi was released after serving his full five-year term for running a Web site discussing the 1989 Tiananmen massacre. Upon release he was supervised and his movements restricted. Some who supported Huang during his imprisonment, including previously detained university Internet essayist Liu Di, continued to suffer harassment and house arrest around sensitive political occasions. In August Shanghai petitioner activist Ma Yalian was released from a reeducation camp, where she had been held after posting articles online stating that individuals were committing suicide in front of government petitioning offices.

The government continued its efforts to get companies to sign a “Public Pledge on Self Discipline for China’s Internet Industry.” More than 300 companies had signed the pledge, including the popular Sina.com and Sohu.com, as well as foreign-based Yahoo’s China division. Those who signed the pledge agreed not to spread information that “breaks laws or spreads superstition or obscenity.” They also promised to refrain from “producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability.” According to court documents Yahoo provided information to security authorities, including access to private e-mail accounts, used in the prosecution of journalist Shi Tao for leaking state secrets. The company said it was required to provide the information under national law and customs. In December Microsoft deleted a blog reporting on the firing of journalists and a controversial strike at the *Beijing News*, stating that it did so at the government’s request.

The China Internet Association adopted a “self-regulatory pledge” for search engine services in 2004 that was viewed by many as even more strict than the government’s self discipline pledge.

At year's end the China Internet Network Information Center reported that more than half of the country's 111 million Internet users had broadband access to the Internet, up 50 percent from the previous year. As of 2002 the country had more than two hundred thousand licensed Internet cafes, as well as a number of unlicensed ones. A campaign to crack down on illegal Internet cafes resulted in the closure of more than 12,575 venues during the last three months of 2004. Under regulations passed in 2004, Internet cafes must install software that allows government officials to monitor customers' Web usage. Internet users at cafes were often subject to surveillance. Most places sporadically enforced regulations requiring patrons to provide identification when using Internet cafes.

In March the government initiated a new campaign to "clean up" Web sites on university campuses. As part of the campaign, popular online bulletin boards at Beijing, Tsinghua and Nanjing Universities were closed. Students held public demonstrations to urge officials to reopen the Web sites. Campus groups supporting gay rights said their Web sites were also closed at the time, and many remained closed later in the year (see section 5). During anti-Japanese demonstrations in April, many university Web sites were closed. Some persons were detained and interrogated for discussing the anti-Japan demonstrations online or distributing e-mails and text messages about the demonstrations.

In 2004 the government announced it would invest nearly \$6 million (RMB 49.8 million) to create a new system to control political publications on the Internet. The government also began censoring text messages distributed by mobile telephone in 2004. According to the state-run media, the campaign was designed to stop the spread of pornographic and fraudulent messages by telephone. During the year authorities launched a "strike hard" campaign against illegal text messages. All text messaging service providers were required to install filtering equipment to monitor and delete messages deemed offensive by authorities.

The government did not respect academic freedom and increased controls on political and social discourse at colleges, universities, and research institutes. Scholars and researchers reported varying degrees of control regarding issues they could examine and conclusions they could draw. In April new measures regulating non-government research institutes took effect, resulting in the closure of some institutes deemed politically sensitive, including the Unirule Institute run by economist Mao Yushi. Also in April authorities blocked the opening of the Beijing Chinese Citizens' Rights Information Center even though organizers, including recently released dissident Liu Jingsheng, had received the necessary administrative approval. Beijing University professor Jiao Guobiao was suspended indefinitely from teaching after criticizing censorship and ultimately left the university's employment. Law professors were warned not to propose abolition of the reeducation-through-labor system. At least one professor's university threatened him with dismissal because he represented politically sensitive clients. Scholar Xu Zerong remained in prison for "illegally providing state secrets" by sending sensitive reference materials on the Korean War to a contact in Hong Kong. Scholars studying religion reported that the official Protestant church blocked some publications it found objectionable.

University conferences involving foreign and domestic academics were canceled on short notice by authorities who decided the topics at issue were too sensitive. Conferences canceled during the year included those discussing corporate social responsibility, political reform, and the death penalty.

The government continued to use political attitudes as criteria for selecting persons for the few government-sponsored study abroad programs but did not impose such restrictions on privately sponsored students.

Researchers residing abroad also were subject to sanctions from the authorities when their work did not meet with official approval.

b. Freedom of Peaceful Assembly and Association.—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 moved to suppress demonstrations involving expression of dissenting political views.

Freedom of Assembly.—At times police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. The vast majority of demonstrations during the year concerned land disputes, housing issues, industrial, environmental, and labor matters, and other economic and social concerns. During the year over 87 thousand "public order disturbances" were reported, according to government statistics, up 6.6 percent from 2004. Some of these demonstrations included thousands of participants. Incidents described as mob violence rose by 13 percent over 2004, according to the Ministry

of Public Security, which said that the number of demonstrations continued to grow and protesters were becoming more organized. Land protests involving thousands of residents occurred throughout the year, including violent incidents in Hebei Province's Shengyou village and in Guangdong Province's Nanhai District, Dongzhou and Taishi villages (see section 1.a.). In April thousands of villagers in Zhejiang Province's Huaxi village battled with security thugs in demonstrations over polluting factories, while in October, 10 thousand workers in Chongqing took to the streets to protest corruption surrounding the bankruptcy of a local steel plant.

Authorities detained potential protesters before the June 4 anniversary of the Tiananmen massacre, after the death of former Premier Zhao Ziyang in January, at the time of the NPC session in March, and during the August visit by UN High Commissioner for Human Rights Louise Arbour. Dissidents were detained around the time of other sensitive events to head off public demonstrations (see section 1.d.). Labor protests over restructuring of state-owned enterprises' (SOEs) and resulting unemployment continued, as did protests over environmental degradation and major infrastructure projects, such as dams. Protests, some of which included thousands of participants, were also widespread and usually concerned land, housing, and forced evictions. All concerts, sports events, exercise classes, or other meetings of more than 200 persons required approval from public security authorities. In practice much smaller gatherings also ran the risk of being disrupted by authorities.

Large anti-Japanese protests occurred in April in many cities, but the government brought them under control after a few weeks and refused to issue permits for further demonstrations. On December 23, Chongqing-based activist Xu Wenping was sentenced to 12 years' imprisonment for inciting subversion stemming from his role in organizing petitions concerning the anti-Japanese rallies.

The government continued to wage a severe campaign against the Falun Gong movement, but there were no reports of public Falun Gong protests during the year. In many cases Falun Gong practitioners were subject to close scrutiny by local security personnel, and their personal mobility was tightly restricted, particularly at times when the government believed public protests were likely.

Persons petitioning the government continued to face restrictions on their rights to assemble and raise grievances. Hundreds of thousands of petitions were filed each year, according to domestic experts, but only a small fraction received any action by authorities. Most petitions mentioned grievances about land, housing, entitlements, the environment, or corruption. Petitioners largely sought to present their complaints at national and provincial "letters and visits" offices but also targeted foreign embassies and media to bring attention to their complaints.

Petitioners continued to face harassment, detention, and incarceration. According to a published report, in April a petitioner was beaten to death while petitioning in Beijing. In July Shanghai petitioners Yang Weiming and Liang Yuling were detained for protesting the new petition regulations, and petitioner Wang Qiaojuan was sentenced to one year of reeducation. Police said she assaulted them, but eyewitnesses said police beat her for protesting forced evictions and left her bleeding and unconscious. In September Shanghai petition leader Xu Zhenging was tried in connection with his work on forced evictions and his attempt to attend a memorial service for Zhao Ziyang. Over 100 other petitioners, many of whom were Xu's supporters, reportedly were detained shortly after the trial and some were threatened with the possibility of being sent to psychiatric hospitals. Among them was activist Mao Hengfeng, who had been released from a reeducation facility earlier in September. Beijing and provincial officials moved petitioners out of the capital at the time of the March NPC session and again in April just before the new regulations took effect. Some were reportedly sent to psychiatric facilities.

In December 2004 Beijing-based petitioner leader Ye Guozhu was sentenced to four years in prison for attempting to hold a rally to protest forced evictions. He was not permitted to meet with family members or meet with lawyers to file an appeal, and his whereabouts remained unknown.

On May 1, new regulations urging local officials to resolve petitioners' legitimate problems and protect their legitimate rights came into effect. State-run media said that more than 80 percent of petitions were reasonable and could be, but were not, resolved by local governments. The regulations were accompanied by a public relations campaign in which public security chiefs nationwide were urged to meet petitioners face-to-face. Although the regulations banned retaliation against petitioners, reports of retaliation continued. This was partly due to incentives provided to local officials by the central government to prevent petitioners in their regions from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also

resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces. Such detentions occurred both before and after the enactment of the new regulations and often went unrecorded.

One provision of the new regulations reportedly limits to six the number of petitioner representatives in a single matter. In May Beijing defense attorney Zhu Jiuhu was detained in Shaanxi Province and held for four months after meeting with clients protesting land seizures involving private oil fields. He was charged with illegal assembly because he met with too many petitioner clients at one time. Zhu was ultimately released without charges. One of his clients, investor Feng Bingxian, was sentenced in December to three years in prison on charges of instigating mass social disorder in connection with the protests and other legal efforts to obtain compensation for confiscation of the private oil fields (see section 1.e.).

Freedom of Association.—The law provides for freedom of association, but the government restricted this right in practice. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that might challenge government authority. Implementation of these regulations tightened during the year. As a result, some domestic NGOs were denied registration or deregistered, while other social groups previously registered as for-profit businesses were required to reregister as not-for-profit organizations with government sponsorship (see section 2.a.).

Authorities established a task force during the year to increase scrutiny over NGOs, especially those with links overseas. Published reports said the task force was part of a campaign initiated in response to “color revolutions” in former Soviet republics and aimed to block NGOs from fomenting political change. Security ministries participated in this task force and interrogated representatives of domestic and international NGOs about their activities. International foundations, NGOs involved in social and charitable activities, and groups dedicated to combating discrimination against women, persons with disabilities, and minorities were targets of the campaign, along with organizations focused on rights issues.

The NGO Empowerment and Rights Institute (EARI), which worked on petitioner issues, appeared to come under particular scrutiny, as its employees were often monitored and its offices raided. During November visits by foreign officials to Beijing, security officials asked EARI Executive Director Zhao Xin to leave Beijing. When Zhao complied with their request and traveled to Sichuan Province, he was beaten severely and had to be hospitalized for several weeks. He claimed police witnessed the beating but took no action, although officials later apologized to him. The group’s previous director, Hou Wenzhuo, left the country during the year after being harassed, interrogated and detained by security officials.

No laws or regulations specifically govern the formation of political parties. But the China Democracy Party remained banned, and the government continued to surveil, detain, and imprison current and former CDP members (see section 3).

As in past years, individuals were charged with and often convicted of “disclosing state secrets” after passing information to human rights NGOs based abroad (see sections 1.c. and 2.a.).

According to government statistics, at the end of 2004 there were approximately 153 thousand social organizations, including 1,673 national-level and cross-provincial organizations, 20,563 provincial organizations, 50,424 local and county-level organizations registered with the Ministry of Civil Affairs, and others. NGOs were required to register with the government. To register, an NGO must find a government agency to serve as the NGO’s organizational sponsor, have a registered office, and hold a minimum amount of funds. Organizations with social or educational purposes that had previously been registered as private or for-profit businesses reportedly were requested to find a government sponsor and reregister as NGOs during the year (see section 4). Experts estimated that there were over one million unregistered NGOs.

Although the registered organizations all came under some degree of government control, various NGOs were able to develop their own agendas. A number of NGOs had support from foreign secular and religious NGOs, and several were able to undertake limited advocacy roles in public interest areas like women’s issues, the environment, health, and consumer rights. According to government guidelines, NGOs must not advocate nonparty rule, damage national unity, or upset ethnic harmony. Groups that disregarded guidelines and unregistered groups that continued to operate could face administrative punishment or criminal charges.

c. Freedom of Religion.—The law provides for freedom of religious belief and the freedom not to believe. However, the government sought to restrict religious practice

to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. The government recognized five main religions: Buddhism, Taoism, Islam, Protestantism, and Catholicism. A government-affiliated association monitored and supervised the activities of each of these faiths. Membership in these faiths as well as unregistered religious groups grew rapidly. The government tried to control and regulate religious groups, especially groups that were unregistered, to prevent the rise of sources of authority outside the control of the government and the party.

The government's respect for religious freedom remained poor, although the extent of religious freedom continued to vary widely within the country. Freedom to participate in officially sanctioned religious activity continued to increase in most areas. Religious activity grew not only among the five main religions, but also among Korean Christians, Russian Orthodox, and folk religions. Bibles and other religious texts were available in most parts of the country. At the same time, crackdowns against unregistered Protestants and Catholics, Muslim Uighurs, and Tibetan Buddhists (see Tibet Addendum) continued. The government continued its repression of groups that it determined to be "cults" and of the Falun Gong spiritual movement in particular.

All religious venues were required to register with the State Administration for Religious Affairs (SARA) or its provincial or local offices (known as Religious Affairs Bureaus (RABs)). SARA and the RABs were responsible for monitoring and judging whether religious activity was "normal" and therefore lawful. SARA and the CCP's united front work department provided policy guidance and supervision over implementation of government regulations on religious activity.

On March 1, new regulations governing religious affairs came into effect. Officials said the regulations were an attempt to bring regulatory practices governing religious affairs within a legal framework. Unlike previous regulations, the new regulations protect the rights of registered religious groups, under certain conditions, to possess property, publish literature, train and approve clergy, and collect donations. Analysts and some government officials said the new regulations would create greater space for lawful religious activity by groups not affiliated with the five main religions. However, critics stated the new regulations merely codify past practices and give authorities broad discretion to define which religious activities are permissible.

The new regulations require religious groups to register places of worship and authorized the government to define what religious activity is "normal" and therefore lawful. Spiritual activities in places of worship that have not registered may be considered illegal and participants can be punished. Government officials stated that private homes where family and friends meet to study the Bible would not be required to register, but venues for formal worship services should be registered, even if such formal worship takes place in a private home. Under the new regulations, clergy need not be approved by the government, but must be reported to the government after being selected pursuant to the rules of the relevant government-affiliated religious association. A national campaign requiring religious groups to register or to come under the supervision of official "patriotic" religious organizations continued during the year. Some groups registered voluntarily, while a number registered under pressure; several groups avoided officials in an attempt to avoid registration, and authorities refused to register others. Various unofficial groups reported that authorities refused them registration without explanation. The government contended that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Some religious groups were reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they revealed, as required, the names and addresses of church leaders and members.

A campaign to prevent "foreign infiltration" continued during the year. On July 7, Protestant Pastor Cai Zhuohua, his wife, and two other relatives were convicted of operating an illegal business, stemming from their large-scale publishing of bibles and Christian literature without government approval. Cai and two family members were sentenced to three years, two years, and 18 months in prison, respectively, while a fourth defendant was released after the trial for time served. Reports indicated that Cai and his two codefendants did not file an appeal because they were threatened with longer sentences. The four were detained in September 2004, after authorities seized over 200 thousand volumes of religious literature from a warehouse they owned. According to reliable reports, the central government and CCP officials described the prosecution of Cai as one of the most important cases in the campaign to prevent foreign infiltration under the cover of religion. Other churches, mosques and temples also came under scrutiny because of their contacts with foreign groups.

Local authorities' handling of unregistered religious groups, especially Protestant "house churches," varied widely. In certain regions, government supervision of religious activity was minimal and registered and unregistered Protestant and Catholic churches existed openly side-by-side and were treated similarly by the authorities. In such areas many congregants worshipped in both types of churches; congregants in unregistered churches were also able to procure Bibles at official churches. In some parts of the country, unregistered house churches with hundreds of members met openly, with the full knowledge of local authorities, who characterized the meetings as informal gatherings to pray, sing, and study the Bible. In other areas house church meetings of more than a handful of family members and friends were strictly proscribed. House churches often encountered difficulties when their membership grew, when they arranged for the regular use of facilities for the purpose of conducting religious activities, or when they forged links with other unregistered groups.

Leaders of unauthorized groups were sometimes the target of harassment, interrogation, detention, and physical abuse. Police closed "underground" churches and other places of worship, including some with significant memberships, properties, financial resources, and networks. Local officials destroyed several unregistered places of worship around the country. Authorities particularly targeted unofficial religious groups in locations where there were rapidly growing numbers of unregistered churches, or in places of long-seated conflict between official and unofficial churches, such as with Catholics in Baoding, Hebei Province, or with evangelical underground Protestant groups in Henan Province and elsewhere.

Protestant house churches and their leaders were subject to a selective crackdown in many areas. Authorities frequently disrupted house church meetings and retreats and detained leaders and church members. In May authorities reportedly detained hundreds of house church members from different groups in Jilin Province. In June authorities reportedly held approximately 100 pastors at Henan Province's Qi County detention center after detaining them at religious retreats in the province. On July 1, some 70 Christians were detained administratively in Henan Province's Sui County. On August 2, authorities reportedly abused some of 40 worshippers detained in Hubei Province's Zaoyang City. On August 7, a house church in Hejing County, Xinjiang Province, was reportedly raided and several worshippers were detained. In late September security officials reportedly broke a chest bone of Xinjiang businessman Tong Qimiao while interrogating him about the activities of house churches in Xinjiang. A number of leaders detained in previous years, including Henan Province underground church leader Zhang Rongliang and Beijing-based Christian activists Liu Fenggang, Xu Yonghai, and Yan Haibing, remained in prison or in reeducation-through-labor camps. The government refused to confirm Zhang Rongliang's whereabouts or the charges against him. Xu Yonghai, who had been sentenced to two years in prison, had not been released at year's end although more than two years had passed since his December 2003 arrest. In September house church historian Zhang Yinan, who was detained in 2003, was released from a reeducation-through-labor camp in Pingdingshan County, Henan Province.

Detention of "underground" Catholic bishops, priests, and lay leaders who refused to join the government-approved Chinese Patriotic Catholic Church continued during the year. In April a Vatican spokesman complained of the January detention of Hebei Province Bishop Zhao Zhendong, and the separate March detentions of Zhejiang Province Bishop Lin Xili, Hebei Province priest Zhao Kexun and lay-worker Gao Xinyou. On April 1, Bishop Yao Liang of Xiwanzi in Hebei Province and Father Wang Jinling were detained for a few days prior to the pope's death. Other underground bishops reportedly were kept under heightened surveillance at the same time. In July one such bishop, Jia Zhiguo of Hebei Province, was confined to his home, the sixth time authorities had detained him in an 18-month period. In July Fujian Province police reportedly detained and abused a priest, Lin Daixian, and 10 other Catholics. In November six priests from Zhengding, Hebei Province, were detained. Two of them, Wang Jingshan and Gao Lingshen, were reportedly beaten. Seven underground Catholics from Zhaoxian, Hebei reportedly were detained in late November. Six were released, but priest Gao Baojin remained unaccounted for. In November the Vatican condemned the beating of 16 nuns, one of whom was blinded and another partially paralyzed. The nuns, from an officially recognized church order, were attacked as they attempted to prevent demolition of a Catholic school in Xian.

In Hebei Province, where approximately half of the country's Catholics reside, friction between unofficial Catholics and local authorities continued, as authorities punished many underground priests and believers who refused to join the official Chinese Church. On September 2, priests Pang Yongxing and Ma Yongjiang reportedly were detained for providing religious services to underground Catholics in

Hebei Province's Qingyuan County. Reliable sources also reported that Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Qunjun remained detained in Hebei Province. According to reliable reports, Bishop An was last seen four years ago. There was no new information about underground Bishop Su Zhimin, who has been unaccounted for since his reported detention in 1997. Reports suggested that he had been held in a government-run guesthouse near Baoding, Hebei Province. The government continued to deny taking coercive measures against him.

The law does not prohibit religious believers from holding public office; however, party membership is required for almost all high-level positions in government, state-owned businesses, and many official organizations. During the year Communist Party officials again stated that party membership and religious belief were incompatible. Government and CCP officials reiterated that religious believers should resign their party membership. The Routine Service Regulations of the People's Liberation Army state explicitly that service members "may not take part in religious or superstitious activities." CCP and PLA personnel have been expelled for adhering to Falun Gong beliefs.

Despite regulations encouraging officials to be atheists, some party officials engaged in religious activity, most commonly Buddhism or a folk religion. The NPC included several religious representatives. NPC Standing Committee vice chairmen included Fu Tieshan, a bishop and vice-chairman of the Chinese Catholic Patriotic Association, and Pagbalha Geleg Namgyal, a Tibetan reincarnate lama. Religious groups also were represented in the Chinese People's Political Consultative Conference, an advisory forum for "multiparty" cooperation and consultation led by the CCP, and in local and provincial governments.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate "political reliability," and all graduates must pass an examination on their political as well as theological knowledge to qualify for the clergy. The government permitted registered religions to train clergy and allowed an increasing number of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies, but some religion students had difficulty getting passports or obtaining approval to study abroad. In most cases foreign organizations provided funding for such training programs.

Religious organizations of all faiths, including those composed of foreigners, were encouraged to engage in charitable activities and social services. Religious organizations engaged in social services faced obstacles registering with local authorities. These difficulties were similar to those faced by nonreligious NGOs (section 2.b.).

Traditional folk religions such as Fujian Province's "Mazu cult" were still practiced in some locations. They were tolerated to varying degrees, often seen as loose affiliates of Taoism or as ethnic minority cultural practices. However, the government has labeled folk religions "feudal superstition" and sometimes repressed them. SARA established a new administrative division responsible for activities of folk religions and religions outside the main five, including the Russian Orthodox Church and the Church of Jesus Christ of Latter-day Saints.

Buddhists made up the largest body of organized religious believers. The traditional practice of Buddhism continued to expand among citizens in many parts of the country. Tibetan Buddhists in some areas had growing freedom to practice their faith. However, government restrictions remained, particularly in cases in which the government interpreted Buddhist belief as supporting separatism, such as in some Tibetan areas and parts of the Inner Mongolian Autonomous Region. In July emissaries of the Dalai Lama met with government officials, the fourth round of consultations to take place since 2002 (see Tibet Addendum).

Regulations restricting Muslims' religious activity, teaching, and places of worship continued to be implemented forcefully in Xinjiang. Xinjiang authorities used counter terrorism as an excuse for religious repression of Uighur Muslims, as documented in an NGO report released in April (see section 5). Xinjiang authorities often charged religious believers with committing the "three evils" of terrorism, separatism, and Muslim extremism. While targeted at Muslims, this tight control of religion in Xinjiang affected followers of other religions as well.

Authorities continued to prohibit the teaching of Islam to elementary and middle school-age children in some areas, although children studied Arabic and the Koran without restriction in many others. Local officials stated that school-age children may not study religion or enter mosques in Xinjiang. In August a teacher, Aminan Momixi, and over 30 students were reportedly detained for holding Koran study sessions during school vacation. Authorities confiscated their Korans and Muslim textbooks and the government declined to clarify Momixi's status. According to media

reports, Xinjiang authorities confiscated religious publications on many other occasions, sometimes detaining those who possessed unapproved religious texts.

Authorities reserved the right to censor imams' sermons. In particular, imams were urged to emphasize the damage caused to Islam by terrorist acts in the name of the religion. Certain Muslim leaders received particularly harsh treatment. In 2000 authorities began conducting monthly political study sessions for religious personnel and the program continued through the year.

According to an overseas organization, 179 practitioners of the Sala order, a local Sufi branch of Islam, were arrested in August following a government ban on the movement. A Xinjiang official denied the existence of the movement but said a separate movement of Islam called Salafism was restricted around the National Day and New Year's holidays due to concerns that followers of the movement supported extremism. In August, 2004 eight Uighur Muslims in Hotan were reportedly charged with endangering state security and scores were detained on charges of engaging in "illegal religious activities." Because of government control of information coming from Xinjiang, such reports were difficult to confirm.

In addition to the restrictions on practicing religion placed on party members and government officials throughout the country, teachers, professors, and university students in Xinjiang were not allowed to practice religion openly.

The government permitted Muslim citizens to make the Hajj to Mecca and in some cases subsidized the journey. More than 10 thousand Chinese Muslims made the Hajj journey during the year, nearly half of them on government-organized delegations. During the year 6,900 Chinese Muslims traveled to Saudi Arabia in preparation for the 2006 Hajj, according to the China Islamic Association.

Media reports stated that authorities confiscated illegal religious publications in Xinjiang. The Xinjiang People's Publication House was the only publisher allowed to print Muslim literature. In addition to national restrictions on party members and government officials' religious practice, teachers, professors, and university students in Xinjiang were not allowed to practice religion openly.

The government and the Holy See have not established diplomatic relations and there was no Vatican representative on the Mainland. The government stated that the role of the pope in selecting bishops, the status of underground Catholic clerics, and Vatican recognition of Taiwan remained obstacles to improved relations.

After the death of Pope John Paul II in April, government and Patriotic Church officials made conciliatory statements but did not send a delegation to the pope's funeral. Official Catholic churches were encouraged to hold masses remembering Pope John Paul II and tens of thousands of residents took part. Official Catholic Churches welcomed Pope Benedict XVI and his picture was displayed prominently in many official and unofficial Catholic venues across the country. The government also minimized historical disputes with the Vatican. Nonetheless, the government rejected the Vatican's invitation to send a delegation of three bishops from the official church and one from the "underground" church to an October synod meeting in Rome.

The government insisted it retains sole power to appoint bishops, but the Vatican has recognized most bishops of the official Catholic Church, either before or after their appointment by the government. In a few cases, the bishop named by the government-affiliated church conflicted directly with the bishop recognized by the Vatican, contributing to tensions between the official and unofficial Catholic churches and between the Vatican and the government. There was friction between some bishops of the Patriotic Church who have been consecrated with secret Vatican approval (or who obtained such secret approval after their consecration) and others consecrated without such approval. Despite these tensions, some bishops and priests publicly acknowledged during the year that the Vatican had approved their appointment. They suffered no punishment for this public stance, although the government denied that the Vatican played any role in approving bishops.

The supply of Bibles is adequate in most parts of the country, but some members of underground churches complained that the supply and distribution of Bibles, especially in rural locations, was inadequate. Individuals could not order Bibles directly from publishing houses.

Customs officials continued to monitor for the "smuggling" of religious materials into the country. There have been credible reports that the authorities sometimes confiscated Bibles, Korans and other religious material.

Authorities displayed increasing tolerance of religious practice by foreigners in many places, provided their religious observance did not involve Chinese nationals. Weekly services of the foreign Jewish communities in Beijing and Shanghai have been held for years with minimal interruption. Expatriate members of the Church of Jesus Christ of Latter-day Saints (Mormons) met regularly in a number of cities.

The authorities permitted officially sanctioned religious organizations to maintain international contacts that do not involve “foreign control.” However, what constitutes “control” is not defined. Regulations on religious practice by foreigners include a ban on proselytizing. Authorities generally allowed foreign nationals to preach to other foreigners, bring in religious materials for personal use, and preach to citizens at the invitation of registered religious organizations. Despite a ban on missionary activities, many foreign Christians teaching on college campuses openly professed their faith with minimum interference from authorities provided their religious activity remains discreet.

Foreign church organizations came under pressure to register with government authorities, and several foreign missionaries whose activities extended to Chinese nationals were expelled or asked to leave the country. The government stated that those asked to leave had violated the law.

The authorities continued a general crackdown on groups considered to be “cults.” These “cults” included not only Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as *qigong* groups), but also religious groups that authorities accused of preaching beliefs outside the bounds of officially approved doctrine. Groups that the government labeled cults included Eastern Lightning, the Servants of Three Classes, the Shouters, the South China Church, the Association of Disciples, the Full Scope Church, the Spirit Sect, the New Testament Church, the Way of the Goddess of Mercy, the Lord God Sect, the Established King Church, the Unification Church, and the Family of Love. Authorities accused some in these groups of lacking proper theological training, preaching the imminent coming of the apocalypse or holy war, or exploiting the reemergence of religion for personal gain. The Eastern Lightning group was accused by the government and some other unregistered Christian groups of involvement in violence.

Actions against such groups continued during the year. There were no further developments following the April 2004 detention of more than 100 members of the evangelical group the “Servants of Three Classes” in Harbin, Heilongjiang Province. Most were released, but Gu Xianggao died in custody, allegedly as a result of beatings by police. Police also continued their efforts to close down an underground evangelical group called the “Shouters,” an offshoot of a pre-1949 indigenous Protestant group. Action against the South China Church (SCC) continued during the year, especially in Hubei Province where it was founded. In August approximately 40 church members were detained there after meeting with foreigners. SCC founder Gong Shengliang continued to allege that he suffered abuse in prison. He is serving a life sentence for rape, arson, and assault, even though the women who testified against him in his original trial in 2001 reported that police had tortured them into signing statements accusing Gong of raping them. During the year elderly SCC leader Chen Jingmao was released from a Chongqing prison after serving his full term.

The extent of public Falun Gong activity in the country remained negligible, and practitioners based abroad reported that the government’s crackdown against the group continued. Since the government banned the Falun Gong in 1999, the mere belief in the discipline (even without any public manifestation of its tenets) has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Although the vast majority of practitioners detained have been released, many were detained again after release (see section 1.e.), and thousands reportedly remained in reeducation-through-labor camps. Those identified by the government as “core leaders” were singled out for particularly harsh treatment. More than a dozen Falun Gong members have been sentenced to prison for the crime of “endangering state security,” but the great majority of Falun Gong members convicted by the courts since 1999 have been sentenced to prison for “organizing or using a sect to undermine the implementation of the law,” a less serious offense. Among them, Yuan Yuju and Liang Hui in Luzhou, Sichuan Province, faced such criminal charges during the year. Most practitioners, however, were punished administratively. Liu Yawen of Beijing and Zheng Ruihuan and Liu Yinglan of Shandong Province were among those reportedly detained administratively for Falun Gong activity. In addition to being sentenced to reeducation-through-labor, some Falun Gong members were sent to detention facilities specifically established to “rehabilitate” practitioners who refused to recant their belief voluntarily after release from reeducation-through-labor camps. In addition hundreds of Falun Gong practitioners have been confined to mental hospitals, according to overseas groups (see section 1.d.).

During the year allegations of abuse of Falun Gong practitioners by the police and other security personnel continued to be made. Groups based abroad estimated that as many as two thousand practitioners have died in custody (see section 1.c.).

Police continued to detain current and former Falun Gong practitioners and place them in reeducation camps. Police reportedly had quotas for Falun Gong arrests and targeted former practitioners, even if they were no longer practicing. The government continued its use of high-pressure tactics and mandatory anti-Falun Gong study sessions to force practitioners to renounce Falun Gong. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend anti-Falun Gong classes or were sent directly to reeducation-through-labor camps, where in some cases beatings and torture reportedly were used to force them to recant. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement. During the year a former Chinese diplomat based in Australia publicly described how government operatives based overseas reported on the activities of Falun Gong practitioners.

The government supported atheism in schools. On March 15, a Foreign Ministry spokesman said the country has no national regulations preventing children from receiving religious instruction, but said religion should not interfere with public education. In practice local authorities in many regions barred school-age children from attending religious services at mosques, temples, or churches and prevented them from receiving religious education outside the home.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts during the year. The government does not recognize Judaism as an ethnicity or religion.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for some of these rights, although the government generally did not respect them in practice. Although the government maintained restrictions on the freedom to change one's workplace or residence, the national household registration system continued to erode, and the ability of most citizens to move within the country to work and live continued to expand. However, the government retained the ability to restrict freedom of movement through other mechanisms. Authorities heightened restrictions periodically, particularly curtailing the movement of individuals deemed politically sensitive before key anniversaries and visits of foreign dignitaries and to forestall demonstrations.

The system of national household registration (*hukou*) underwent further change during the year, as the country accumulated a more mobile labor force. Rural residents continued to flock to the cities, where the per capita disposable income was more than triple the rural per capita cash income. Nonetheless, many could not officially change their residence or workplace within the country. Government and work unit permission were often required before moving to a new city. Most cities had annual quotas for the number of new temporary residence permits that would be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for peasants from rural areas to obtain household registration in economically more developed urban areas. There remained a floating population of between 100 and 150 million economic migrants who lacked official residence status in cities. Without official residence status, it was difficult or impossible to gain full access to social services, including education. Furthermore, law and society generally limited migrant workers to types of work considered least desirable by local residents, and such workers had little recourse when subjected to abuse by employers and officials. In some major cities, access to education for children of migrant workers continued to improve, and some cities offered migrants other social services free of charge. Many cities and provinces continued experiments aimed at abolishing the distinction between urban and rural residents in household registration documents.

House arrest continued to be used as a nonjudicial punishment and control measure against dissidents, family members of political prisoners, petitioners, and others whom the government or party deemed politically sensitive or "troublemakers" (see section 1.d.).

Under the "staying at prison employment" system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home but were not permitted freedom of movement.

The government permitted legal emigration and foreign travel for most citizens. Most citizens could obtain passports, although those whom the government deemed threats, including religious leaders, political dissidents, and some ethnic minority members continued to have difficulty obtaining passports (see Tibet Addendum). There were reports that some academics faced travel restrictions around the year's sensitive anniversaries, particularly the June 4 anniversary of the Tiananmen

Square massacre. There were instances in which the authorities refused to issue passports or visas on apparent political grounds. Cheng Yizhong, the editor of Guangdong Province's *Southern Metropolitan Daily* newspaper, was banned by authorities from traveling abroad during the year to accept a UNESCO press freedom award. Members of underground churches, Falun Gong members and other politically sensitive individuals sometimes were refused passports and other necessary travel documents.

Visas to enter the country were sometimes denied for political reasons. For example, some foreign academics and journalists who had been critical of the country continued to be denied visas. Others who intended to discuss human rights or rule of law issues also were denied visas. In July security authorities interrogated and harassed a representative of a western human rights NGO after she participated in an international seminar on free expression sponsored by the government (see section 4).

The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The government continued to refuse reentry to numerous citizens who were considered dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad have been allowed to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Activists residing abroad have been imprisoned upon their return to the country. Writer Liu Hongbin was detained briefly in 2004 upon return for a family visit. He was released and allowed to visit an ill family member, but the ban on his return was then reinstated, according to NGO reports.

The government's refusal to permit some former reeducation-through-labor camp inmates to return to their homes constituted a form of internal exile.

Protection of Refugees.—Although a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the law does not provide for the granting of refugee or asylum status. The government largely cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country. During the year the government and UNHCR continued ongoing discussions concerning the granting of citizenship to these residents. Since the late 1980s, the government has adopted a de facto policy of tolerance toward the small number of persons, fewer than 100 annually, from other nations who registered with the Beijing office of the UNHCR as asylum seekers. The government permitted these persons to remain in the country while the UNHCR made determinations as to their status and, if the UNHCR determined that they were bona fide refugees, while they awaited resettlement in third countries. However, the government continued to deny the UNHCR permission to operate along its northeastern border with North Korea, arguing that North Koreans who crossed the border were illegal economic migrants, not refugees.

During the year several thousand North Koreans were reportedly detained and forcibly returned to North Korea. Many faced persecution and some may have been executed upon their return, as provided by North Korean law. Several hundred North Koreans were permitted to travel to Seoul after they had entered diplomatic compounds or international schools in China, and approximately 1,400 arrived in South Korea via third countries such as Mongolia, Vietnam, Thailand, and Cambodia, most after transiting through China. There were numerous credible reports of harassment and detention of North Koreans in the country. The government also arrested and detained foreign journalists, missionaries, and activists, as well as some Chinese citizens, for providing food, shelter, transportation, and other assistance to North Koreans. The government continued to detain several foreigners in Northeast China, some on charges of alien smuggling, but most for helping North Koreans enter the country. Among them a foreign citizen was detained on May 9, and was held in Yanji on suspicion of helping North Koreans leave China. Jilin Province's public security Web site reported that it had deported about two thousand "foreigners" in 2004, most of whom were believed to be North Korean. According to NGOs, during the year North Korean agents operated within the country to forcibly repatriate North Korean citizens.

While UNHCR reported that more than two thousand Tibetans each year crossed into Nepal, the government continued to try to prevent many Tibetans from leaving (see Tibet Addendum).

In October 2003 the government executed Uighur Shaheer Ali after he and another Uighur were forcibly returned to China in 2002 from Nepal, where they had been granted refugee status by UNHCR (see section 5).

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

The law does not provide citizens with the right to change their government peacefully and citizens cannot freely choose or change the laws and officials that govern them. The CCP continued to control appointments to positions of political power, but recent reforms allowed citizens to elect members of nongovernment village committees and representatives to local people's congresses.

Elections and Political Participation.—According to the law, the NPC is the highest organ of state power. Formally, it elects the president and vice president, selects the premier and vice premiers, and elects the chairman of the State Central Military Commission. In practice the NPC Standing Committee, which is composed of 153 members, oversees these elections and determines the agenda and procedure for the NPC. The NPC Standing Committee remains under the direct authority of the CCP's 9-member Politburo Standing Committee. The NPC does not have the power to set policy or remove government or party leaders.

In 2003 the NPC confirmed CCP General Secretary Hu Jintao as president and in 2004 Hu consolidated his power when he was also appointed chairman of the Central Military Commission (CMC), following the retirement of former president and chairman Jiang Zemin.

Under the 1987 Organic Law of Village Committees and its 1998 amendments, all of the country's approximately one million villages are expected to hold competitive, direct elections for subgovernmental village committees. Rural citizens vote directly for their local village committees, which are not considered to be government bodies. Most provinces already have held four or five rounds of village committee elections, according to the Ministry of Civil Affairs. Foreign observers who monitored local village committee elections judged those they observed to have been generally fair. However, the government estimated that one-third of all elections had serious procedural flaws. Corruption, vote buying, and interference by township level and party officials continued to be problems. The law permitted each voter to cast proxy votes for up to three other voters. Many rural voters cast the maximum number of proxy votes, especially in areas with significant out-migration.

Although the 1998 amendments include a provision for recalling village committee members, local implementing regulations have proven sufficiently vague or cumbersome so as to prevent most successful recalls. In cases of alleged corruption, a handful of local legislative deputies have been recalled, but not village heads. During the year villagers in Guangdong Province's Taishi Village were subjected to severe abuse after they tried to recall village chief Chen Jinsheng, whom villagers accused of embezzling village funds. In August villagers submitted a petition and elected a recall election committee, in accordance with local regulations, calling for Chen's removal. Villagers and committee members were intimidated, beaten, and in some cases, detained by hired thugs until all seven committee members resigned their posts, effectively nullifying the recall attempt. Villagers started a hunger strike, a news blackout was instituted, and foreign journalists who attempted to travel to Taishi were interrogated and detained. On September 12, local police raided the village, reportedly beating and detaining some 50 villagers. Among those detained was legal advisor Guo Feixiong, who was ultimately charged with gathering a crowd to disrupt public order. He was held in the Panyu District Public Security Bureau (PSB) detention center, where he was fed intravenously after staging a hunger strike from September through November. On December 29, Guo was released. In October Lu Banglie, a local legislator from Hubei Province who had been helping the villagers organize their recall action, was severely beaten after escorting foreign journalists to the outskirts of Taishi. Government officials took no action to punish those accused of beating him. After such incidents, villagers appeared to have abandoned the recall attempt.

The election law governs elections of legislative bodies at all levels. Under this law, citizens have the opportunity to vote for local people's congress representatives at the county level and below, although in most cases the nomination of candidates in those elections was strictly controlled. Legislators select people's congress delegates above the county level. For example, provincial-level people's congresses select delegates to the NPC. Beginning in late 2002, a practice began of naming local CCP secretaries to serve concurrently as the head of the local people's congress, a move that dramatically strengthened party control over these legislatures.

Although the party controls appointments of officials to government and party positions at all levels, some township, county, and provincial elections featured experiments with increased competition, including self-nomination of candidates, campaign speeches by candidates, public vetting of nominees, and a two-tiered indirect election system. During a September visit by British Prime Minister Tony Blair,

Premier Wen Jiabao said that local elections will be expanded to the township level, but he did not specify when such a reform would be implemented. Separately, officials continued experimenting with the election of party leaders in balloting among party members. In October, the state council information office issued a white paper, *China's Democratic Political Construction*, discussing the government's version of its efforts towards building democracy.

The CCP retained a monopoly on political power and forbade the creation of new political parties. In its white paper, the government said nine political parties existed, all of which were founded prior to the establishment of the PRC in 1949. The white paper did not discuss the China Democracy Party (CDP), an opposition party that had attracted hundreds of members nationwide within a few months of its founding in 1998 and that the CCP declared to be illegal. Dozens of CDP leaders, activists, and members have been arrested, detained, or confined, including over 40 CDP leaders imprisoned for subversion. In 1998 CDP founders Xu Wenli, Wang Youcai, and Qin Yongmin were sentenced to prison terms of 13, 12, and 11 years, respectively. Xu Wenli and Wang Youcai were released on medical parole to a foreign country in December 2002 and March 2004, respectively. Qin remained in prison at year's end, as did others connected with a 2002 open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre signed by 192 activists. In May former CDP member Xu Wanping of Chongqing was arrested on charges of subversion. Shandong's Ren Ziyuan reportedly was charged with subversion for attempting to organize an opposition group called the "Mainland Democratic Front." More than 40 current or former CDP members remained imprisoned or held in reeducation-through-labor camps during the year, including Zhang Lin, Zhao Changqing, Sang Jiancheng, He Depu, Yao Zhenxiang, Han Lifa, Dai Xuezhong, Yang Tianshui, Wang Rongqing, and Jiang Lijun.

The government placed no special restrictions on the participation of women or minority groups in the political process. However, women still held few positions of significant influence at the highest rungs of the CCP or government structure. There was one woman on the 24-member Politburo. There was also one woman among the five state councilors. The head of a key CCP organization, the United Front Work Department, was a woman. During the year, women headed 2 of the country's 28 ministries, and 25 women served at the level of vice minister or higher, nearly double the number in 2004. The government encouraged women to exercise their right to vote in village committee elections and to stand for 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, who was usually given responsibility for family planning. At the end of 2004, there were 12.9 million female party members, making up 18.6 percent of the 69.6 million members of the Communist Party. Women constituted 20.2 percent of the NPC and 13.2 percent of the NPC Standing Committee. In November 2002 the 16th Party Congress elected 27 women to serve as members or alternates on the 198-person Central Committee, a slight increase over the total of the previous committee.

Minorities constituted 14 percent of the NPC, although they made up approximately 9 percent of the population. All of the country's 55 officially recognized minority groups were represented in the NPC membership. The 16th Party Congress elected 35 members of ethnic minority groups as members or alternates on the Central Committee. The only ministerial-level post, held by an ethnic minority was the Ethnic Affairs post and there was one ethnic minority, Vice Premier Hui Liangyu, on the Politburo. Minorities held few senior party or government positions of significant influence (see section 5).

Government Corruption and Transparency.—Corruption remained an endemic problem. The National Audit Office determined that approximately \$400 million (RMB 3.21 billion) from the central government's 2004 budget was misused or embezzled, nearly triple the amount reported in 2003. Corruption plagued courts, law enforcement agencies and other government agencies. In 2004 economists estimated that the cost of corruption might exceed 14 percent of gross domestic product.

The courts and party agencies took disciplinary action against many public and party officials during the year. According to the SPP, in the first 11 months of the year, prosecutors filed and investigated 33,821 cases of embezzlement, bribery, or dereliction of duty, including 22,503 that were prosecuted. In 2004, 30,788 officials were prosecuted for corruption, resulting in the government recovering more than \$500 million (RMB 4.02 billion) in economic losses. From 2001 through July, prosecutors investigated 152,440 such cases, involving over 170 thousand persons. In Guangdong Province alone, 32 senior officials and 295 mid-level officials were arrested for taking bribes or dereliction of duty, some related to coalmine accidents. The CCP's Central Discipline and Inspection Commission (CDIC) reported that 164,831 officials were disciplined for breaking laws and party discipline in the 12

months ending November 2004. During the year at least seven current or former high-ranking officials were executed or given suspended death sentences on corruption-related charges. Of those, 4,775 lost CCP membership and were prosecuted, only half as many as in the previous year. In some cases the CDIC reportedly acted as a substitute for sanctions by the courts and other legal agencies.

The country had no national freedom of information law, but many local jurisdictions continued to enact freedom of information regulations, aimed at improving the public's communication with and supervision over local government initiatives. Shanghai's local freedom of information process was viewed as particularly well developed. Some 95 percent of government ministries, provincial governments and prefecture-level cities had Web sites, providing some, albeit controlled, public information. However, citizens, local media, and foreign journalists found it difficult to get information about government decision-making, especially before decisions were formally announced.

The government experimented with various forms of public oversight of government, including telephone hot lines and complaint centers, administrative hearings, increased opportunity for citizen observation of government proceedings, and other forms of citizen input in the local legislative process, such as hearings to discuss draft legislation. Citizens continued to file administrative lawsuit to seek legal redress against government malfeasance. According to official statistics, 92,192 administrative lawsuits were filed against the government in 2004, slightly more than in the previous year. Over one-third of the cases related to individual rights and economic interests, an increase of 19 percent over 2003. Petitioning officials directly and outside the court system was also a common avenue used by citizens to redress grievances (see section 2.b.).

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

The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions; existing domestic NGOs were harassed. The government tended to be suspicious of independent organizations and increased scrutiny of NGOs with links overseas. Most large NGOs were quasi-governmental in nature, and all NGOs had to be sponsored by government agencies (see section 2.b.). Authorities established a task force during the year to monitor the activities of domestic and foreign NGOs, including those involved in human rights issues. Some NGOs were forced to reregister and others had their registrations cancelled as a result of this campaign (see section 2.b.).

An informal network of activists around the country continued to serve as a credible source of information about many human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democratic Movement in China and the New York-based Human Rights in China.

When permitted by authorities, the press reported about officials who exceeded their authority and infringed on citizens' rights. However, 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. The government-established China Society for Human Rights is a "nongovernmental" organization whose mandate was 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 government had active human rights dialogues with Australia, Canada, Germany, Hungary, Mexico, Norway, Switzerland, the United Kingdom, and the European Union (EU). During a July seminar on freedom of expression, part of the EU's human rights dialogue, security officials interrogated and threatened a member of the EU delegation. After intervention by representatives of foreign governments, the individual was permitted to leave the country. Government officials claimed security officials acted properly in interrogating the NGO representative. Representatives of other international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them.

The government continued its unofficial dialogue on human rights and prisoner issues with a San Francisco-based human rights group. Visits by the group's executive director continued, but the government suspended cooperation with the group on responding to prisoner lists.

The government hosted visits by the UN high commissioner for human rights and the US Committee for International Religious Freedom in August and by the UN special rapporteur for torture in November. The government permitted the Inter-

national Committee of the Red Cross (ICRC) to open an office in Beijing, although it did not authorize the ICRC to visit prisons. The government submitted to the UN its first compliance report on the International Covenant on Economic, Cultural and Social Rights.

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

There were laws designed to protect women, children, persons with disabilities, and minorities. However, in practice, some discrimination based on ethnicity, gender, and disability persisted.

Women.—Violence against women remained a significant problem. There was no national law criminalizing domestic violence, but the Marriage Law provides for mediation and administrative penalties in cases of domestic violence. In August the NPC amended the Law on the Protection of Women's Rights specifically to prohibit domestic violence, although critics complained that the provision fails to define domestic violence. Over 30 provinces, cities, or local jurisdictions passed legislation aimed at addressing violence. According to a 2004 survey by the All-China Women's Federation (ACWF), 30 percent of families had experienced domestic violence, and 16 percent of husbands had beaten their wives. The ACWF reported that it received some 300 thousand letters per year complaining about family problems, mostly domestic violence. The actual incidences were believed to be higher because spousal abuse went largely unreported. According to experts, domestic abuse was more common in rural areas than in urban centers. In response to increased awareness of the problem of domestic violence, there were a growing number of shelters for victims. Rape is illegal, and some persons convicted of rape were executed. The law does not expressly recognize or exclude spousal rape.

The law prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations has resulted in instances of local birth planning officials using physical coercion to meet government goals (see section 1.f.). In addition women faced a disproportionate burden due to the government's enforcement of its birth limitation laws and practices. Such laws and practices require the use of birth control methods (particularly IUDs and female sterilization, which according to government statistics, accounted for over 80 percent of birth control methods employed) and the abortion of certain pregnancies.

According to expert estimates, there were 1.7 to 5 million commercial sex workers in the country. The commercialization of sex and related trafficking in women trapped tens of thousands of women in a cycle of crime and exploitation and left them vulnerable to disease and abuse. According to state-run media, one out of every five massage parlors in the country was involved in prostitution, with the percentage higher in cities. A 2004 Guangdong Province survey found that 74.2 percent of massage parlor workers were involved in prostitution. Unsafe working conditions were rampant among the saunas, massage parlors, clubs, and hostess bars in cities. Research indicated that up to 80 percent of prostitutes in some areas had hepatitis.

Although the government made some efforts to crack down on the sex trade, credible media reports claimed that some local officials were complicit in prostitution, owned prostitution venues or received proceeds from such businesses. Prostitution involved organized crime groups and businesspersons as well as the police and the military. Actions to curtail prostitution had limited results. In 2004 an investigation of prostitution at entertainment facilities in Guangdong Province led to the permanent closure of 15 percent and temporary closure of another 40 percent of the facilities investigated, according to state-run media. Courts have prosecuted persons involved in organizing and procuring prostitutes.

The amended Law on the Protection of Women's Rights included a ban on sexual harassment, stating "The injured woman has the right to complain to the work unit and the relevant department" and may "bring a civil action in court for damages." Legal scholars and activists praised the amendment but emphasized the law should also specifically define what constitutes abusive behavior. Experts continued to suggest that many victims did not report sexual harassment out of fear of losing their jobs.

The government has made gender equality a policy objective since 1949. The constitution states "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. Policies that once allotted work unit housing only to the husband have become gender-neutral, and an April Supreme Court interpretation emphasized that housing rights are shared equally, even in cases of divorce. The State Council's National Working Committee on Children and Women has coordinated women's policy since 1990. The ACWF is the leading implementer of women's policy for the government. Nonetheless, many

activists and observers are 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.

The Law on the Protection of Women's Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Efforts have been made by social organizations as well as by the government to educate women about their legal rights, and there was anecdotal evidence that women increasingly were using laws to protect their rights.

Women's networks, involving lawyers, activists, and the press, were active in Beijing, Shanghai, and other cities, highlighting problems and calling for solutions to gender-based discrimination.

Nevertheless, women frequently encountered serious obstacles to the enforcement of laws. According to legal experts, it was very hard to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages. As a result 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 after marriage and in divorce.

The All China Women's Federation reported that 47 percent of laid-off workers were women, a percentage significantly higher than their representation in the labor force. Many employers preferred to hire men to avoid the expense of maternity leave and childcare, and some lowered the effective retirement age for female workers to 40 years of age (the official retirement age for men was 60 years and for women 55 years). 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.

The law provides for equal pay for equal work. However, a 1999 government survey found that urban women were paid only 70 percent of what men received for the same work, while women in rural areas received only 60 percent of male peasants' incomes. Average incomes of female executives and senior professionals were only 58 percent and 68 percent of their male colleagues' salaries. Most women employed in industry worked in lower-skilled and lower-paid jobs and in sectors, such as textiles, which were particularly vulnerable to restructuring of state-owned enterprises and layoffs. Women accounted for 60 percent of those below the poverty line in the country.

UNESCO reported that less than 2 percent of women between the ages of 15 and 24 were illiterate, adding that 15 percent of women 15 years and older were illiterate. The female illiteracy rate was double that for men. Official government statistics claimed that the illiteracy rate among women ages 15 to 40 was 4.2 percent.

A high female suicide rate continued to be a serious problem. According to the World Bank and the World Health Organization, there were approximately five hundred female suicides per day, estimated to be nearly five times the global rate. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, the country's birth limitation policies, and other societal factors contributed to the especially high female suicide rate. Women in rural areas were especially vulnerable.

While the gap in the education levels of men and women was narrowing, men continued to constitute a disproportionate number of the relatively small percentage of the population that received a university-level education. According to the State Council Information Office, in 2004 women accounted for 45.7 percent of students in institutions of higher learning, 44.2 percent of postgraduate students and 31.4 percent of doctoral students. However, women with advanced degrees reported discrimination in the hiring process as the job distribution system became more competitive and market driven.

Children.—The law prohibits maltreatment of children and provides for compulsory education. The State Council's National Working Committee on Children and Women was tasked with carrying out policy toward children.

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. Public schools were not allowed to charge tuition, but after the central government largely stopped subsidizing primary education in the early 1990s, many public schools began to charge mandatory

school-related fees to meet revenue shortfalls. Such fees made it difficult for poorer families and some migrant workers to send their children to school.

The government campaign for universal primary school enrollment by 2000 helped to increase enrollment in some areas. It also reportedly led some school officials to inflate the number of children actually enrolled. According to government statistics, 98.6 percent of children nationwide were enrolled in elementary school. In 2002 the government reported a girl/boy ratio of approximately 90 percent for primary education and 85 percent for secondary education. It was widely believed that the proportion of girls attending school in rural and minority areas was far smaller than in cities.

In 2003, the UN special rapporteur on the right to education visited and found that the government failed to provide education to many children of migrant workers and prohibited children from receiving religious education. The special rapporteur expressed serious concern about privatization of the costs of public education, reporting that the government compels parents to pay nearly half the costs of public education, making education inaccessible to many children. The special rapporteur also recommended the government immediately ban the practice of children performing manual labor at their schools to raise funds.

An extensive health care delivery system led to improved child health and a continued decline in infant mortality rates. According to the 2000 census, the infant mortality rate was 28.4 per 1,000. According to the UN International Children's Emergency Fund (UNICEF) statistics, the mortality rate for children under 5 years of age was 39 per 1,000 live births. 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. The law prohibits discrimination against disabled minors and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

More than half of all boys and almost a third of all girls have been physically abused, according to survey results released at a May conference in Beijing. The survey reported that 10 percent of boys and 15 percent of girls have been sexually abused. These statistics were among those publicized at a National Consultation on Violence against Children, which the government and UNICEF sponsored. However, journalists were sanctioned for reporting on the rape of girl students as young as 10 in Shanxi and Guangdong Provinces. A media ban was also issued after a Nanjing newspaper publicized the forced sterilization of mentally challenged teenagers in Nantong, Jiangsu Province.

Despite government efforts to prevent kidnapping and the buying and selling of children, these problems persisted in some rural areas, and children were trafficked for labor purposes (see section 5, Trafficking).

Juvenile crime increased sharply, prompting calls to establish an independent, nationwide juvenile justice system. During the first seven months of the year, 23 percent more juveniles were convicted of crimes than during the same period in 2004. From 2000 to 2004, the annual increase in juvenile crime was 14 percent. Authorities arrested 69,780 juveniles in 2003, and approximately 19 thousand juveniles were incarcerated in formal prisons. Abolition of the system of custody and repatriation in 2003 reduced the number of children detained administratively (see section 1.c.). Nonetheless, more than 150 thousand homeless "street children" lived in cities, according to state-run media. Many did not live with their parents and survived by begging. Juveniles were required by law to be held separately from adults, except when facilities were insufficient. In practice children sometimes were detained without their parents, held with adults, and required to participate in forced labor (see sections 1.d. and 6.c.).

Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the birth limitation policy (see section 1.f.). Many families, particularly in rural areas, used ultrasound to identify female fetuses and terminate pregnancies, even though this practice remained illegal. An official study in Hainan Province found that 68 percent of abortions were of female fetuses. According to a 2002 survey, 35 percent of women in one rural township admitted to having an abortion because of a preference for a male child. Female babies also 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. Neglect of baby girls was one factor in their lower survival rate. One study found the differential mortality rates were highest in areas where women had a lower social status and economic and medical conditions were poor.

The law forbids the mistreatment or abandonment of children. According to the latest available figures, compiled in 1994, the number of children abandoned annu-

ally was approximately 1.7 million. The number may have grown over the subsequent decade despite the fact that, under the law, child abandonment is punishable by a fine and a five-year prison term. The vast majority of children in orphanages were female; males 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 baby girls were sometimes barred from having additional children.

Trafficking in Persons.—The law prohibits trafficking in women and children; however, trafficking in persons and the abduction of women for trafficking remained serious problems. The country was both a source and destination country for trafficking in persons. Most trafficking was internal for the purpose of providing lower-middle income farmers with brides or sons. Some cases involved trafficking of women and girls into forced prostitution in urban areas, and some reports suggested that certain victims, especially children, were sold into forced labor.

Internal trafficking was a significant problem. Ministry of Public Security (MPS) statistics show that during the first 10 months of the year, there were 1,949 cases of trafficking involving women and children. Over this same period, there were 3,574 women and children rescued compared with 8,949 women and children rescued in 2004.

Some experts suggested that the demand for abducted women was fueled by the shortage of marriageable brides, especially in rural areas. The serious imbalance in the male-female sex ratio at birth, the tendency for many village women to leave rural areas to seek employment, and the cost of traditional betrothal gifts all made purchasing a bride attractive to some poor rural men. Some men recruited brides from poorer regions, while others sought help from criminal gangs. Criminal gangs either kidnapped women and girls or tricked them with promises of jobs and higher living standards, only to be transported far from their homes for delivery to buyers. Once in their new “family,” these women were “married” and raped. Some accepted their fate and joined the new community; others struggled and were punished; a few escaped.

There were reports that women and girls from Burma, Laos, North Korea, Vietnam, and Russia were trafficked into the country either to work in the sex trade or for forced marriages. Past reports noted that trafficking of North Korean women and girls into the country to work in the sex industry was widespread in the northeastern part of the country, but reliable sources suggested that the practice has decreased. North Korean women reportedly were sold as brides for approximately \$38 to \$375 (RMB 315 to 3,000). Women reportedly also were trafficked from Vietnam for the purpose of forced marriage. Citizens were trafficked from the country for sexual exploitation and indentured servitude in domestic service, sweatshops, restaurants, and other services. There were reports that citizens were trafficked to Australia, Belgium, Burma, Canada, Hungary, Italy, Japan (illegal immigrants held in debt bondage), Malaysia, the Netherlands (for the purpose of sexual exploitation), Singapore, Sri Lanka (for sexual exploitation), Taiwan, the United Kingdom (for sexual exploitation), and the United States.

Trafficked persons became entangled with alien smuggling rings, which often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped that their economic prospects would improve. There were credible reports that some promised to pay from \$30 thousand to \$50 thousand (RMB 248 thousand to RMB 415 thousand) each for their passage. Upon arrival, many reportedly were forced to repay traffickers for the smuggling charges and their living expenses by working in specified jobs for a set period of time. Living and working conditions for trafficked persons were generally poor. Traffickers restricted their movements and confiscated their often-fraudulent travel documents. Threats to report trafficking victims to the authorities or to retaliate against their families if they protested made trafficked persons even more vulnerable. Alien smugglers were fined \$6 thousand (RMB 49,600), and most were sentenced to up to three years in prison; some were sentenced to death. MPS officials stated that repatriated victims of trafficking were no longer fined upon their return. However, experts acknowledged that fining might have occurred inadvertently because of the difficulty in identifying victims.

Kidnapping and the buying and selling of children continued to occur, particularly in poorer rural areas. There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to

have children; in particular, boys were trafficked to couples unable to have a son. In 2004 media reported arrests in the case of 76 baby boys sold in Hohhot, Inner Mongolia, and a case of 200 children, mostly boys, who were kidnapped in Kunming, Yunnan Province. In December, 16 people were arrested in connection with the kidnapping of 31 baby girls, whose ages ranged from newborn to three months old. Reports stated the babies were to be sold to foreigners for \$100 to \$500 (RMB 807 to RMB 4,037) each. The kidnapping ring was believed to have been in operation for two years. Children were also trafficked for labor purposes. Children trafficked to work usually were sent from poorer interior areas to relatively more prosperous areas; traffickers reportedly often enticed parents to relinquish their children with promises of large remittances their children would be able to send to them.

The purchase of women was criminalized in 1991 when the NPC Standing Committee enacted its "Decision Relating to the Severe Punishment of Criminal Elements Who Abduct and Kidnap Women and Children." This decision made abduction and sale separate offenses.

During 2004 police arrested 5,043 suspected traffickers and referred 3,144 for prosecution. In October 2004, 36 members of a child trafficking ring in Yunnan Province were given sentences, which ranged from two years to death. In Guangdong Province, 68 prosecutions were undertaken against traffickers from 2002 to June 2004 and officials rescued more than 100 children. During the year 10 members of a Guangzhou baby smuggling ring were convicted of smuggling 37 male infants. According to several media reports the average price was US\$1,239 (RMB 10 thousand) per child, although other media reports quoted a range of prices from several thousand to a few hundred dollars per child.

Despite government efforts to eliminate trafficking in women and children, the problem persisted. There were reports of local officials' complicity in both alien smuggling and in prostitution, which sometimes involved trafficked women. In some cases, village leaders sought to prevent police from rescuing women who had been sold as brides to villagers.

Agencies involved in combating trafficking included the MPS, the SPC, the SPP, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council. It was central government policy to provide funds to provincial and local police to house victims and return them to their homes. Government-funded women's federation offices provided counseling on legal rights, including the options for legal action against traffickers, to some victims. The ACWF assisted Chinese victims in obtaining medical and psychological treatment.

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 with access to programs designed to assist them. According to the official press, all local governments have drafted specific measures to implement the law.

As attention began to focus on the 2007–08 Special Olympics and Paralympics, the press increasingly publicized the plight of persons with disabilities and the government's efforts to assist them. In 2004 16.2 million of the country's 60 million persons with disabilities found jobs, but the China Disabled Person's Federation estimated that another 12 million employable persons with disabilities remained unemployed. Some 1.7 million persons with disabilities escaped poverty and 3,821 youth with disabilities from poor families entered colleges, state-run media reported. Nearly 100 thousand organizations exist, mostly in urban areas, to serve those with disabilities and protect their legal rights. The government, at times in conjunction with NGOs, sponsored programs aimed at integrating persons with disabilities into society. 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 seriously inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty in getting 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 disabled adults remained a serious problem. Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; compliance with the law was lax. Students with disabilities were discriminated against in access to education. The law permits universities legally to exclude otherwise qualified candidates from higher education.

The law forbids the marriage of persons with certain acute mental illnesses, such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling

congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of healthy births. Media reports publicized the forced sterilization of mentally challenged teenagers in Nantong, Jiangsu Province.

National/Racial/Ethnic Minorities.—According to the 2000 census, the population of the country's 55 officially recognized ethnic minorities totaled 106.4 million, or 8.4 percent of the total population. Additionally some citizens identified themselves as members of unrecognized ethnic minorities. Most minority groups resided in areas they traditionally have inhabited. Government policy provides members of recognized minorities with preferential treatment in birth planning, university admission, access to loans, and employment. In May new regulations designed to enhance minority preferences in education became effective. Nonetheless, in practice the majority Han culture often discriminated against minorities. Most minorities in border regions were less educated than the national average, and job discrimination in favor of Han migrants remained a serious problem. Racial discrimination was the source of deep resentment in some areas, such as Xinjiang, Inner Mongolia, and Tibetan areas. For example, ethnic Uighurs in Xinjiang did not have equal access to newly created construction jobs; Han workers were brought in to work, particularly on road construction and oil and gas pipelines. As part of its emphasis on building a "harmonious society," the government downplayed racism against minorities and tension among different ethnic groups. But even in the Yanbian Korean Autonomous Prefecture of Jilin Province, which the government recognized as the most "harmonious" ethnic area, there is a perceived ceiling in career advancement for ethnic Koreans.

Incomes in minority areas remained well below those in other parts of the country, particularly for minorities. Han Chinese benefited disproportionately from government programs and economic growth. Many development programs disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons (see section 2.d.).

The government's policy used since 1949 to encourage Han migration into minority areas resulted in significantly increasing the population of Han Chinese in Xinjiang. According to 2004 statistics published by Xinjiang officials, 9 million of Xinjiang's 19.6 million official residents were Uighur. Approximately 7.8 million Xinjiang residents were Han (40 percent of the total population), up from 300 thousand Han in 1949 (6 percent of the total population). Significant numbers of Kazakhs, Hui, Kyrgyz, and other minorities also live in Xinjiang. Official statistics underestimated the Han population because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." The migration of ethnic Han into Xinjiang in recent decades caused the Han-Uighur ratio in the capital of Urumqi to shift from 20:80 to 80:20 and was a source of Uighur resentment. According to the 2000 census, non-Tibetan residents of the TAR comprised 6 percent of the population, but that figure did not include a large number of long-term Han Chinese "temporary" residents. Their presence also caused resentment among some Tibetans (see Tibet Addendum).

Minorities constituted 14 percent of the NPC, which was higher than their percentage in the population. According to a 1999 government report, 2.7 million minority officials served in the government. A Xinhua report claimed that more than 25 percent of Inner Mongolia's cadres were ethnic minorities, even though ethnic minorities constitute only 21 percent out of the region's population of 23.79 million. A 2003 government white paper stated that 348 thousand minority cadres serve in Xinjiang, accounting for 51.8 percent of all party members in the autonomous region. Ethnic minorities constituted 63 percent of Xinjiang's deputies to the NPC.

Nonetheless, Han officials held the most powerful party and government positions in minority autonomous regions, particularly Xinjiang. In April the government announced that 500 of 700 new government jobs in Southern Xinjiang would be reserved for Han Chinese. In September the *Xinjiang Daily* announced that 947 Han cadres were being sent to areas where ethnic unrest had occurred. Han Chinese also held a majority of positions in security services, including special border brigades and new counter-terrorism brigades that had some police powers. Even in the government-run Production and Construction Corps, Han received preference in employment. In April nine thousand workers from Han areas of Gansu Province signed long-term contracts to work on the corps farms in Xinjiang, even though unemployment among local minorities remained very high.

The government began moving away from the two-track school systems that used either standard Chinese or the local minority language and toward a new system that will require schools to teach both standard Chinese and local minority languages or to teach standard Chinese only. Prior to adopting the new policy, the vast

majority of Uighur children in Xinjiang attended Uighur-language schools and generally received an hour's Chinese-language instruction per day. Graduates of minority language schools typically needed intensive Chinese study before they could handle course work at a Chinese-language 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. Koranic education was tightly controlled and use of Arabic in public schools is forbidden (see section 2.c.). During the year the government allocated an additional US\$15 million (RMB 120 million) to build new schools and support technical training for minority students who drop out before high school. In January Party Secretary Wang Lequan urged the CCP to rewrite textbooks and increase regulation of classroom activities because schools had become the "battlefront" for strengthening the party.

A campaign in Xinjiang targeting the "three evils" of religious extremism, splittism, and terrorism continued and showed no signs of abating. Before celebrations marking the 50th anniversary of the founding of the Xinjiang Autonomous Region, authorities reemphasized the need to "strike hard" against these three evils and made numerous arrests, according to state-run media. Authorities in Xinjiang regularly grouped together individuals or organizations involved in the three evils, making it difficult to determine whether particular raids, detentions, or judicial punishments were targeted at those peacefully seeking to express their political and religious views or those who engaged in violence (see section 2.c.). The government's war on terror continued to be used as a pretext for cracking down harshly on Uighurs expressing peaceful political dissent and on independent Muslim religious leaders. In December 2003 the government published an "East Turkestan Terrorist List," which labeled organizations such as the World Uighur Youth Congress and the East Turkestan Information Center as terrorist entities. These groups openly advocated East Turkestan independence, but only one group, the East Turkestan Islamic Movement (ETIM) was designated by the UN as a terrorist organization.

Uighurs were sentenced to long prison terms and many were executed on charges of separatism. During a previous strike-hard campaign, which officially concluded in 2003, authorities stated they prosecuted more than three thousand cases in Xinjiang and held mass sentencing rallies attended by more than three hundred thousand persons. By its own account, from January to August 2004 the government broke up 22 groups engaged in what it claimed were separatist and terrorist activities and meted out 50 death sentences to those charged with separatist acts. In February Uighur writer Nurmuhemmet Yasin was sentenced to 10 years in prison after publishing a short story, called *The Wild Pigeon*, which authorities claimed advocated separatism. In August, 10 individuals reportedly were arrested for "splittist" activities, which included possession of pamphlets and audiotapes calling for an independent state. Later in the year, editor of the *Kashgar Literature Journal* Korash Huseyin was sentenced to three years in prison for publishing *The Wild Pigeon*. In April, writer Abdulla Jamal was detained in Xinjiang, reportedly for writings that promoted Uighur independence. In October 2003 Uighur Shaheer Ali was executed after being convicted of terrorism. He had been repatriated forcibly from Nepal in 2002, where he had been interviewed by the UNHCR and granted refugee status.

In March Uighur businesswoman Rebiya Kadeer, a long-time symbol of the government's mistreatment of Uighurs, was released on medical parole to a foreign country. Kadeer, a former member of the provincial-level Chinese People's Political Consultative Conference, had been sentenced to eight years in prison on charges of "passing state intelligence" to foreigners. According to press reports, the intelligence she was accused of passing included newspaper articles and names of persons whose cases had been handled by the courts. After her release, Xinjiang officials investigated the activities of her family members and business associates who remained in the country, frequently questioning and harassing them. Two of Kadeer's former employees were detained from May 11 until December 14 in connection with the investigation. Authorities maintained that Kadeer's family members and business associates were not harassed, but were being investigated for financial crimes committed in the mid-1990s.

In October 2004 Uighur Dilkex Tilivaldi was detained after meeting a foreign journalist. The government refused to clarify his whereabouts.

Other Uighurs whose work emphasized pride in cultural identity have also been harassed and detained by the government. There were no new developments in the cases of Abdulghani Memetemin, convicted in 2003 and sentenced to 9 years in prison for translating news articles and forwarding official speeches to the East Turkestan Information Center; Abduhelil Zunun, sentenced in 2001 to 20 years in prison for translating the Universal Declaration of Human Rights into the Uighur language; or scholar Tohti Tunyaz, sentenced to 11 years imprisonment in 1999.

Possession of publications or audiovisual materials discussing independence or other sensitive subjects was not permitted. According to reports, possession of such materials resulted in lengthy prison sentences.

Officials in the region defended the campaign against separatism as necessary to maintain public order. In March 2004 Xinjiang's chairman Ismail Tiliwaldi asserted the campaign had improved security, and officials acknowledged there have been no acts of separatist violence or terrorism in Xinjiang since 1999. However, officials continued to use the threat of violence as justification for extreme security measures directed at the local population and visiting foreigners.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies brought economic improvements to Xinjiang, Han residents have received a disproportionate share of the benefits.

Inner Mongolian cultural activist Hada continued to serve a 15-year sentence during the year.

Other Societal Abuses and Discrimination.—No laws criminalize private homosexual activity between consenting adults. In 2004 prohibitions on homosexuality were dropped from regulations governing the behavior of individuals serving sentences.

Gay men and lesbians stated that official tolerance had improved in recent years. In September a university in Shanghai offered the first undergraduate course on gay and lesbian studies. In June the Beijing Gay and Lesbian Culture Festival took place; however, postponement and venue changes were threatened, which organizers claimed was due to discrimination. A subsequent festival in December was cancelled, and police raided the venue where organizers subsequently attempted to gather. Societal discrimination and strong pressure to conform to family expectations deterred most gay individuals from publicly discussing their sexual orientation. Published reports said that more than 80 percent of gay men married because of social pressure. In what officials said was a campaign against pornography, authorities blocked the US-based Web site *gaychinese.net* for three months. Other Internet sites on gay issues that were not sexually explicit were also blocked during the year.

In 2004 the government officially outlawed discrimination against persons with HIV/AIDS and Hepatitis B. Under the new contagious disease law and adopted regulations, employment discrimination against persons with HIV/AIDS and Hepatitis B is forbidden, and provisions allow such persons to work as civil servants. However, discrimination against persons with HIV/AIDS remained widespread in many areas. Hospitals and physicians sometimes refused to treat HIV-positive patients. The government stated that there were 650 thousand persons living with HIV/AIDS, a downward revision from a 2002 estimate of 840 thousand people. The government stated the change resulted from improved data analysis and collection involving an international committee of experts.

The NGO Human Rights Watch reported discrimination against some NGOs working on HIV/AIDS and against infected persons seeking care and treatment, especially in some areas of Henan Province where thousands had been infected in government-run blood selling stations during the 1990s. Some NGOs criticized the government for failing to distribute funding, medicine, and services promised by a national program to all rural and urban poor residents with HIV/AIDS. The government and many foreign experts emphasized that the promise to provide free care to such residents was a major advance and that any problems were largely logistical as the government worked to meet its goals in care and treatment for people with HIV/AIDS. In April, 15 people were arrested as part of the illegal blood-selling schemes from the 1990s that caused the HIV infection of thousands. State-run media reported that the government closed 147 illegal blood-selling stations during the year. While the government continued to build some special detention facilities for those with HIV/AIDS, there were no public reports of discrimination against infected prisoners, such as Wang Guofang and Li Suzhou, whose mistreatment and difficulty receiving medication while in detention was a subject at the 2004 International AIDS Conference.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the freedom of association, although in practice workers were not free to organize or join unions of their own choosing. The All-China Federation of Trade Unions (ACFTU), which was controlled by the CCP and headed by a high-level party official, was the sole legal workers' organization. The trade union law gives the ACFTU control over all union organizations and activities, including enterprise-level unions. Independent unions are illegal. The ACFTU and its constituent unions influenced and implemented government

policies on behalf of workers. The CCP used the ACFTU to communicate with and control workers.

Already established in the state-owned sector, where union representatives frequently held senior management positions, the ACFTU worked throughout the year to establish its unions in the non-state-owned sector. Organizing in the nonpublic sector continued to be difficult. However, by the end of 2004, the ACFTU reported that its membership had reached 136.9 million members or 53 percent of the 264 million urban workers, an increase of 5 percent over the previous year. Analysis by a Hong Kong-based NGO indicates that 38 percent of corporate units and 25 percent of private enterprises had registered under the ACFTU.

A large rural labor force, consisting of approximately 540 million persons, including 300 million primary sector workers, was unorganized; farmers had no union or similar organization. Few of the 130 million rural residents working in township and village enterprises were unionized. Of the 100 to 150 million rural migrants who worked in the cities, the ACFTU claimed that a total of 14 million had joined the union. The Ministry of Construction reported that 11 million of the 40 million migrant workers in the construction industry were union members. However, most migrants working in low-value-added jobs in the manufacturing and service sectors were not represented and were easily exploited. Employers controlled most unions that existed in these sectors and often appointed the trade union representative.

Some workers acted outside the ACFTU structure to demand back wages, pension or health insurance contributions or other benefits owed by employers. The government took action against these workers, either because the union refused or was powerless to help them. In May Kong Jun and Li Xintao, employees of the bankrupt state-owned Huamei Garment Company, were convicted of disturbing social order and government institutions after they asked the Shandong provincial government to act against their employer for failure to pay workers' wages and insurance benefits.

Other labor activists, detained in previous years, were reportedly still in detention at year's end. These included Yao Fuxin, Xiao Yunliang, Shao Liangchen, Hu Shigen, Wang Sen, Zhang Shanguang, He Zhaohui, Yue Tianxiang, Miao Jinhong, Ni Xianfei, Huang Xiangwei and colleagues, Li Xintao, Kong Jun, and Du Hongqi. Although legal action and the intervention of foreign investors resulted in the 2004 release from prison of 10 workers from the Stella International factories, these workers' convictions were not overturned.

The trade union law provides specific legal remedies against anti-union 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. The degree to which these provisions were enforced was unknown.

In August, the NPC Standing Committee ratified ILO Convention 111 prohibiting discrimination in employment. Previously, the country had ratified core ILO conventions prohibiting child labor, the worst forms of child labor, and discrimination in remuneration between male and female workers, but had not ratified other core conventions regarding the right of association, the right to collective bargaining, and the prohibition against compulsory labor.

In May the International Confederation of Free Trade Unions (ICFTU) issued a report to the UN condemning China's violations of core labor standards, in particular the freedom of association and collective bargaining. The government still had not replied to an ICFTU complaint to the ILO alleging that the government had violated freedom of association in the handling of the Tieshu Textile Factory matter.

b. The Right to Organize and Bargain Collectively.—The labor law permits collective bargaining for workers in all types of enterprises; however, in practice, collective bargaining fell far short of international standards. In 2004 the Ministry of Labor and Social Security (MOLSS) promulgated regulations clarifying the consultation process for establishing collective contracts. Beijing municipality passed its own regulation, which mirrored the national provisions. Under the law and regulations, collective contracts are to be developed through collaboration between the labor union (or in the absence of a union, worker representatives) and management and should specify such matters as working conditions, wage scales, and hours of work. Regulations required the union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval, but it was not clear to what extent these provisions were carried out in practice. The collective contract acted as a minimum standard for individual contracts between employers and employees.

The trade union law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. The union claimed to have signed 107 thousand collective contracts, most in state-owned enterprises, covering 25.8 million

workers by the end of 2004. However, given the non-democratic, party-dominated nature of the country's unions, collective bargaining fell far short of international standards. Moreover, without the right to strike, workers had only a limited capacity to influence the negotiation process. The ICFU reported cases in which the local ACFTU refused to negotiate on behalf of workers because it had not received permission to do so from the municipal government. In the private sector, where official unions were few and alternative union organizations were unavailable, workers faced substantial obstacles to bargain collectively with management. The revised company law, which was passed in October, recognizes the role of the labor union in representing employees in signing a collective agreement with a company. It also provides for employee congresses to enable employees to play a role in the democratic management of the company.

The law does not provide for the right to strike. The trade union law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers interpreted this provision to offer a theoretical legal basis for the right to strike. However, the government continued to treat worker protests as illegal demonstrations, indicating that there was still no officially accepted right to strike.

Worker protests occurred throughout the year (see section 2.b. and section 3). Most involved actual or feared job loss, wage or benefit arrears, allegations of owner/management corruption, dissatisfaction with new contracts offered in enterprise restructuring, or discontent over substandard conditions of employment. While some were tolerated, the government took swift action to halt protests that became large or that officials deemed embarrassing. Police sometimes detained protest leaders and dispersed demonstrations. In some cases workers were offered payments that met at least a portion of their demands.

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

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children, and the government denied that there was a problem; however, forced labor was a serious problem in penal institutions. Detainees in reeducation-through-labor facilities were required to work, often with little or no remuneration. In some cases prisoners worked in facilities directly connected with penal institutions; in other cases they were contracted to non-prison enterprises. Facilities and their management profited from inmate labor.

The government cooperated throughout the year to resolve a number of cases that alleged products produced with prison labor were exported to a foreign country. Although the government prohibits forced and compulsory labor by children, some child trafficking victims were reportedly sold into forced labor (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under the age of 16, but the government had not adopted a comprehensive policy to combat child labor. The labor law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children's subsistence. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including labor in mines.

A decree prohibiting the use of child labor provides that businesses illegally hiring minors or in whose employ a child dies will be punished via administrative review, fines, or revocation of their business license. The decree further provides that underage children found working should be returned to their parents or other custodians in their original place of residence.

The government continued to maintain that the country did not have a widespread child labor problem and that the majority of children who worked did so to supplement family income, particularly in impoverished rural areas. Although 9 years of education (through age 16) is compulsory, the high cost of basic education caused some children to drop out of school to seek work; other children worked while in school. Families alleged that child labor was widely employed at the Lihua Textile Factory in Shijiazhuang, Hebei Province, where five teenage girls died of asphyxiation in the factory dormitories, according to a lawsuit filed in March. NGOs alleged that the employer, fearful of being punished for hiring child workers, placed two of the girls in coffins while they were still alive. State-run media denied the claims, but the government sent officials to investigate the charges. In Xinjiang children were forced to pick cotton for army-based production brigades under the guise of a "work-study" program, according to foreign media reports.

State-run media reported on provincial bureau investigations into child labor cases, as well as punishment of factory owners who employed children. However,

there was little follow-up on whether children involved in such cases continued to work outside the home.

e. Acceptable Conditions of Work.—There was no national minimum wage. The labor law allows local governments to set their own minimum wage according to standards promulgated by the MOLSS. According to a 2004 regulation, these standards include the minimum cost of living for workers and their families, levels of economic development and employment in the area, as well as the level of social insurance and other benefits contributions paid by the employees themselves. The regulation states that the bureaus of labor and social security 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 department of labor and social security deal with the case, although it was not clear how that provision was implemented in practice. State-run media reported that provincial and municipal governments adjusted their minimum wages and took steps to enforce them.

Wage arrearages to employees of state-owned and private enterprises were common. State-run media reported that localities took increasingly stringent action to remedy the wage arrearages problem. Some provinces promulgated regulations requiring companies to establish wage guaranty funds, and one municipality criminally prosecuted employers accused of intentionally defaulting on workers' wages. The press reported on incidents of violence against migrants demanding back pay, and on the investigation and punishment by the State Council of those who committed such violence.

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 3 hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, these standards were regularly violated, particularly in the private sector and in enterprises that use low-skilled migrant labor. In the manufacturing sector, compulsory overtime reportedly was common, often without overtime pay. Many areas of the country experienced shortages of migrant and skilled workers during the year, in part due to worker dissatisfaction with low wages and poor working conditions. Social auditors found that factories routinely falsified overtime and payroll records.

Occupational health and safety concerns remained serious. The poor enforcement of occupational health and safety laws and regulations continued to put workers' lives at risk. The State Administration for Work Safety (SAWS), which was elevated to ministry status, and the State Administration for Coal Mine Safety Supervision (SACMSS) continued to develop the national framework for work safety. SAWS promulgated regulations on gas control by state-owned mines, on worker protection equipment and on closing dangerous mines. The Ministry of Health was responsible for the prevention and treatment of occupational illness, while SAWS was responsible for workplace health supervision. Some provincial and local governments have followed the national pattern of establishing separate work safety agencies. Enforcement of national health and safety standards, which was the responsibility of governments below the national level, remained very weak.

Workplace health and safety did not improve significantly during the year, and there continued to be numerous industrial accidents. According to official statistics, during the year industrial accidents killed 126,760 workers, 7.3 percent fewer than in 2004. There were also 17 major accidents (defined as those killing more than 30 people), causing 1,200 deaths, which increased 6.3 percent and 28.2 percent, respectively, over the previous year. Eleven of these major accidents occurred in coalmines, causing 961 deaths. This was an increase of 57 percent over the number of coalmine accidents in the same category last year and an increase of 97 percent over the number of deaths in the same category last year. During the year a total of 5,986 workers died in the nation's coalmines. Soaring demand and increasing prices drove companies to increase production of coal.

Direct worker involvement in coal mine safety remained limited. In May, the ACFTU and SAWS announced that 100 thousand coal miners would be selected to work as grassroots safety supervisors in coalmines, but at year's end the degree to which the program had been implemented was still unclear. The government took steps throughout the year to improve mine safety. In response to serious methane explosions in state-owned mines, the government allocated \$ 375 million (RMB 3 billion) to improve gas control in mines, and required local governments and companies to set aside funds for the same purpose. The government also required that companies step up efforts to draw off coal bed methane before mining. SAWS and the Ministry of Supervision announced that more than 200 officials and other persons responsible for six major coalmine accidents that occurred since November 2004 received disciplinary penalties, were removed from their posts or were referred

to judicial departments for criminal investigation. However, allegations of local government complicity in the cover-up of mining disasters continued. In August, a Henan Province newspaper was closed after it publicized how local officials and mine operators paid journalists not to report a coalmine accident, a practice the article claimed was common (see section 2.a.).

Independent observers reported that the government's efforts to close small illegal and unsafe mines had been successful in some areas. To further reduce accidents, the government ordered 12,000 small mines to stop production, and closed 2,411 of those that could not meet safety licensing standards. In August, following a mine flooding accident in Guangdong Province in which 123 miners were killed, the State Council issued a notice requiring all government officials to withdraw their investments in private coalmines; by year-end 3,200 officials had complied, according to a Hong Kong-based NGO.

Many factories that used harmful materials or processes not only failed to protect their workers against the ill effects of such materials or processes but failed to inform them about the hazards, neglected to provide them with health inspections as required by law, and when they fell ill, denied their claims for compensation. The Ministry of Health said that pneumoconiosis, a chronic respiratory disease caused by inhaling metallic or mineral particles, remains the single most prevalent occupational disease in China. It was estimated that pneumoconiosis may affect as many as five million workers, including coal miners and jewelry workers. By the end of the year nearly 78 million workers participated in the country's work-injury insurance system, an increase of 20 million workers over the previous year. However, NGOs reported that local labor and social security bureaus frequently rejected claims for compensation by workers because employers failed to provide them with documentation as required by law. Workers showed a willingness to use lawsuits to pursue injury and illness claims against employers, but there were few sources of legal aid available.

The work safety law states that employees have the right, after spotting 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. There were reports of serious accidents in which miners were killed when mine managers forced them to continue work under unsafe conditions.

TIBET

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. The Tibetan population within the TAR was 2.4 million, while in autonomous prefectures and counties outside the TAR the Tibetan population was 2.9 million.

The preservation and development of the unique religious, cultural, and linguistic heritage of Tibetan areas and the protection of Tibetan people's fundamental human rights continued to be of concern. The government strictly controlled information about, and access to Tibetan areas, making it difficult to determine accurately the scope of human rights abuses.

The government's human rights record in Tibetan areas of China remained poor, and the level of repression of religious freedom remained high. The government continued to view the Dalai Lama with suspicion and tended to associate Tibetan Buddhist religious activity with separatist sympathies.

Authorities continued to commit serious human rights abuses, including torture, arbitrary arrest and detention, house arrest and other nonjudicial surveillance of dissidents, detention without public trial, repression of religious freedom, and arbitrary restrictions on free movement.

Positive developments in Tibetan areas included a fourth round of dialogue between the government and envoys of the Dalai Lama. In August the government permitted an international delegation to meet with released political prisoner Phuntsog Nyidrol in the TAR for the first time. In November the UN special rapporteur on torture visited Lhasa, the capital of the TAR, for the first time.

Deprivation of Life.—In early October Ngawang Jangchub, a 28-year-old Tibetan monk, was found dead in his room at the Drepung Monastery in Lhasa. According to reports, Ngawang Jangchub's death followed a heated dispute with the monastery's "work team" over his refusal to denounce the Dalai Lama. The government claimed Ngawang Jangchub's death was due to medical complications relating to serious heart disease and epilepsy he had suffered from since childhood.

During the year Sichuan authorities did not respond to international calls for an inquiry into the case of Nyima Dragpa. A monk from Nyatso Monastery in Sichuan's

Ganzi (Kardze) Prefecture, Nyima Dragpa died in custody in 2003, allegedly from injuries sustained during severe beatings.

Torture.—The security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. Tibetans repatriated from Nepal reportedly suffered torture, including electric shocks, exposure to cold, severe beatings, and were forced to perform heavy physical labor. Prisoners were subjected routinely to “political investigation” sessions and were punished if deemed to be insufficiently loyal to the state.

Prison Conditions.—Prisoners in Tibetan areas were generally subject to the same prison conditions as existed in other areas of the country. Forced labor was used in some prisons, detention centers, reeducation-through-labor facilities, and prison work sites. The law states that prisoners may be required to work up to 12 hours per day, with 1 rest day every 2 weeks, but these regulations often were not enforced. Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons.

Tibetan political prisoner Rinzin Wangyal, also known as Rinwang, age 59, reportedly died in prison in late 2004 of unknown causes. There was no official confirmation of Rinzin Wangyal’s death, nor was his body handed over to his family. Rinzin was serving a life imprisonment term, imposed in the late 1990s while he was already serving a 16-year sentence in TAR Prison Number Two (Pawo Tramo Prison). Local authorities alleged that he was involved in a plan to disrupt the 30th anniversary of the TAR and while in prison he participated in “serious prison protests,” leading to an extension of his sentence. Previously, he was imprisoned from 1967 until 1983 for political activities.

Arbitrary Arrest.—In January the Tibet Information Network (TIN) reported the detention in December 2004 of monk Sonam Phuntsog in Sichuan Province, following a fire in the hall of the local People’s Congress in the Ganzi Prefecture. TIN’s sources said that local authorities accused him of starting the fire. They also said that local authorities suspected him of being a Free Tibet activist. Prior to his arrest, Sonam Phuntsog reportedly filmed the long life prayer ceremonies held for the Dalai Lama as well as the arrival of police sent to suppress the ceremonies at the Ganzi Monastery.

In mid-January local authorities in Hainan (Tsolho) Prefecture of Qinghai Province reportedly arrested five monks from the Dakar Treltzong Monastery for publishing politically sensitive poems. The jailed monks were identified as Tashi Gyaltzen, Tsultrim Phelgyal, Tsesum Samten, Jhampel Gyatso, and Lobsang Thargyal; they were sentenced from two to three years in prison.

In May according to the London-based Free Tibet Campaign, authorities in the Gansu Province detained three Tibetan nuns and two monks. Nuns Yonten Drolma, Tadrin Tsomo, and Choekyi Drolma and monks Jamyang Samdrub and Dargye Gyatso were reportedly arrested for distributing letters calling for Tibetan independence at a local monastery, market, and other areas. The Congressional Executive Commission on China Political Prisoner Database (CECC PPD) also listed monk Sherab detained as part of this group.

Radio Free Asia (RFA) reported in June that local authorities detained Jigme Dasang, a Tibetan monk from Kumbum Monastery in Qinghai Province. No charges were reported.

In a case of apparent preventative detention, state security detained a tailor, Sonam Gyalpo, as he returned from work on August 25. Officials reported he was detained on suspicion of endangering national security. On September 28, Sonam Gyalpo was officially arrested on charges of separating the country and destroying national unity.

A number of former political prisoners and other suspected activists were reportedly detained in the period prior to the 40th anniversary of the founding of the TAR on September 1. According to Human Rights Watch, Sonam, a monk from the Potala Palace, was detained by security forces on August 21; officials claimed no action had been taken against him.

According to the Tibetan Centre for Human Rights and Democracy (TCHRD), authorities arrested five monks who refused to take part in the “patriotic campaign” that began in October at the Drepung Monastery in Lhasa. The monks, who were identified as Ngawang Namdrol, Ngawang Nyingpo, Ngawang Thupten, Ngawang Phelgey, and Phuntsok Thupwang reportedly refused to denounce the Dalai Lama and recognize Tibet as part of China.

In August Tibetan Buddhist nun Phuntsog Nyidrol, who was released early from Lhasa’s TAR Prison in February 2004, was permitted to meet with visiting foreign government officials. Phuntsog Nyidrol received a nine-year sentence for taking part in peaceful demonstrations supporting the Dalai Lama in 1989. In 1993 her sen-

tence was extended to 17 years after she and other nuns recorded songs about their devotion to Tibet and the Dalai Lama. Since her release authorities restricted Phuntsog Nyidrol's movements and associations. Although she expressed interest in traveling abroad for medical treatment, the government refused to issue her a passport.

Chadrel Rinpoche, released in 2002 after six years and six months in prison for leaking information about the selection of the Panchen Lama, was reportedly still under house arrest near Lhasa.

Political Prisoners.—The lack of independent access to prisoners and prisons made it difficult to ascertain the number of Tibetan political prisoners or to assess the extent and severity of abuses. According to the CECC PPD, there were 117 Tibetan political prisoners and 65 percent of them were monks and nuns. The CECC reported that the number of political prisoners declined this year to less than one fifth the number 10 years ago.

Approximately 50 political prisoners remained in the TAR Prison in Lhasa, most serving sentences on the charge of "counterrevolution," which was dropped from the criminal law in 1997. Chinese authorities have stated that acts previously prosecuted as counterrevolutionary crimes continue to be considered crimes under China's antistubversion laws. The CECC PPD estimated that nearly 70 Tibetan political prisoners were imprisoned in the TAR, nearly 35 in Sichuan Province, fewer than 15 in Qinghai Province, and 6 in Gansu. None were documented in Yunnan Province. The overall number of political prisoners in Tibetan areas dropped to 117 from 145 in 2004.

An unknown number of Tibetans were serving sentences in "reeducation-through-labor" camps and other forms of administrative detention not subject to judicial review.

In March the World Tibet Network News (WTN) reported that local authorities extended Tibetan Buddhist monk Jigme Gyatso's prison term from 15 to 17 years. He was arrested in Lhasa in 1996 for alleged "political activities."

TCHRD reported that monks Lobsang Khedrub and Gyalpo were detained in Ganzi Prefecture in February 2004 and subsequently sentenced to 11 years in prison for raising a banned Tibetan national flag.

The status of the following persons arrested in 2004 remained unconfirmed at year's end: Nyima Dorjee and Lobsang Dorjee who were arrested for hanging pro-independence posters on government buildings; Choeden Rinzen who was arrested for possessing pictures of the Dalai Lama and the Tibetan National flag; Dejour, Tsering Dawa, and Datsok who were detained after clashing with Chinese workers over a mining project, and Nyima Tenzen and Sonam Nyidup who protested their detention by shouting pro-independence slogans in a bar.

On January 6, authorities released Tibetan monk Tashi Phuntsog, who served two years and nine months of his seven-year sentence. Tashi Phuntsog was detained in 2002 following the arrest of his colleague, prominent Buddhist leader Tenzin Delek. Tashi Phuntsog was detained in conjunction with a series of bombings in Sichuan Province.

In April Drepung monk Jamphel Jangchub was released after serving 16 years in prison.

Tibetan Buddhist monks Chogri and Topden, who were detained in July for unfurling a Tibetan flag in Chogri Monastery in Draggo County, Ganzi, were released later in the year. At year's end Chogri was in the Chogri Monastery, while Topden was reportedly no longer a monk.

Denial of Fair Public Trial.—Legal safeguards for Tibetans detained or imprisoned were inadequate in both design and implementation. Most judges had little or no legal training. According to an official of the TAR higher people's court, all seven cities and prefectures had established legal assistance centers, although these centers did not offer services in Tibetan language. Some accused persons did not have access to legal representation. Moreover, their trials were cursory and closed if issues of state security were involved. Under the law, maximum prison sentences for crimes such as "endangering state security" and "splitting the country" were 15 years for each count, not to exceed 20 years in total. Such cases mainly concerned actions perceived to be in support of Tibetan independence, and activities did not have to be violent to be illegal or to draw a heavy sentence.

In January the government commuted the death sentence of Tenzin Delek, a prominent lama from Ganzi, to life in prison. Foreign governments and international organizations raised concerns about the lack of due process and transparency in Tenzin Delek's legal proceedings. Tenzin Delek was originally detained in 2002.

Freedom of Religion.—The level of repression in Tibetan areas remained high, and the government's record of respect for religious freedom remained poor during the year. The law provides for freedom of religious belief, and the government's 2004 white paper on Regional Ethnic Autonomy in Tibet states "Tibetans fully enjoy the freedom of religious belief." However, the government maintained tight controls on religious practices and places of worship in Tibetan areas. Although authorities permitted many traditional practices and public manifestations of belief, they promptly and forcibly suppressed activities they viewed as vehicles for political dissent or advocacy of Tibetan independence, such as religious activities venerating the Dalai Lama (which the government described as "splittist").

Approximately 615 Tibetan Buddhist religious figures held positions in local people's congresses and local Chinese people's political consultative conferences in the TAR. However, the government continued to insist that CCP members and senior employees adhere to the CCP's code of atheism, and routine political training for cadres continued to promote atheism. TAR officials confirmed that some Religious Affairs Bureau (RAB) officers were members of the CCP and that religious belief is incompatible with CCP membership. However, some lower-level RAB officials practiced Buddhism.

The atmosphere for religious freedom varied from region to region. Conditions were generally more relaxed in Tibetan areas outside the TAR.

Monks outside the TAR who want to study in the TAR are required to get official permission from government religious bureaus, which were not readily granted. Sources said that ethnic Han Chinese monks were generally not allowed to undertake religious study in the TAR. Although Tibetan monks were not allowed to conduct large-scale religious teachings outside Tibetan areas, many monks continued to give private teachings to audiences in non-Tibetan regions of China.

Monasteries in the TAR are not allowed to establish any relationship with other monasteries or hold joint religious activities. Monasteries are required to report to the local government and request permission to hold any large or important religious events or to build new temples.

On June 30 and July 1, Lodi Gyari, the Dalai Lama's special envoy, and several other representatives, met with Chinese authorities in Bern, Switzerland, the fourth such meeting since 2002. The idea of periodic meetings at venues outside of China was discussed during the third session of talks in September 2004. In his public remarks, the Dalai Lama continued to call for a "middle way" approach, which included "meaningful autonomy" for Tibet but not independence.

Security was intensified during the Dalai Lama's birthday, sensitive anniversaries, and festival days in the TAR and in some other Tibetan areas as well. The prohibition on celebrating the Dalai Lama's birthday on July 6 continued.

Government officials maintained that possessing or displaying pictures of the Dalai Lama was legal. However, authorities appeared to view possession of such photos as evidence of separatist sentiment when detaining individuals on political charges. Pictures of the Dalai Lama were not openly displayed in major monasteries and could not be purchased openly in the TAR. In January TAR authorities from Lhatse Dzong in Shigatse Prefecture reportedly arrested Phuntsok Tsering, the chant master of Magar Dhargyeling Monastery, on charges of possessing a portrait of the Dalai Lama. In April the TIN reported raids on Tibetan homes in the TAR border town of Dram. Officials reportedly entered the houses of the Tibetan residents and confiscated pictures and books that contained speeches of the Dalai Lama.

During the year international observers saw pictures of a number of religious figures, including the Dalai Lama, displayed more widely in Tibetan areas outside the TAR. The government continued to ban pictures of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama. Photos of the "official" Panchen Lama, Gyaltzen Norbu, were not widely displayed, most likely because most Tibetans do not recognize him as the Panchen Lama.

The government's 2004 white paper stated that the TAR had more than 46 thousand Tibetan Buddhist monks and nuns and more than 17 hundred venues for Tibetan Buddhist activities. Officials have cited almost identical figures since 1996, although the number of monks and nuns has dropped at many sites due to the patriotic education campaign and the expulsion of many monks and nuns who refused to denounce the Dalai Lama or who were found to be "politically unqualified." These numbers represented only the TAR, where the number of monks and nuns was very strictly controlled. According to statistics collected by the China Center for Tibetan Studies, a government research institution, there are 1,535 monasteries in Tibetan areas outside the TAR.

Government officials closely associated Buddhist monasteries with pro-independence activism in Tibetan areas of China. Spiritual leaders encountered difficulty re-establishing historical monasteries due to lack of funds, general limitations on mo-

nastic education, and lack of authorization to build and operate religious institutions; officials in some areas contended such religious institutions were a drain on local resources and a conduit for political infiltration by the Tibetan exile community.

The government stated there were no limits on the number of monks in major monasteries and that each monastery's democratic management committee (DMC) decided independently how many monks the monastery could support. However, the government exercised strict control over most monasteries through the DMCs and imposed strict limits on the number of monks in major monasteries, particularly within the TAR. The government had the right to disapprove any individual's application to take up religious orders, although there were no reports of the government exercising this right during the year. Authorities limited the traditional practice of sending young boys to monasteries for religious training by means of regulations that forbade monasteries from accepting individuals under the age of 18. Nevertheless, many monasteries continued to admit younger boys, often delaying their formal registration until the age of 18.

The government continued to oversee the daily operations of major monasteries. The government, which did not contribute to the monasteries' operating funds, retained management control of monasteries through the DMCs and local RABs. Regulations restricted leadership of many DMCs to "patriotic and devoted" monks and nuns and specified that the government must approve all members of the committees. At some monasteries government officials also sat on the committees.

The quality and availability of high-level religious teachers in the TAR and other Tibetan areas remained inadequate; many teachers were in exile, older teachers were not being replaced, and those remaining in Tibetan areas outside the TAR had difficulty securing permission to teach in the TAR. DMCs at several large TAR monasteries used funds generated by the sales of entrance tickets or donated by pilgrims for purposes other than the support of monks engaged in full-time religious study. As a result, some "scholar monks" who had formerly been fully supported had to engage in income-generating activities. Some experts were concerned that, as a result, fewer monks will be qualified to serve as teachers. However, in July 2004, for the first time in 16 years authorities permitted resumption of the Geshe Lharampa examinations, the highest religious examinations in the Gelug sect of Tibetan Buddhism.

Government officials claimed that the patriotic education campaign, which often consisted of intensive, weeks-long sessions conducted by outside work teams, ended in 2000. However, monks and nuns continued to undergo political education on a regular basis. Numerous credible sources reported that the political education sessions intensified in the Lhasa area beginning in April. In July, 18 monks were expelled from Sera Monastery, and 8 others were detained before they were to be tested. In October RFA reported that 40 of the approximately 50 nuns residing at the Gyarak Nunnery near Lhasa were expelled for refusing to participate in political education. Because the primary responsibility for conducting political education shifted from government officials to monastery leaders, the form, content, and frequency of training at each monastery appeared to vary widely. However, conducting such training remained a requirement and has become a routine part of monastic management.

During the year the Ganzi Prefecture Web site reported that the Permanent Work Team at Serthar destroyed 74 illegal houses in the monastery during its "management of religious work."

The Karmapa Lama, leader of Tibetan Buddhism's Karma Kagyu sect and one of the most influential religious figures in Tibetan Buddhism, remained in exile following his 1999 flight to India. The Karmapa Lama stated that he fled because of the government's controls on his movements and its refusal either to allow him to go to India to be trained by his spiritual mentors or to allow his teachers to come to him. During the year, an official international delegation was permitted to visit Tsurphu Monastery, the seat of the Karmapa Lama, for the first time since 2001. While they did not meet with monastery officials, they were able to talk to some monks and learned that the current population was less than it was five years ago.

The government routinely asserted control over the process of finding and educating reincarnate lamas. The Panchen Lama is Tibetan Buddhism's second most prominent figure, after the Dalai Lama. The government continued to insist that Gyaltzen Norbu, the boy it selected in 1995, is the Panchen Lama's 11th reincarnation. The government continued to refuse to allow access to Gendun Choekyi Nyima, the boy recognized by the Dalai Lama in 1995 as the 11th Panchen Lama (when he was six years old), and his whereabouts were unknown. Government officials claimed the boy was under government supervision at an undisclosed location for his own protection and attends classes as a "normal schoolboy." All requests from

the international community to access the boy, in order to confirm his well-being, have been refused. While the overwhelming majority of Tibetan Buddhists recognized the boy identified by the Dalai Lama as the Panchen Lama, Tibetan monks claimed that they were forced to sign statements pledging allegiance to the boy the government selected. The CCP also urged its members to support the "official" Panchen Lama.

The government-recognized Panchen Lama, Gyaltzen Norbu, made his first visit to Tibetan areas of Sichuan Province from June 12 to 28. According to official media reports, during his stay Gyaltzen Norbu held head-touching ceremonies to bless more than 60 thousand persons, some of whom reported being screened by security forces prior to receiving the head touching blessing. Gyaltzen Norbu reportedly toured dozens of counties in Sichuan and held religious rituals in more than 10 Tibetan Buddhist Monasteries.

In April Chinese authorities permitted diplomatic officials to meet the seven-year-old child approved by the government as the seventh reincarnation of Reting Rinpoche. His appointment was reportedly disputed by many of the monks at Reting Monastery in 2000 because the Dalai Lama did not recognize the selection. The Reting Rinpoche's religious training, which began during the year, was closely supervised by the government through the selection of his religious and lay tutors.

Pawo Rinpoche, who was recognized by the Karmapa Lama in 1994, lived under strict government supervision at Nenang Monastery.

The government claimed that since 1949 it has contributed approximately \$36 million (RMB 300 million) to renovate and open more than 1,400 monasteries and to repair cultural relics, many of which were destroyed before and during the Cultural Revolution.

Despite the government's efforts, many monasteries destroyed during the Cultural Revolution were never rebuilt or repaired, and others remained only partially repaired. Government funding of restoration efforts ostensibly supported the practice of religion but also promoted the development of tourism in Tibetan areas. Most recent restoration efforts were funded privately, although a few religious sites also received government support for reconstruction projects during the year.

Freedom of Movement.—The government strictly regulated travel and freedom of movement of Tibetans, especially within the TAR. Many Tibetans, particularly those from rural areas, continued to report difficulties obtaining passports.

The government also regulated foreign travel to the TAR. In accordance with a 1989 regulation, foreign visitors (excluding individuals from Hong Kong, Macau, and Taiwan) were required to 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. In 2004, state media announced that foreign tourists would enjoy "unrestricted access to all 70 counties of the TAR." However, TAR authorities were unable to confirm the change, and travelers reported that many restrictions remained in place. During the 40th anniversary of the 1965 founding of the TAR in September, there were reports that foreigners were refused permission to travel to Tibetan areas from August 20 to September 10.

Official visits to the TAR were supervised closely and afforded delegation members very few opportunities to meet local persons not previously approved by the authorities. However, during the year several large official foreign delegations were permitted to visit the TAR. One international delegation was able to meet with monastery management committees and raise official concerns about human rights and religious freedom. Foreigners could travel freely in most Tibetan areas outside the TAR.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious and other purposes. The government placed restrictions on the movement of Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were reports of arbitrary detention of persons, particularly monks, returning from Nepal. Detentions generally lasted for several months, although in most cases no formal charges were brought.

In January RFA reported that Tibetan pilgrims heading for Nepal and India on pilgrimage from Ganzi were asked to return home after the TAR authorities in Lhasa revoked their travel permits. The authorities gave no explanation for the revocation.

In September RFA reported that Chinese border forces opened fire on a group of 51 Tibetan asylum-seekers trying to travel to Nepal by way of Dhingri, in Shigatse Prefecture. All but three were taken into custody, and their whereabouts remained unknown. The group included six children between the ages of 10 and 11, two nuns and one monk. On November 3, TIN reported the detention in the TAR of 14 Tibetans from Amdo who were attempting to travel to India via Nepal.

The Office of the UN High Commissioner for Refugees (UNHCR) reported that 3,395 Tibetan new arrivals approached UNHCR in Nepal during the year; 3,352 Tibetans departed for India, of whom 2,340 received UNHCR transit assistance, and 1,012 Tibetans left for India by their own means.

Nevertheless, thousands of Tibetans, including monks and nuns, visited India via third countries and returned to China after temporary stays. In 2004 RFA reported that the majority of Tibetans who transited via Nepal to India were young, whose ages ranged from 6 to 30, and that the main reason they migrated was the lack of Tibetan-language educational facilities and opportunities for religious education.

National Minorities.—According to China's 2000 census, the population of Tibetans in the TAR was 2.4 million while the population of Tibetans in autonomous prefectures and counties outside the TAR was 2.9 million. Tibetans made up 94 percent of the population of the TAR. Government-sponsored development and new economic opportunities attracted migrant workers from China's large transient population to Tibetan areas. The result was a net increase in the non-Tibetan share of the TAR population from approximately 4 percent in 1990 to 6 percent in 2000. However, TAR census figures did not include a large number of long-term Han residents, such as cadres, skilled workers, unskilled laborers, military and paramilitary troops, and their dependents.

In Tibetan areas outside the TAR, Tibetans increased their majority share as natural population growth outpaced net migration by non-Tibetans. Migrants to the TAR were overwhelmingly concentrated in cities and towns, while Tibetans continued to make up nearly 98 percent of the rural population. One official estimate put the number of Han residents in Lhasa at 100 thousand out of a total population of approximately 409,500, although many observers estimated that more than half of Lhasa's population was Han Chinese. Small businesses run by Han and Hui migrants—mostly restaurants and retail shops—predominated in cities throughout the Tibetan areas.

Family planning policies permitted Tibetans and members of other minority groups to have more children than Han. Urban Tibetans, including Communist Party members, and some ethnic Han Chinese living in Tibetan areas were generally permitted to have two children. Rural Tibetans were encouraged, but not required, to limit births to three children.

The TAR is one of China's poorest regions, and Tibetans are one of the poorest groups; malnutrition among Tibetan children continued to be widespread in many areas of the TAR.

In August state media reported that Tibetans and other minority ethnic groups made up 70 percent of all government employees in the TAR. However, Han Chinese continued to hold key positions, including party secretary of the TAR.

Some Tibetans reported that they experienced discrimination in employment and claimed Han Chinese were hired preferentially for many jobs and received greater pay for the same work. In recent years some Tibetans reported that it was more difficult for Tibetans than Han to get permits and loans to open businesses. The widespread use of the Chinese language in urban areas and many businesses limited employment opportunities for Tibetans who did not speak Chinese.

The TAR tourism bureau continued its policy of refusing to hire Tibetan tour guides educated in India or Nepal. Government officials have 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 provide visitors with the government's position opposing Tibetan independence and the activities of the Dalai Lama.

Women.—There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. However, women were underrepresented at the provincial and prefectural levels of government. According to an official Chinese Web site, there were 28,197 female cadres in the TAR, accounting for 32 percent of the TAR's total cadres; 16 percent of those were county-level female cadres.

Prostitution was a growing problem in Tibetan areas, and hundreds of brothels operated semi-openly in Lhasa. Up to 10 thousand commercial sex workers may have been employed in Lhasa alone. Some of the prostitution occurred at sites owned by the CCP, the government, and the military. Most prostitutes in the TAR were Han Chinese women, mainly from Sichuan. However, some Tibetans, mainly young girls from rural or nomadic areas, also worked as prostitutes. The incidence of HIV/AIDS among prostitutes in Tibetan areas was unknown, but lack of knowledge about HIV transmission and economic pressures on prostitutes to engage in unprotected sex made an increase in the rate of HIV infection likely.

Protection of Cultural Heritage.—Rapid economic growth, the expanding tourism industry, and the introduction of more modern cultural influences have disrupted traditional living patterns and customs and threatened traditional Tibetan culture. Residents lacked the right to play a role in protecting their cultural heritage.

The Dalai Lama, Tibetan experts, and other observers expressed concern that development projects and other central government policies would continue to promote a considerable influx of Han Chinese, Hui, and other ethnic groups into the TAR. They feared that the TAR's traditional culture and Tibetan demographic dominance would be negatively affected by such migration. Development projects and policies were reemphasized and expanded at the "Fourth Tibet Work Conference" in 2001, including the recently opened Qinghai-Tibet railroad.

Both Tibetan and Chinese are official languages in the TAR, and both languages were used on public and commercial signs. However, the Chinese language was spoken widely and was used for most commercial and official communications.

The CECC Annual Report said that the rate of illiteracy among Tibetans (47.55 percent) was more than five times higher than China's national average (9.08 percent), according to the 2000 census data. The TAR rate of illiteracy (47.25 percent) is the highest in the country and is nearly twice as high as the second-ranked Qinghai Province (25.22 percent). Primary school is the only level of educational attainment for which data show Tibetans nearly on par with the national average. In practice, many pupils in rural and nomadic areas received only one to three years of schooling. The illiteracy rate of youth and adults in the prime of life fell from 95 percent before 1959 to 22 percent at the end of 2004. However, the illiteracy rate for this group was much higher than 22 percent in some areas.

The government has established a comprehensive national Tibetan-language curriculum, and many elementary schools in Tibetan areas used Tibetan as the primary language of instruction. Tibetan students were also required to study Chinese language and Chinese was generally used to teach certain subjects, such as arithmetic. In middle and high schools—even some officially designated as "Tibetan" schools—teachers often used Tibetan only to teach classes in Tibetan language, literature, and culture and taught all other classes in Chinese. As a practical matter, proficiency in Chinese was essential to receive a higher education. China's most prestigious universities provided instruction only in Chinese, while the lower-ranked universities established to serve ethnic minorities allowed study of only some subjects in Tibetan. Opportunities to study at Tibetan-language schools were greater in the TAR, while opportunities to study at privately funded Tibetan-language schools and to receive a traditional Tibetan-language religious education were greater in Tibetan areas outside the TAR.

Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions and limited course studies and materials in an effort to prevent separatist political and religious activities on campus. Students at Tibet University were prohibited from engaging in religious practice. The government controlled curricula, texts, and other course materials.

The Tibetan-language services of Voice of America and RFA, as well as of the Oslo-based Voice of Tibet, suffered from the same jamming of their frequencies by Chinese authorities as their Chinese-language services. However, Tibetans were able to listen to the broadcasts at least some of the time. In April authorities shut down the Tibet culture Web site, a domestic Chinese site devoted to contemporary Tibetan culture.

Although the government made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continued to limit the fundamental freedoms of Tibetans and risked undermining Tibet's unique cultural, religious, and linguistic heritage.

HONG KONG

Hong Kong, with a population of approximately 6.9 million, is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's constitution, the Basic Law of the Hong Kong Special Administrative Region of the Peoples Republic of China (hereafter referred to as the basic law), specify that Hong Kong will enjoy a high degree of autonomy except in matters of defense and foreign affairs. The basic law provides for the protection of fundamental rights and calls for further democratization and progress toward universal suffrage after 2007.

The chief executive is chosen by an election committee composed of 800 directly elected, indirectly elected, or appointed individuals. The chief executive appoints and supervises a cabinet of principal officers. Following the resignation of former

Chief Executive Tung Chee-hwa in March, the National People's Congress (NPC) standing committee ruled that the acting chief executive should serve the remaining two years of Tung's term. The basic law significantly circumscribes the power of the Legislative Council (Legco), which is comprised of 60 members, only half of whom are elected through popular vote. Legco members were elected in 2004 to four-year terms. Although the elections were generally considered free and fair, there were allegations in the months leading up to the election with respect to intimidation of voters and political commentators. The civilian authorities generally maintained effective control of the security forces.

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

- limitations on residents' ability to change their government and limitations on the power of the legislature to affect government policies
- continuing concerns about self-censorship
- violence and discrimination against women
- restrictions on workers' rights to organize and bargain collectively

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law forbids torture and other abuse by the police, and the government generally observed the prohibition in practice. However, there were allegations of police assaults during the year. Disciplinary action can range from warnings to dismissal. Criminal proceedings may be undertaken independently of the disciplinary process. The Complaints Against Police Office (CAPO) investigates allegations of excessive use of force and the Independent Police Complaints Council (IPCC), a body composed of public members appointed by the chief executive, monitors and reviews their work.

During the first half of the year, CAPO received 202 allegations of police officer assaults against persons in custody and 117 allegations of assault against persons not in custody, out of a total of 19,985 arrests. Of the 202 allegations of assault by police officers against persons in custody, 118 case investigations were completed and endorsed by the IPCC, and none were substantiated: 62 were withdrawn, 43 were deemed "not pursuable," 10 were judged to be false, 1 was judged "no fault," and 2 were judged "unsubstantiated." The remaining 84 cases were pending as of June 30. Of the 117 allegations of assault against persons not in custody, 86 case investigations were completed and endorsed by the IPCC, and none were substantiated: 47 were withdrawn, 33 were deemed "not pursuable," 4 were judged to be false, and 2 were judged "unsubstantiated." The remaining 31 cases were pending as of June 30.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. For the first 6 months of the year, the average prison occupancy rate for the 24 prisons was 108 percent. Overcrowding was most serious in maximum-security prisons, which operated at an average occupancy rate of 131 percent. The government continued to address the problem of prison overcrowding by remodeling existing buildings to provide space for additional prisoners and redistributing the prison population. In addition the Immigration Department opened a new detention center in Tuen Mun during the year, which held 400 additional persons and eliminated the need to put immigration offenders in prison or other correctional facilities.

The government permitted prison visits by human rights observers, although there were no requests for visits during the year.

d. Arbitrary Arrest or Detention.—Common law, legal precedent, and the basic law provide substantial and effective legal protection against arbitrary arrest or detention, and the government observed these provisions in practice.

Role of the Police and Security Apparatus.—The police force is led by a uniformed police commissioner who reports to the secretary for security—a member of the chief executive's cabinet. The force had approximately 28,700 officers and was divided into five departments with both headquarters and regional formations. Corruption was not a significant problem within the force. Police officers are subject to disciplinary review by CAPO and IPCC in cases of alleged misconduct (see section 1.c.).

Arrest and Detention.—Suspects must be charged within 48 hours or released, and the government respected this right in practice. The law provides accused persons with the right to a prompt judicial determination. During the year the average length of pre-conviction incarceration was 55 days. There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The judiciary, underpinned by the basic law's provision that the common law tradition be maintained, provided citizens with a fair and efficient judicial process. Under the basic law, 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 PRC 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 NPC. The basic law requires the courts to follow the standing committee's interpretation of basic law provisions, although judgments previously rendered are not affected. As the final interpreter of the basic law, the standing committee of the NPC also has the power to self-initiate interpretations of the basic law, as it did in April 2004 when it ruled out universal suffrage in Hong Kong's 2007 and 2008 elections (see section 3). The NPC's mechanism for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The chief executive, the president of the Legco, and the chief justice nominate the Hong Kong members. Human rights and lawyers' organizations have expressed concern that this process, which circumvents the Court of Final Appeal's power of final adjudication, could be used to limit the independence of the judiciary or could degrade the courts' authority. There were accusations during the year that the government effectively undermined the authority of the courts by requesting an interpretation of the basic law from the NPC standing committee on the question of Chief Executive Tung Chee-hwa's successor's term of office. In response to the request, the NPC standing committee ruled in April that Tung's successor should only serve out the remaining two years of Tung's term rather than a full five-year term. Critics argued that the request, and the resulting NPC interpretation, sought to circumvent the judicial process. The government argued that the need to resolve the issue quickly left insufficient time for a lengthy judicial review.

The Court of Final Appeal is the SAR's supreme judicial body. An independent commission nominates judges. The chief executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. The basic law provides that, with the exception of both the chief justice and the chief judge of the high court, who are prohibited from residing outside Hong Kong, foreigners may serve on the courts. During the year approximately 22 percent of judges and judicial officers were expatriates. Judges have security of tenure until retirement.

Under the Court of Final Appeal is the high court, composed of the court of appeal and the court of first instance. Lower judicial bodies include the district court, which has limited jurisdiction in civil and criminal matters; the magistrates' courts, which exercise jurisdiction over a wide range of criminal offenses; the coroner's court; the juvenile court; the lands tribunal; the labor tribunal; the small claims tribunal; and the obscene articles tribunal.

Trial Procedures.—The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. Trials are by jury except at the magistrate court level. The judiciary provides citizens with a fair and efficient judicial process. An attorney is provided at the public's expense if defendants cannot afford counsel. Defendants can confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

Defendants generally enjoy a presumption of innocence. However, under prosecution rules, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that commensurate with his official income, or controls monies or property disproportionate to his official income is, unless he can satisfactorily explain the discrepancy, guilty of an offense. The courts have upheld this ordinance in practice.

According to the basic law, English may be used as an official language by the executive, legislative, and judicial branches. For historical reasons and because of

the courts' reliance on common law precedents, almost all civil cases and most criminal cases were heard in English. In recent years the government has developed a bilingual legal system. It has increased the number of officers in the legal aid department proficient in spoken Cantonese and written Chinese and extended the use of bilingual prosecution documents and indictments. All laws are bilingual, with English and Chinese texts being equally authentic. All courts and tribunals may operate in either Cantonese or English. Judges, witnesses, the parties themselves, and legal representatives may each decide which language to use at any point in the proceedings.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits arbitrary interference with privacy, family, home, and correspondence, and the government generally respected these prohibitions in practice.

Interception of communications is conducted under the Telecommunications Ordinance and the Post Office Ordinance. Wiretaps require authorization from the chief executive for interception operations, but a court-issued warrant is not required. The government did not reveal the number of wiretaps and mail interceptions the chief executive authorized.

The Independent Commission against Corruption (ICAC) was criticized during the year for abusing its powers in using covert surveillance without legal authorization. In April a district court judge excluded tape-recorded evidence introduced by the ICAC during a corruption trial, saying there were no legal procedures governing the use of concealed microphones and cameras. The court said that under the basic law, the freedom of private communication could only be impinged in accordance with legal procedures. In July another district court judge threw out a corruption case, ruling that the ICAC had knowingly recorded conversations between a client and his lawyers in violation of ICAC procedures. In August, responding to these cases and to mounting public criticism of ICAC, the chief executive issued an executive order regulating the use of covert surveillance by law enforcement authorities. The order stipulated that law enforcement officials must get the approval of an "authorizing agent" before carrying out such surveillance. Some legislators criticized the order for making police officers above the rank of senior superintendent authorizing agents. They argued that only the courts should have such power. Legislators also criticized the order as a violation of the basic law because it bypassed the legislative process. One legislator filed suit to overturn the order as well as the existing wiretap law; the court of first instance is expected to hear the case in November. The Hong Kong Bar Association said the order was "constitutionally dubious." The government countered that the order was merely a temporary measure to regulate the use of covert surveillance until comprehensive legislation could be enacted.

The Office of the Privacy Commissioner for Personal Data (PCO), established under the Personal Data (Privacy) Ordinance (PDPO), works to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner. Some government departments are exempted to combat social welfare abuse and tax evasion. Violations of the PDPO can be either criminal or civil offenses. Between June and June 2004 the PCO investigated 1,172 complaints of suspected breaches of the ordinance and completed action on 984. The PCO found violations of the PDPO in 24 of these cases, with none resulting in prosecution. The remaining cases were resolved, rejected, or withdrawn after preliminary inquiries.

The PDPO is not applicable to PRC government organs in Hong Kong. At year-end the government was still considering whether it should be made applicable to PRC bodies. Under certain exemptions for purposes related to safeguarding the security, defense, or international relations of Hong Kong, and for the prevention, detection, or prosecution of a crime, Hong Kong authorities may be allowed to transfer personal data to a PRC body.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Accusations of media self-censorship continued during the year. Most media outlets are owned by businesses with interests on the mainland, making them vulnerable to self-censorship. The Hong Kong Journalist Association's (HKJA) 2005 annual report noted that there "is a continued perception that some sections of the media are engaged in self-censorship." During the year the HKJA cited a May poll by the University of Hong Kong showing that respondents were evenly split as to whether the media practiced self-censorship.

In November two employees of the local daily newspaper Ming Pao were slightly injured by a small package bomb that was addressed to the paper's editor. An ac-

companying letter denounced the paper's executives for publishing an unspecified article. As of year-end, the perpetrator's identity and exact motivation remained a mystery.

In March, the private printing company that Falun Gong used to publish the Hong Kong edition of its Epoch Times newspaper refused to renew the group's contract, which expired May 13. Falun Gong alleged the contract was canceled because the company feared business reprisals from its mainland clients, some of who had connections to the PRC government. A Falun Gong spokesperson said the printing company considered the content of the paper "sensitive" and was afraid that continued printing would negatively affect its business. Falun Gong found another printer in late May, but said the company refused to sign a written contract—verbal orders are placed each day. They also said that at least 10 other printing companies had refused to print the paper.

In July a radio talk show host resigned his position, saying that he was denied a primetime slot because of his outspoken views. The same talk show host had previously resigned in 2004 for unexplained reasons, but later returned to his job and was given a Saturday evening time slot. This followed the resignation in 2004 of two other popular radio talk show hosts, who were known for their anti-government and anti-mainland rhetoric, due to alleged intimidation. The police investigated the allegations but determined there was not enough evidence to file charges.

Also in 2004 several journalist groups accused the ICAC of violating press freedom when it raided newspaper offices to seize evidence related to a corruption case. Although a legal challenge resulted in ICAC's search warrant being overturned, the courts ruled that ICAC had acted lawfully.

The editorial independence of the government-owned Radio Television Hong Kong (RTHK) was questioned during the year. The station discontinued live broadcasts of horse racing and a music award show following a suggestion by then-candidate for Chief Executive Donald Tsang in June that such programs were already being broadcast by commercial radio stations.

International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards for Hong Kong.

There were no restrictions on the use of the Internet.

The basic law provides for academic freedom, and the government generally respected that freedom in practice.

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 government routinely issued the required permits for public meetings and demonstrations.

Under the Public Order Ordinance, demonstration organizers must notify the police of their intention to demonstrate one week in advance. The police accept shorter notice if groups can satisfy the commissioner of police that earlier notice could not have been given for a march involving more than 30 persons and for an assembly of more than 50 persons. The police must explicitly object within 48 hours and, if there is no reply, it is assumed there is no objection. The ordinance also empowers police to object to demonstrations on national security grounds, although that portion of the law has never been invoked. If the police object, demonstration organizers may appeal to a statutory appeals board comprising members from different sectors of society. Both the board's proceedings and the police's exercise of power are subject to judicial review.

The Public Order Ordinance has been criticized by civil rights activists for giving the police too much power to restrict marches and protests. In July the Court of Final Appeal dismissed a challenge of the Public Order Ordinance by a legislator and two others who were arrested in 2002 for staging a protest without notifying the police. In upholding the convictions, the court ruled that the prior notification system was constitutional.

In practice the police rarely reject requests for public marches or protests, and rejected none during the year. There were 834 public meetings and processions in the first half of the year, roughly half of which required notification. Many of these demonstrations concerned Hong Kong-related issues, but some also involved issues sensitive to the central authorities. For example on June 4 approximately 30 thousand persons attended the annual candlelight vigil to commemorate the anniversary of the 1989 massacre in Beijing's Tiananmen Square. On July 1, 15 thousand to 50 thousand persons marched through central Hong Kong in support of greater democracy, worker's rights, gay rights, and other social causes. On December 4, tens of thousands of persons marched in support of universal suffrage. Unlike demonstrations in the past, this protest seemed focused on demands for political reform, pressing for a timetable on the introduction of fully democratic elections for the post of

chief executive and Legco. These events were legally sanctioned and peaceful, although some protesters scuffled with police during the December 4 march. The protestors alleged that the police tried to contain the rally by closing too few lanes of traffic. During the World Trade Organization (WTO) ministerial meeting in December, one thousand protesters, mostly from outside Hong Kong, clashed with police. The police responded with tear gas, pepper spray, and water cannons. While some groups alleged police brutality, most observers said the police responded appropriately.

Falun Gong practitioners regularly conducted public protests against the crackdown on fellow practitioners in the PRC. In May, the Court of Final Appeal overturned the convictions of eight Falun Gong practitioners who had been charged with obstructing and assaulting police officers during a sit-in protest in 2002. The ruling was viewed as an important affirmation of Hong Kong's fundamental freedom of assembly, demonstration, and expression under the basic law.

Freedom of Association.—The basic law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The basic law provides for freedom of religion, the Bill of Rights Ordinance prohibits religious discrimination, and the government generally respected these provisions in practice.

Societal Abuses and Discrimination.—While Falun Gong practitioners freely and openly practiced their beliefs, they were routinely subjected to more subtle forms of discrimination. In September the Falun Gong's newspaper Epoch Times said an international hotel chain canceled its conference room booking due to a water leak. The newspaper had booked the room for a forum on the future of China. A Falun Gong spokesperson said that once it became widely known that the Falun Gong had sponsored the conference, a replacement facility could not be found. The group later held the forum in a public park. This is the second report in three years that an international hotel chain canceled a Falun Gong conference room booking.

Unlike previous years Falun Gong members were not denied entry into Hong Kong (see section 2.d.). Hong Kong's small Jewish community has excellent relations with the rest of society and there were no reports of anti-Semitic acts during the year.

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

d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.—The law provides residents freedom of movement, freedom of emigration, and freedom to enter and leave the territory, and the government generally respected these rights in practice, with some prominent exceptions. Most residents easily obtained travel documents from the SAR government. There were limits on travel to the mainland imposed by the PRC government.

The government does not recognize the Taiwan passport as valid for visa endorsement purposes.

The law does not provide for, and the government did not use, forced exile.

The government continued to deny entry to persons it considered politically controversial. In January Taipei Mayor Ma Ying-jeou was unexpectedly denied a visa to attend a University of Hong Kong seminar on culture and city management. The government refused to give a reason for the denial. Most observers linked it to Ma's comments that the PRC's enactment of an antiseccession law was "unnecessary and unwise." Ma had previously visited Hong Kong in 1998 and 2001 and was received by the chief executive.

In December 2004 a New Zealand citizen and Falun Gong practitioner was denied entry to Hong Kong for unspecified reasons. The person was 1 of 16 Falun Gong members whose conviction for obstruction during a 2002 sit-in was overturned in November 2004.

Unlike in previous years, no Falun Gong members were denied entry. In 2004 the government barred 41 Falun Gong practitioners from entering the SAR for "security reasons," although approximately 350 practitioners were granted entry. Most of the practitioners were attempting to attend Falun Gong's annual conference, which attracted approximately seven hundred persons. Four of those denied entry filed a judicial review, which the Hong Kong branch of Falun Gong joined as a fifth applicant. As of year-end, the Court of Final Appeal had not yet issued a ruling in the case.

Also in 2004 the government denied a request to allow two 1989 Tiananmen Square student leaders to enter the SAR to participate in a conference focused on the Tiananmen Square massacre. Earlier in the year, other Tiananmen Square student leaders had been allowed to enter to engage in uncontroversial activities.

In the months leading up to the Sixth WTO Ministerial Conference in December, the government said it would not allow violent protesters to enter Hong Kong, although it denied having a blacklist. Apart from one French activist and three Filipino activists who were detained at the airport and eventually allowed to enter, there were no reports that immigration officials denied entry to demonstrators. To the contrary, media reports criticized the government for allowing entry to known activists.

PRC authorities do not permit some Hong Kong human rights activists and pro-democracy legislators to visit the mainland; however, this policy has been relaxed over the past two years. In April the PRC invited a group of moderate prodemocracy legislators, including two members of the Democratic Party who had previously been banned from traveling to the mainland, to Shenzhen to discuss with mainland officials the appropriate length of term for Tung Chee-hwa's replacement. In September the chief executive escorted 59 of 60 members of Legco, including some democrats who had been barred from the mainland since the 1989 Tiananmen Square crackdown, to Guangdong for a two-day trip to meet with provincial government and Chinese Communist Party (CCP) officials. In addition a handful of more moderate prodemocracy activists and legislators had their home return permits returned to them during the year.

Protection of Refugees.—The 1951 UN Convention relating to the Status of Refugees and its 1967 protocol do not extend to Hong Kong, and the SAR eliminated its temporary protection policy. On a case-by-case basis, the director of immigration has discretion to grant refugee status or asylum in cases of exceptional humanitarian or compassionate need, but the Immigration Ordinance does not provide foreigners any right to have asylum claims recognized. The government practice is to refer refugee and asylum claimants to a lawyer or to the Office of the UN High Commissioner for Refugees (UNHCR). Those granted refugee status, as well as those awaiting UNHCR assessment of their status, receive a UNHCR subsistence allowance but are not allowed to seek employment or enroll their children in local schools. The UNHCR worked with potential host country representatives to resettle those few persons designated as refugees. Government policy is to repatriate all illegal immigrants, including those who arrive from the mainland, as promptly as possible. During the first half of the year, 1,683 illegal PRC immigrants were repatriated to the mainland.

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

The right of residents to peacefully change their government is limited by the basic law, which provides for the selection of the chief executive by an 800-person election committee (composed of individuals who are directly elected, indirectly elected, or appointed). The basic law provides for the direct election of only 30 of the 60 Legco members, and the inclusion of appointed members to the elected district councils. The approval of the chief executive, two-thirds of the legislature, and two-thirds of Hong Kong's NPC delegates is required to place an amendment of the basic law on the agenda of the NPC which, under the basic law, has the sole power to amend the basic law.

The basic law states that "the ultimate aim is the selection of the chief executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." Similarly, the basic law states that the "ultimate aim is the election of all the members of Legco by universal suffrage." However, in 2004 the NPC standing committee rejected universal suffrage in Hong Kong in the 2007 and 2008 elections.

The government is authorized to exercise a high degree of autonomy and to enjoy executive, legislative, and independent judicial power. It contains an executive branch staffed by a professional and independent civil service, and a two-tiered legislative branch consisting of the Legco and 18 district councils.

Elections and Political Participation.—In March Chief Executive Tung Chee-hwa unexpectedly resigned citing health concerns. Tung's resignation sparked a debate over the appropriate length of term for his replacement under the basic law. In 2004 the Hong Kong government took the explicit position that the basic law stating that "the term of the chief executive of the Hong Kong SAR shall be five years," applied without exception to any chief executive. The government abruptly changed that position following Tung's resignation, holding that the legislative intent of the basic law was that a chief executive returned through a by-election should only serve out the remaining term of the outgoing chief executive. In explaining the change, Secretary for Justice Elsie Leung said that she had been persuaded by arguments put forth by mainland legal experts based on unpublished records from the committee that drafted the basic law. This decision was criticized by the Hong Kong Bar Asso-

ciation, the Legal Society, and prominent legal scholars in Hong Kong who argued that the basic law specifies only a five year term for a chief executive. After legislators raised the prospect of filing for judicial review by the Hong Kong courts, the government requested an interpretation by the NPC standing committee to clarify the issue. The Hong Kong government argued that there was no time for a lengthy judicial review given the constitutional requirement to elect a new chief executive within six months, and that clarity was required to avoid a constitutional crisis. In April the standing committee of the NPC issued an interpretation of the basic law stating that Tung's replacement should only serve the remaining two years of Tung's term. The interpretation, which was regarded by many as inconsistent with the basic law, raised questions about the central government's commitment to the rule of law in Hong Kong and respect for Hong Kong's high degree of autonomy.

In June after a 10-day campaign, former Chief Secretary Donald Tsang secured 710 of the 800 election committee nominating votes. This was enough to ensure that his two declared challengers, Democratic Party Chairman Lee Wing-tat and Independent legislator Chim Pui-cheng, could not obtain the 100 nominations required to contest the election. Tsang was sworn-in on June 24 in Beijing.

In April 2004 the NPC standing committee issued a self-initiated interpretation of the basic law, cutting short local debate and rejecting universal suffrage for Hong Kong in the 2007 and 2008 elections. The NPC also determined that the current 50–50 ratio for directly elected geographic seats and indirectly elected functional constituency seats in Legco must remain indefinitely in place. In addition the NPC narrowed the circumstances in which Legco members would be permitted to initiate legislation. The NPC decision left room for amendments to the election processes, albeit strictly within the limits dictated by the NPC standing committee. In October a task force on constitutional development issued a report outlining the government's plan for constitutional changes in the methods for selecting the chief executive and the Legco in 2007 and 2008. The plan called for an increase in the size of the chief executive election committee and the addition of five seats each to both the geographic and functional constituencies. In December the government failed to garner the two-thirds support in Legco necessary to pass the reform package. All "no" votes came from prodemocracy members, who decried the legislation's failure to introduce a timeline for the introduction of universal suffrage.

Legco members were elected in 2004 to four-year terms, and despite some minor problems, including an insufficient supply of ballot boxes and intimidation of voters and political commentators, the elections were considered free and fair. Prodemocracy candidates won 18 of the 30 directly elected geographic seats and 25 seats overall. There were 199,539 persons eligible to vote in the functional constituencies.

The basic law substantially limits the ability of the legislature to influence policy by requiring separate majorities among members elected from geographical and functional constituencies to pass a bill introduced by an individual member. Another basic law provision prohibits Legco from putting forward bills that affect public expenditure, political structure, or government operations. Bills that affect government policy cannot be introduced without the chief executive's written consent. The government has adopted a very broad definition of "government policy" in order to block private member bills, and the president of Legco has upheld the government's position.

District councils are responsible for advising the government on matters affecting: (1) the well being of district residents; (2) the provision and use of public facilities; and (3) the use of public funds allocated for local public works and community activities. The District Council Ordinance gives the chief executive authority to appoint 102 out of 529 of the district councilors, and he exercises this power in practice.

Hong Kong sends 36 delegates to the PRC's National People's Congress. In 2002 Hong Kong's NPC delegates were elected to a 5-year term by an NPC-appointed committee of 955 residents. Politicians and human rights activists criticized the election process as undemocratic and lacking transparency. In 2004 two local NPC delegates won directly elected seats in the Legco. One NPC delegate lost his bid for a directly elected Legco seat.

Women held 11 of the 60 Legco seats and made up between 17 and 23 percent of membership in the major political parties. The president of the Legco was a woman, as were the heads of several government departments. More than one-third of civil servants were women, and 2 of the 15 most senior government officials were women.

There were no ethnic minorities in the Legco, but there were a number of ethnic minorities in senior civil service positions.

Government Corruption and Transparency.—The government vigorously and with apparent success combated official corruption through the Prevention of Bribery Or-

dinance and the ICAC. There were only isolated reports of corruption during the year.

The law provides for access to government information, and in practice such information was provided to both citizens and noncitizens, with exceptions that are narrowly defined and could be appealed.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Prominent human rights activists critical of the PRC also operated freely and maintained permanent resident status in Hong Kong, but overseas dissidents sometimes had difficulty gaining entry to the SAR.

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

The law provides that all residents are equal and the government enforced these rights in practice.

Women.—The government was sharply criticized during the year for failing to adequately address the growing problem of domestic violence. Local public health officials remained concerned about violence against women, particularly among new immigrants from the mainland. The Domestic Violence Ordinance allows victims to seek a three-month injunction, extendable to six months, against an abuser. The ordinance does not criminalize domestic violence directly, although abusers may be liable for criminal charges under other ordinances, including the Crime Ordinance and the Offences Against the Person Ordinance. The government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders. During the first half of the year, there were 1,620 cases of domestic violence reported to the social welfare department, which receives reports from the police, social workers, the health department, and volunteer organizations.

In October the executive director of Harmony House, an NGO that provides services to victims of domestic violence, said that between April and April 2004, 263 women were admitted to shelters to escape domestic violence—the highest figure in five years. In July a University of Hong Kong survey found that one in five families had experienced some form of domestic violence. Figures from the social welfare department, however, showed that only 622 child-abuse cases and 3,371 cases of spousal abuse were reported in 2004. The survey found that most victims endured years of abuse before seeking help. A study released by the Family Crisis Support Center in 2004 showed that many women were reluctant to report cases of domestic violence, with 1 in 6 victims waiting as long as 10 years before reporting an attack.

In 2004 a mother and her two daughters were killed in an act of domestic violence hours after unsuccessfully seeking help at a police station. The mother had previously sought help from government social workers. In September a coroner's inquest into that murder recommended sweeping changes to existing guidelines to combat domestic violence. The police department said it had already implemented some of the recommendations and would study the others. The social welfare department announced a "zero tolerance policy" toward domestic violence and said it was examining ways to strengthen the Domestic Violence Ordinance. NGOs said there was an urgent need to amend the law to make domestic violence a crime directly under the Domestic Violence Ordinance. The legislator representing the social welfare sector accused the government of doing too little to fight domestic violence.

In October the chief executive announced several new measures to assist domestic violence victims and to provide counseling to offenders. The government also funded programs such as family life education counseling, a hot line service, temporary housing, legal aid, and child protective services. It also sponsored public education and media programs through the women's commission to promote public awareness of domestic violence and encouraged women to seek early professional assistance.

There were 45 cases of rape reported to the police during the first half of the year. The 2002 Statute Law (Miscellaneous Provisions) Bill criminalizes marital rape. In 2003 the legislature passed an amendment to the Crimes Ordinance expressly clarifying that the term "unlawful sexual intercourse" could be applied both outside and inside the bounds of marriage. During the first half of the year, 559 indecent assault cases were reported to the police.

Prostitution is legal, but there are laws against activities such as causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment. Hong Kong is a transit and destination point for persons trafficked for the purposes of sexual exploitation (see section 5, Trafficking.).

The Sex Discrimination Ordinance prohibits sexual harassment of women seeking employment or already working in an organization. The EOC reported 37 sexual harassment complaints in the first half of the year. In 2004 the government extended the definition of sexual harassment in schools to cover conduct not specifically directed at a person, such as chanting obscene slogans or displaying posters with sexual content. The change closed a loophole that allowed behavior in schools that was banned in the workplace.

Women faced discrimination in employment, salary, welfare, inheritance, and promotion. A survey released in 2004 found that nearly 80 percent of women workers believed they were the victims of discrimination.

The percentage of women employed in professional fields, including sciences and engineering, law, teaching, accounting, social sciences, health, and medicine, declined slightly during the year. As of June, 33.5 percent of professionals employed in these fields were women, versus 35.1 percent in June 2004. Approximately 21 percent of judicial officers and judges were women. In the Legco, women held 11 of the 60 seats. According to a survey released in 2004, approximately three-quarters of private companies had women in senior management positions, and women occupied more than a quarter of senior management posts. Women were still disproportionately represented in the lower echelons of the work force.

The law treats men and women equally in terms of property rights in divorce settlements and in inheritance matters, although women still faced discrimination based on traditional practices, such as in the inheritance of homes in rural areas of the New Territories.

Children.—The government supported children's rights and welfare through well-funded systems of public education, medical care, and protective services. The Education Department provided schooling for children between 6 and 15 years of age and placement services for non-Chinese speaking children. Education is free and compulsory through grade nine. Nearly 100 percent of school-aged children attended school, and boys and girls attended in equal proportions. The government supported programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families.

The Domestic Violence Ordinance mandates substantial legal penalties for acts of child abuse such as battery, assault, neglect, abandonment, sexual exploitation, and child sex tourism, and the government enforced the law.

During the first half of the year, there were 586 child abuse cases reported to the police: 222 involved physical abuses (referring to victims less than 14 years of age) and 364 involved sexual abuses (referring to victims less than 17 years of age). Between April and April 2004, 263 women and 250 children were admitted to shelters to escape domestic violence. In July a University of Hong Kong survey found that almost one in three children had been abused.

The government provided parent education programs in all 50 of the department of health's maternal and child health centers, which included instruction on child abuse prevention. It also provided public education programs to raise awareness of child abuse, and to 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 department also commissioned research on domestic violence, including child abuse. The police maintained a child abuse investigation unit and a child witness support program. A child care center law helps prevent unsuitable persons from providing childcare services and facilitates the formation of mutual help childcare groups.

In 2003 the government enacted the Prevention of Child Pornography Ordinance, which criminalizes the making, production, distribution, publication, advertising, and possession of child pornography. It also prohibits the procurement of children for making pornography, extends the application of certain sexual offense provisions to acts committed against children outside of Hong Kong, and prohibits any arrangement or advertising relating to commission of those acts. The law carries a penalty of up to five years imprisonment and a fine of up to \$128,500 (HK\$1 million) for possession of child pornography. In 2004 police used the new law to conduct a sweep of child pornography Web sites, in co-operation with enforcement agencies in other countries. Police arrested 18 persons locally and closed down an overseas Web site. As of year-end, at least 12 of those arrested had been convicted.

In September at a hearing in Geneva the UN Committee on the Rights of the Child (UNCRC) criticized Hong Kong's implementation of the UN treaty on children's rights. Hong Kong is required to implement the treaty as a dependent territory of China. The committee outlined a number of problem areas, including the persistence of corporal punishment, a lack of measures to prevent sexual exploitation and trafficking, a lack of measures to combat child poverty, the low age of criminal responsibility, and discrimination against undocumented migrant children. The com-

mittee recommended that the government: create a single unified law or policy pertaining to children; establish a body representing children's views; ban corporal punishment; establish a poverty line; abolish life sentences for minors; and increase funding for child welfare programs. The government said it would consider the committee's recommendations, but rejected the call for a single comprehensive policy or law concerning children. The government continued to stress this was not necessary as there were no serious problems with the existing arrangements. However, the government was reviewing the Domestic Violence Ordinance to determine if there were provisions of the law pertaining to children that could be strengthened. During the UNCRC hearing, the government also pledged to prepare Hong Kong for application of the optional protocol on the sale of children, child prostitution, and child pornography.

The government provided subsidized, quality medical care for all children who were residents.

In 2003 legislation raised the age of criminal responsibility for children from 7 to 10 years. During the first half of the year, there were 70 youths under the age of 16 who were incarcerated: 17 in prison; 10 in training centers; 13 in detention centers; and 30 in rehabilitation centers.

Trafficking in Persons.—There is no law prohibiting trafficking in persons. There are various laws and ordinances that allow law enforcement authorities to take action against traffickers. Despite robust efforts by the SAR government to stop such activities, Hong Kong was a point of transit and destination for a small number of persons trafficked for sexual exploitation from China and Southeast Asia. It was difficult for the government to identify trafficking victims from among the larger group of illegal immigrants.

Nearly all foreign prostitutes came to Hong Kong willingly to engage in prostitution. Most came from rural areas of the mainland, Thailand, or the Philippines on 14-day tourist visas, although a very small number entered using forged documents. The overwhelming majority were women, although an increasing number of young men were coming to Hong Kong to work as homosexual prostitutes. While many came on their own, some were lured to the SAR by criminal syndicates and promises of financial rewards. Prostitutes were typically required to repay the syndicates the cost of their airfare, lodging, and food. Some were forced to stay in Hong Kong longer than they anticipated, or work more than they expected, to repay their debts. Prostitutes were sometimes required to give their passports to the syndicates until the debt was paid. When their visas expired, many would travel to Macau or Shenzhen for a day, and then re-enter Hong Kong. Immigration officials were well aware of this practice and would deny re-entry if they suspected such abuse. Despite the involvement of syndicates in bringing prostitutes to Hong Kong, very few women were lured to the SAR with false promises of legitimate employment and then forced, or coerced, to work as prostitutes.

Traffickers have used forged or illegally obtained travel documents to attempt to smuggle persons through the Hong Kong airport. In 2004 the immigration department established the Anti-Illegal Migration Agency to target human smugglers and other travelers using fraudulent documents. The agency had 60 officers stationed at the Hong Kong International Airport. The number of fraudulent documents seized at the airport declined sharply during the first half of the year due to the presence of these officers. Authorities apprehended 834 persons with forged travel documents in the first half of the year, versus 1,288 during the same period in 2004.

During the year there were no known reports of persons being trafficked into the SAR to work as domestic workers.

Provisions in the Immigration Ordinance, the Crimes Ordinance, and other relevant laws enabled law enforcement authorities to take action against trafficking in persons. The courts can impose heavy fines and prison sentences up to 14 years for such activities as arranging passage of unauthorized entrants, assisting unauthorized entrants to remain, using or possessing a forged, false, or unlawfully obtained travel document, and aiding and abetting any person to use such a document. The security bureau is responsible for combating migrant trafficking and overseeing the police, customs, and immigration departments, which are responsible for enforcing antitrafficking laws. Law enforcement officials received special training on handling and protecting victims and vulnerable witnesses, including victims of trafficking.

The government provided legal aid to those taking legal action against an employer, and immunity from prosecution for those who assist in the investigation and prosecution of traffickers. The social welfare department and local NGOs also provided an array of social services to victims of trafficking. The government did not provide funding to foreign or domestic NGOs for services to victims. The government

also tried to prevent trafficking by distributing pamphlets, in a wide range of languages, to workers about their rights.

Persons with Disabilities.—Discrimination against persons with physical and mental disabilities persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance calls for improved building access and sanctions against those who discriminate. Also, the Buildings Ordinance was amended in 2003 to update design requirements. However, 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.

The government offered an integrated work program in sheltered workshops and provided vocational assessment and training. No comprehensive statistics were available on the number of persons with disabilities in the work force, but the last government survey conducted in 2000 estimated that there were approximately 269,500 persons with one or more disabilities, including 225,600 persons with physical disabilities and 52,700 with mental disabilities. According to the survey, of the 269,500 persons with disabilities, 52,500 were employed and 59,700 were considered “economically active,” including small business owners and street vendors. However, a consortium of organizations representing persons with disabilities reported in 2002 that approximately 700 thousand residents were disabled, approximately half of whom were able to work. As of March there were 3,241 persons with disabilities employed as civil servants out of a total civil service work force of 158,737. During the first half of the year, the Labor Department’s Selective Placement Division found jobs for 1,223 of 2,161 disabled job seekers. Out of 820 thousand students, approximately 10,400 were disabled (1.3 percent); approximately 38 percent of these students studied at mainstream schools.

The EOC sponsored a variety of activities to address discrimination against persons with disabilities, including youth education programs, distributing guidelines and resources for employers, carrying out media campaigns, and cosponsoring seminars and research.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must register under the Trade Unions Ordinance. The basic precondition for registration is a minimum membership of seven persons. The Trade Unions Ordinance does not restrict union membership to a single trade, industry, or occupation and the government did not discourage or impede the formation of unions. Trade unions were independent of political parties and the government.

During the first half of the year, 9 new unions were registered, while 1 was deregistered; there were 712 registered trade unions. At the end of 2004, 21.04 percent of the 3,130,000 salaried employees and wage earners belonged to a labor organization.

The Employment Ordinance includes provisions that protect against antiunion discrimination. Violation is a criminal offense with a maximum fine of \$12,800 (HK\$100 thousand). Employees who allege such discrimination have the right to have their cases heard by the Labor Relations Tribunal. The tribunal may order reinstatement of the employee, subject to mutual consent of the employer and employee. The tribunal may award statutory entitlements (for instance, severance pay) and compensation. The maximum amount of compensation is \$19,230 (HK\$150 thousand). Some labor activists have complained that the labor tribunals tended to push conciliation rather than issue orders.

b. The Right to Organize and Bargain Collectively.—The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance removes the legal stipulation of trade unions’ right to engage employers in collective bargaining. The ordinance bans the use of union funds for political purposes, requires the chief executive’s approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees. In a few trades such as tailoring and carpentry, wage rates were determined collectively in accordance with established trade practices and customs rather than a statutory mechanism, but collective bargaining was not practiced widely. Unions were not powerful enough to force management to engage in collective bargaining. The government did not engage in collective bargaining with civil servants’ unions.

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 trade unions, employers, and the Labor Department.

Work stoppages and strikes are legal. There are some restrictions on this right for civil servants. Although there is no legislative prohibition of strikes, in practice most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal.

There were two labor stoppages by public employees during the year. Both were strikes by swimming pool lifeguards concerned about staff and pay cuts.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor. Although the law does not specifically prohibit forced or compulsory labor by children, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Employment of Children Regulations prohibits employment of children under the age of 15 in any industrial establishment. Children 13 and 14 years of age may work in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum 9 years of education and protection of their safety, health, and welfare. The Labor Department conducted regular workplace inspections to enforce compliance with the regulations. During the first half of the year, the Labor Department conducted 66,239 inspections and discovered 1 violation of the Employment of Children Regulations. The case involved an advertising company that failed to provide valid school attendance certificates for three child entertainers. The company received a written warning. The regulations limit work hours in the manufacturing sector for persons 15 to 17 years of age to 8 hours per day and 48 hours per week between 7 a.m. and 7 p.m. They also prohibit, for persons less than 18 years of age, overtime in industrial establishments with employment in dangerous trades.

e. Acceptable Conditions of Work.—There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure exists, wage levels customarily are fixed by individual agreement between employer and employee and are determined by supply and demand. Some employers provided workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage provided a decent standard of living for a worker and family. Two-income households were the norm. There are no regulations concerning working hours, paid weekly rest, rest breaks, or compulsory overtime. In October the chief executive for the first time acknowledged the need to study the issue of a minimum wage and limits on working hours.

The minimum wage for foreign domestic workers was approximately \$426 per month (HK\$3,320). The standard workweek was 48 hours, but many domestic workers worked much longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provide a decent standard of living. Foreign domestic workers can be deported if dismissed. During the first half of the year, four employers were prosecuted and fined for labor law violations relating to the employment of foreign domestic workers. During the first half of the year 39 foreign domestic workers filed criminal suits against their employers for maltreatment.

The Occupational Safety and Health Branch of the Labor Department are responsible for safety and health promotion, enforcement of safety management legislation, as well as policy formulation and implementation.

The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Department conducted 61,985 inspections of workplaces and issued 731 summonses, resulting in a total of \$771,874 (HK\$6,020,617) in fines. Worker safety and health has improved over the years, but serious problems remained, particularly in the construction industry. During the first half of the year, there were 20,467 occupational injuries, of which 7,838 were classified as industrial accidents. There were nine fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

In 2001 the SAR government was criticized by the UN Committee on Economic, Social, and Cultural Rights for failure to establish regulations on a statutory minimum wage, maximum working hours, paid weekly rest, rest breaks, compulsory overtime, and protection against unfair dismissal. In December 2004 the government referred the issue of a minimum wage and maximum working hours to the labor advisory board. As of year-end the board was still considering the issue. More-

over, there was no broad consensus in the community on these issues, which were debated by legislators, academics, and the public. Nevertheless, the Labor Department actively sought to improve working conditions by encouraging consultations, meetings, and seminars with industry-based committees comprising representatives of government, employers' associations, and trade unions. Such committees included the tripartite committee for the cargo transport industry and the committee for the property management industry.

MACAU

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. Macau's population is approximately 450 thousand, and its citizens have basic freedoms and enjoy legally protected rights. The SAR constitution, also called the basic law, was promulgated by the PRC's National People's Congress (NPC) in 1993. The government is led by a chief executive, chosen by a 300-member election committee, which in turn is chosen by a preparatory committee composed of 60 SAR and 40 mainland representatives appointed by the NPC. In September voters elected 12 of the legislature's 29 members in direct elections based on geographical constituencies. Interest groups in functional constituencies elected 10 others, and the chief executive appointed the remaining 7 members. The basic law does not posit the election of all members of the legislature by universal suffrage as an ultimate aim. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights abuses were reported:

- Limits on citizens' ability to change their government

RESPECT FOR HUMAN RIGHTS

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

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

Unlike the previous year, there were no reports of suspicious deaths in custody. In 2004 the public prosecutions office filed a criminal investigation concerning one of the judiciary police officers involved in the 2002 death of a prisoner in custody. An investigation into the conduct of a second officer was ongoing at year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected these provisions in practice. During the year, there were 18 reports of police brutality, compared with 21 reports for the same period in 2004.

Prison and Detention Center Conditions.—Prison conditions met international standards, and the government permitted visits by independent human rights observers.

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

Role of the Police and Security Apparatus.—Civilian authorities, specifically the secretary for security, supervised and controlled the police. The Public Security Police were well disciplined. The Commission Against Corruption acted to preclude problems with corruption.

Arrest and Detention.—Police must present persons remanded in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. The accused person's counsel may examine the evidence. The law provides that cases must come to trial within six months of an indictment. The estimated average length of pretrial incarceration was three to six months. Judges often refused bail in cases where sentences could exceed three years.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. There are four courts: the primary court, with general jurisdiction of first instance; the administrative court, with jurisdiction of first instance in administrative disputes; the court of second instance; and the court of final appeal. The courts have the power of final adjudication in all cases that are within the authority of the SAR. The courts also

may rule on matters that are “the responsibility of the Central People’s Government or concern the relationship between the central authorities and the [Special Administrative] Region.” However, before making their final judgment (a judgment not subject to appeal), the courts must seek an interpretation of the relevant provisions from the NPC’s 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.” The Standing Committee must consult the NPC’s Committee for the Basic Law of the SAR before giving an interpretation of the law. This committee is composed of 10 members, 5 from the SAR and 5 from the mainland. The chief executive, the president of the Macau SAR Legislative Assembly, and the president of the court of final appeal nominates the SAR members.

The basic law provides for the use of Portuguese, in addition to Chinese, as an official language used by executive authorities, the legislature, and the judiciary. The need to translate laws and judgments from Portuguese and a severe shortage of local bilingual lawyers and magistrates hampered development of the legal system. At year’s end there were 105 lawyers in private practice in the SAR: 14 spoke Mandarin and Cantonese and 27 spoke only Cantonese. The government sponsored a postgraduate training program for magistrates who had received legal training outside of the SAR. The judiciary was relatively inexperienced and lacked locally trained lawyers.

According to the basic law, the chief executive appoints judges at all levels, acting on the recommendation of an independent commission, which he appoints. The commission is composed of local judges, lawyers, and “eminent persons.” The basic law stipulates that judges must be chosen on the basis of their professional qualifications. Judges may be removed only for criminal acts or an inability to discharge their functions. With the exception of the chief justice, who must be a Chinese citizen with no right of abode elsewhere, foreigners are permitted to serve as judges under the basic law.

Trial Procedures.—The law provides for the right to a fair trial, and the judiciary generally enforced this right. By law trials are open to the public, except when publicity could cause great harm to the dignity of the persons, to public morals, or to the normal development of the trial. The law provides for an accused person’s right to be present during proceedings and to choose an attorney or request that one be provided at government expense. The Organized Crime Ordinance provides that “certain procedural acts may be held without publicity and witness statements read in court are admissible as evidence.” There also are additional restrictions on granting bail and suspended sentences in organized crime cases. Defendants enjoy a presumption of innocence, have access to government-held evidence relevant to their cases, and have a right of appeal.

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 sometimes passed between filing a civil case and its scheduled hearing.

A public prosecutor general heads the Public Prosecutions Office. It enjoys substantial autonomy from both the executive and the judiciary. The basic law stipulates that the Public Prosecutions Office’s functions be carried out without government interference, and the government respected the law in practice.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom and the Internet.

The dominant newspapers, mainly Chinese-language, supported PRC government positions in their editorial line. The Union for Democracy Development Macau (UDDM), a nongovernmental organization (NGO) headed by prodemocracy legislators, charged that newspapers did not give equal attention to liberal and prodemocracy voices. In February the chief editor of *Open Magazine*—which is openly critical of the mainland Chinese government—was refused entry to Macau “based on Macau Special Administrative Region internal security guidelines,” according to a letter from the government. Although the editor had been barred from the mainland for a number of years, this was the first time he was barred from Macau. In response to a letter of concern from a Hong Kong legislator, the chief executive’s office replied that it was concerned about the case and investigating it.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion and the government generally respected these rights in practice.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts during the year, and the size of Macau's Jewish population remains extremely small.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Approximately 100 thousand residents held Portuguese European Union passports, and an increasing number held SAR passports that allowed visa-free entry into many countries. Most residents also held special permits that allowed travel to and from the mainland. There was a separate pass for travel to and from Hong Kong.

The internal security legal framework allows the government to refuse entry or expel any nonresident considered inadmissible or constituting a threat to internal security, or suspected of having a relationship with transnational crime or terrorism. During the first half of the year, no person was refused entry based on suspicion of having a connection to terrorism or transnational crime; however, 12 persons were refused entry for internal security reasons, primarily for violations of immigration law.

During the first half of the year, 214 illegal migrants and 3,757 overstayers were returned to the mainland.

In January Macau immigration officials refused entry to a Hong Kong resident who was a spokesperson for the Falun Gong. The spokesperson said she had entered Macau many times without incident. This denial of entry occurred during a period of heightened security on the mainland, just three days after the death of former Communist Party Chairman Zhao Ziyang in Beijing.

The basic law prohibits forced exile by guaranteeing the right of permanent residents to leave and enter the SAR, and the government respected the law.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In practice the government granted refugee status or asylum and provided protection against *refoulement*, the return of persons to a country where they feared prosecution. The Migration Department cooperated with the UN High Commissioner for Refugees in handling refugees. As of October, there were no refugee cases.

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

The basic law restricts citizens' ability to change their government. The government is led by a chief executive, chosen by a 300-member election committee, which in turn is chosen by a 100-member preparatory committee, composed of 60 SAR and 40 mainland representatives appointed by the NPC.

Elections and Political Participation.—In 2004 Chief Executive Edmund Ho was re-elected to a second five-year term.

In September the SAR's democratic development was enhanced when a record 58 percent of registered voters participated in Macau's third legislative elections. As required by the basic law, two directly-elected seats were added to the legislature during the elections. Voters directly elected 12 of the 29 legislators (versus 10 of the 27 in 2001) from geographic constituencies. Local community interests, such as business, labor, professional, welfare, cultural, educational, and sports associations, indirectly elected 10 members, and the chief executive appointed 7 members.

There are limits on the types of legislation that legislators may introduce. The basic 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 relating to government policies must receive the chief executive's written approval before they are submitted.

A 10-member executive council functions as an unofficial cabinet, approving all draft legislation before it is presented in the Legislative Assembly.

There were six women in the 29-member assembly, including the president of the assembly. Women also held a number of senior positions throughout the government. There were three ethnic minorities in the 29-member assembly. One member of the executive council was also an ethnic minority, as was the police commissioner.

Government Corruption and Transparency.—The Commission Against Corruption (CAC) investigates public-sector corruption and has the power to arrest and detain suspects. In the first half of the year, the CAC received 602 complaints against public officials in a variety of agencies. The CAC pursued 229 of these complaints, of which 100 were criminal cases and 129 were administrative cases. The CAC transferred 11 cases to the Public Prosecutions Office. A monitoring body established to review complaints of maladministration or abuse by the CAC received no complaints during the same period.

The law does not provide for public access to government information. However, the executive branch published online, in both Chinese and Portuguese, an extensive amount of information including 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. For example, it did not publish a legislative agenda or a list of pending bills.

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

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

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

The basic law stipulates that residents shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political persuasion, ideological belief, educational level, economic status, or social condition, and the government effectively enforced the law. In addition many local laws carry specific prohibitions against discrimination. For example, under the law that established the general framework for the educational system, access to education was stipulated for all residents regardless of race, religious belief, or political or ideological convictions.

Women.—The government effectively enforced criminal statutes prohibiting domestic violence and prosecuted violators. Domestic violence is punishable by 1 to 15 years in prison. In the case of spousal abuse and violence against minors, the penalty is 2 to 8 years' imprisonment, and 5 to 15 years if the abuse leads to the death of the victim.

The government provided hospital treatment for victims of abuse, and medical social workers counseled victims and informed them about social welfare services. The government may provide victims of domestic violence with public housing until their complaints are resolved, but it did not reserve facilities expressly for this purpose.

Private and religious groups sponsored programs for victims of domestic violence, and the government supported and helped to fund these organizations and programs. The Bureau for Family Action, a government organization subordinate to the Department of Family and Community of the Social Welfare Institute, helped female victims of domestic violence by providing a safe place for them and their children and furnishing advice regarding legal actions against the perpetrators. A family counseling service was available to persons who requested such services at social centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence. In the first half of the year, 112 cases of spousal abuse and 51 cases of family violence were reported to the Social Welfare Institute. The law on rape covers spousal rape. In the first half of the year, there were 10 reported rapes.

Prostitution is legal, but procuring is not. Trafficking in persons also is illegal; however, there were 10 suspected cases of trafficking in women for the purposes of prostitution (see section 5, Trafficking).

There is no law specifically addressing sexual harassment, although there is a law prohibiting harassment in general. Sexual harassment was not considered to be a major problem.

Equal opportunity legislation applicable to all public and private organizations mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. The law allows for civil suits, but few women took their cases to the Labor Affairs Bureau or other entities. There were no cases alleging sexual discrimination during the first half of the year.

Women also have become more active and visible in business. However, wage discrimination occurred in certain sectors of the job market, notably construction.

Children.—The government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citi-

zens. For example, the law provides for criminal punishment for sexual abuse of children and students, statutory rape, and procuring that involves minors.

School attendance is compulsory for all children between ages 5 and 15. Basic education was provided in government-run schools and subsidized private schools, and it covered the preprimary year, primary education, and general secondary school education. The Education Department provided assistance to families that could not pay school fees. The children of illegal immigrants were excluded from the educational system. Experts believed this exclusion affected only a few children. Boys and girls attended school in equal proportions, and the government provided free medical care for all children. Child abuse and exploitation were not widespread problems. In the first half of the year, 87 cases of child abuse were reported to the police. During the same period, the government received three reports of rape of minors and nine reports of sexual abuse of minors.

Trafficking in Persons.—The law makes trafficking in persons a crime punishable by two to eight years in prison. The law increases this penalty by one-third (within minimum and maximum limits) if the victim is under 18 years of age. If the victim is under 14 years of age, the penalty is increased by 5 to 15 years. If the trafficker rapes the victim, the two offenses are treated as different crimes. While prostitution is not illegal, a “procurement” law makes it a crime to instigate, favor, or facilitate the practice of prostitution by another person for the purposes of profit or as a way of life.

From January to November, the SAR investigated 42 cases of procurement. While most of these cases involved women who were believed to be willing participants in the sex industry, 10 women claimed to have been brought to the SAR under false pretenses and 3 complained of abuse. SAR authorities believed that Chinese, Russian, and Thai criminal syndicates were involved in bringing women to the SAR for the purposes of prostitution. Prostitutes were primarily from mainland China, Russia, Eastern Europe, Vietnam, and Thailand.

There were no government assistance programs for victims of trafficking. No local NGOs specifically dealt with the problem; however, there were charitable organizations that provided assistance and shelter to women and children who were the victims of abuse.

Persons with Disabilities.—The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. There were no reports of discrimination against persons with disabilities in employment, education, or provision of state services.

The Social Welfare Institute provided financial and rehabilitation assistance to persons with disabilities, and it helped fund 24 rehabilitation facilities and 12 rehabilitation associations. These services included day centers, preschool training and education centers, vocational training and employment centers, and rehabilitation bus service. Other special programs helped persons with physical and mental disabilities gain better access to employment, education, and public facilities. For facilities that received financial support, approximately 80 percent of their income came from the government. In 2004 the government provided approximately \$3.3 million (25.4 million patacas) in subsidies to such facilities and programs. During the year, 37 NGOs provided services for persons with disabilities and received regular assistance from the Social Welfare Institute and subsidies from other governmental departments. During the 2004–05 school year, 13 schools had programs for persons with disabilities and provided special education programs for 757 students with disabilities.

The law mandates accessibility for persons with reduced mobility to public administration buildings, buildings open to the public, collective dwellings, and pavements. The government’s social security fund may grant subsidies for the elimination of architectural barriers to facilitate access by persons with a physical or behavioral disability. Many sidewalks and public buildings have been modified to comply with the law.

National/Racial/Ethnic Minorities.—Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the government generally respected the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise approximately 2 percent of the population). Although Portuguese officials no longer dominated the civil service, the government bureaucracy and the legal system placed a premium on knowledge of the Portuguese language, which was spoken by approximately 2 percent of the population. The Chinese language has official status and the use of Chinese in the civil service has grown in recent years.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of workers to form and join unions of their choice without previous authorization or excessive requirement, and the government generally respected this right in practice. The basic law stipulates that international labor conventions that applied before the handover remain in force. The UDDM has expressed concern that local law contains no explicit provisions that bar discrimination against unions. The law also specifically excludes public servants and migrant workers from labor law protections.

Nearly all private sector unions were part of the pro-China Federation of Trade Unions (FTU), and they tended to stress the importance of stability and minimum disruption of the work force. The UDDM and some local journalists claimed that the FTU was more interested in providing social and recreational services than in addressing trade union issues such as wages, benefits, and working conditions. At the beginning of the year there were 173 registered independent trade unions. All classes of workers have the right to join a union. Approximately 79 percent of public sector employees were members of a union. There was no data on private sector unionization.

b. The Right to Organize and Bargain Collectively.—The law provides that agreements concluded between employers and workers shall be valid, but there is no specific statutory protection that provides for the right to collective bargaining; however, the government did not impede or discourage collective bargaining. Market forces determined wages. Unions tended to resemble local traditional neighborhood associations, promoting social and cultural activities rather than workplace issues. Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant labor from the mainland and the Philippines. Pro-PRC unions traditionally have not attempted to engage in collective bargaining.

There is no specific protection in local law from retribution if workers exercise their right to strike. 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 government generally enforced these provisions. Strikes, rallies, and demonstrations were not permitted in the vicinity of the chief executive’s office, the Legislative Assembly, and other key government buildings. There were no reports of labor protests, strikes, or work stoppages during the year.

Workers who believed that they were dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the High Commissioner against Corruption and Administrative Illegality, who also functions as an ombudsman.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits 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-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions were applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted. In July, the Labor Department Inspectorate conducted a special inspection specifically aimed at enforcing child labor laws. During this inspection, 476 companies were visited, 17 of which were found to have violated child labor laws by employing 29 minors aged 14 to 16.

e. Acceptable Conditions of Work.—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements, but there was no mandatory minimum wage. Average wages provided a decent standard of living for a worker and family.

Labor legislation provides for a 48-hour workweek, an 8-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every seven days of work, workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers on request.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. During the first half of the year, the Labor Department inspectorate conducted 1,745 inspections and uncovered 1,826 violations carrying fines totaling \$62,640 (494,856 million patacas). There

were five work-related deaths during the first half of the year. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protected employees' right to continued employment if they refused to work under dangerous conditions.

Migrant workers, primarily from the PRC, made up approximately 8.4 percent of the work force. They often received less than local residents for performing the same job, lived in controlled dormitories, worked 10 to 12 hours per day, and owed large sums of money to labor-importing companies for purchasing their jobs. They had no collective bargaining rights and no legal recourse in the case of unfair dismissal.

TAIWAN

Taiwan's population of 23 million is governed by a president and parliament chosen in multiparty elections. The president appoints a premier, who heads the Executive Yuan or cabinet. The parliament (Legislative Yuan [LY]) has authority to dismiss the cabinet with a no-confidence vote. President Chen Shui-bian of the Democratic Progressive Party (DPP) was reelected with 50.1 percent of the popular vote in March 2004. An opposition coalition made up of the Kuomintang (KMT) and the People First Party (PFP) won 114 of the 225 LY seats in December 2004 elections. Both elections were hotly contested in an intense partisan atmosphere but generally were regarded as free and fair. The civilian authorities generally maintained effective control of the security forces.

The authorities generally respected the human rights of citizens; however, there were problems in some areas. The following human rights problems were reported:

- corruption by officials
- violence and discrimination against women
- trafficking in persons
- abuses of foreign workers

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law stipulates that no violence, threat, inducement, fraud, or other improper means shall be used against accused persons; however, nongovernmental organizations (NGOs) asserted that police occasionally physically abused persons in their custody. The primary responsibility for investigating torture and mistreatment lies with prosecutors. The Control Yuan, a coequal branch of the political system that investigates official misconduct, also investigates such cases.

The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (see section 1.d.). The Ministry of Justice (MOJ) stated that each interrogation is audiotaped or videotaped and that any allegation of mistreatment is investigated, and that police are subject to severe punishment for abusing their authority in arresting or detaining suspects or using threats of violence to extract evidence. There were no reports of police convicted of abusing suspects. Some lawyers and legal scholars asserted that abuses occurred in local police stations where interrogations were not recorded and when attorneys were not present.

The Criminal Code provides that criminal charges must be based on legally obtained evidence and that confessions, whether by defendants or accomplices, unsupported by other evidence shall not be sufficient to convict defendants; confessions alleged to be illegally obtained must be investigated before proceeding to other evidence.

Corporal punishment is forbidden under military law, and the Ministry of National Defense implemented several programs in recent years to address the problem. Unlike in past years, there were no reports of hazing during the year.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. The MOJ reported that prisons and detention centers continued to suffer from overcrowding. As of September, prisons operated at 114 percent of capacity.

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 Administration (NPA) of the Ministry of Interior has administrative jurisdiction over all police units. City mayors and county magistrates appoint city and county police commissioners from among candidates recommended by the NPA. The mayors and magistrates are responsible for maintaining order and assessing the performances of the police commissioners in their jurisdictions. Human rights advocates remained concerned about police corruption. Prosecutors and the Control Yuan are responsible for investigating allegations of police malfeasance. The NPA also has an inspector general and an Internal Affairs Division that conduct internal police investigations.

Arrest and Detention.—Police legally may detain without a warrant anyone they suspect of committing a crime for which the punishment would be imprisonment of five years or more, when there is ample reason to believe the person may flee. Police may question persons without a formal summons when circumstances are too urgent to report to a public prosecutor. However, immediately after detaining a suspect, the authorities must apply to a prosecutor for a warrant to detain the arrestee for up to 24 hours and must give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. If the prosecutor rejects the application for a warrant, the police must release the detainee immediately. 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 duration of this pretrial detention is limited to two months and, with court approval, a single extension of an additional two months. Limits also apply to detention during trial. If a crime is punishable by less than 10 years' imprisonment, then no more than 3 extensions of 2 months each may be granted during the trial and appellate proceedings. During a second appeal, only one extension may be granted. The authorities generally observed these procedures, and trials usually took place within three months of indictment.

The law requires the police to inform a suspect during an interrogation of the specific charges in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are amended subsequently, the police must inform the suspect. The authorities generally respected a detainee's request to have a lawyer present during the investigation phase. When a detainee requests legal counsel, police must wait at least four hours for a lawyer before proceeding with an interrogation. Although the law requires that indigent persons be provided legal counsel during trials, it does not provide for legal counsel during interrogations. However, confessions from interrogations conducted in the evenings generally are not to be used as evidence; allegations that a confession was obtained illegally are to be investigated before it is used in a trial (see section 1.c.). With the exception of urgent circumstances, when such equipment is unavailable, interrogations must be audiotaped or videotaped, and when written reports of interrogations are in conflict with evidence in audiotapes and videotapes, the contradictory interrogation may not be used as evidence. The nongovernmental Legal Aid Foundation of Taiwan has been in operation since June 2004 and provided quality professional legal services to the indigent.

Some human rights advocates continued to believe that the rules did not provide adequate protection since suspects often did not have legal representation during police interrogation. In addition, informed observers reported that the "public defense counsels" did not appear until the final argument of a trial and that they seldom spent adequate time discussing the case with their clients. In response to this complaint, courts were allowed to appoint private attorneys or public defense counsels to detainees. The courts require, in a first trial, that counsels interview a detainee at least once before each hearing and, in an appeal, whenever the detainee requests an interview.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. Although the government has made efforts to eliminate corruption and to diminish political influence in recent years, residual problems remained (see section 3).

The Judicial Yuan (JY), headed by a president and vice president, is one of the five coequal branches of the political system, and includes the 15-member Council of Grand Justices, which interprets the constitution as well as laws and ordinances. Subordinate JY organs include the supreme court, high courts, district courts, the administrative court, and the Committee on the Discipline of Public Functionaries. The administrative court also provides judicial review.

Trial Procedures.—The law provides 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 are responsible to, the JY. In a typical court case, a single judge rather than a defense attorney or prosecutor interrogates parties and witnesses. The judge may decline to hear witnesses or to consider evidence that a party wishes to submit if the judge considers it irrelevant; a refusal to hear evidence may be a factor in an appeal. Trials are public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission.

A defendant has the right to an attorney. If the defendant is charged with committing a crime for which the penalty is three or more years' imprisonment or if the defendant is indigent, the judge may assign an attorney. Attorneys assigned to defendants generally assisted once an indictment was filed and at trial but usually were not present during police interrogations. Although the government took measures to strengthen the effectiveness of defense representation, some human rights lawyers argued that more improvements were necessary. The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of three years or more may appeal beyond that level. The supreme court automatically reviews life imprisonment and death sentences. It is unconstitutional to allow the confessions of accomplices to be used as the only evidence to convict a defendant. Civilians are not subject to military tribunals.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law contains provisions protecting privacy. The Code of Criminal Procedure requires prosecutors to obtain judicial approval of search warrants, except when "incidental-to-arrest" or when there are concerns that evidence may be destroyed. However, critics claimed that the incidental-to-arrest provision is not only unconstitutional but is often interpreted broadly by police to justify searches of locations other than actual arrest sites. According to the NPA, warrantless searches are allowed only in special circumstances, such as to arrest an escapee or if facts indicate that a person is in the process of committing a crime. In any such case, the police must file a report with the prosecutor or court within 24 hours. A police officer who carries out an illegal search may be sued for illegal entry and sentenced to up to one year in prison.

The telecommunications protection and control law imposes severe penalties for unauthorized wiretapping. The telecommunications law and the Code of Criminal Procedure provide that judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime, and the MOJ and the police used wiretapping as an investigative tool. According to the MOJ, the number of approved wiretappings increased from 13,834 in 2003 to 19,845 in 2004, and to 19,178 during the first 10 months of the year.

On September 29, the Council of Grand Justices ruled unconstitutional a government program requiring fingerprinting of all persons applying for identification cards.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the authorities generally respected these rights in practice. There were no government restrictions on the Internet.

Print media represented the full spectrum of views within society. However, some political influence still persisted with respect to the electronic media, particularly broadcast television. The existence of approximately 100 cable television channels, some of which carried programming openly critical of the various political parties, mitigated the importance of this influence. Moreover, pursuant to legislation the LY approved in 2003 no government or party officials held positions in the media. Under the same legislation the government and the parties were required to divest themselves of stakes in all television and radio broadcast companies within two years. On December 24, the KMT sold its stakes in the China Television Company (CTV), the Broadcasting Corporation of China (BCC), and the Central Motion Pictures Corporation. At year's end the government divestiture of Chinese Television System and Taiwan Television Enterprise was proceeding but was not completed and required among other steps LY approval.

The 2003 legislation mandated the formation of a National Communications Commission (NCC) to replace the Government Information Office (GIO) in overseeing the operations of the broadcast media. Ensuring the political neutrality of the NCC

was the subject of partisan political controversy. On October 25, the LY passed legislation carefully apportioning seats on the NCC. The commissioners cannot work for any government agency, state-owned enterprise, or for any communications or broadcasting company. The NCC is to replace the GIO in early 2006. The GIO continued as both regulatory agency and government spokes agency through year's end, and opposition party officials and scholars alleged that the government exercised too much power and influence through the GIO's authority to regulate programming and approve radio and television licenses.

In July and August, criticism of the GIO intensified in reaction to its handling of cable broadcasting license renewal and revocation cases. In March 70 applications for renewals were submitted to the GIO; an additional 13 licenses expired without submitting renewal applications; and one channel failed to make the application deadline. The GIO rejected 7 of the 70 applications for renewal and on July 31, announced the revocation of 21 cable television broadcast licenses, charging malfeasance such as financial mismanagement, and violations of program license statutes, and ordered the channels to suspend operations the next day. Critics said the revocations violated press freedom and threatened the livelihood of broadcast journalists. Eastern TV, one of the seven rejected renewal applicants, sought a court injunction against the order to suspend broadcasting and in a compromise, changed its name to Super X and continued to broadcast.

In November the GIO fined a Hong Kong-invested satellite broadcast television station, TVBS, \$30 thousand (NT\$1 million) for violating a law that restricted foreign ownership of satellite broadcasters to less than 50 percent. TVBS had been prominent in reporting on corruption and other scandals linked to the government and accused the GIO of a "political witch hunt." Public sympathy for TVBS and criticism of the GIO was widespread, and the GIO took no further steps against TVBS.

During the year the GIO continued to implement a radio broadcasting reorganization plan intended to restructure public-owned radio networks and reorganize the distribution of frequencies. The reorganization requires several KMT-controlled broadcasting companies, particularly the BCC, to return some frequencies to the government for redistribution. The BCC has the largest number of frequencies in the market and in 1992 had agreed to return 14 frequencies used to block radio broadcasting from mainland China.

There was a vigorous and active free press. Some asserted that many media enterprises relied on government advertising revenue and government-controlled bank loans and hence were reluctant to go too far in criticizing the government. The government denied charges of manipulating the media and asserted that it had minimal direct control over the advertising market. According to the GIO, the government's advertising budget was approximately \$30 million (NT\$1 billion) during the fiscal year, which accounted for approximately 4 percent of the \$735–880 million (NT\$25–30 billion) advertising market.

In 2002 the government raided the offices of *Next Magazine* and confiscated 160 thousand copies of an issue containing an article approximately \$100 million (NT\$3.5 billion) in secret funds established by former president Lee Teng-hui and used as well by the current administration for diplomatic missions and policy initiatives. The high court prosecutor's office charged a reporter at the magazine with breaching national security. The case was still pending and has not been brought to trial, and the reporter has been actively employed as a journalist by a daily newspaper. In July 2003 the high court sentenced a former journalist who reported the details of a military exercise in 2000 to 18 months in prison and three years' probation. The accused appealed the decision, and in August the high court reduced his prison term to one year and suspended the sentence for three years.

The police may seize violent or pornographic material based on the offences against morals and public order provisions of the Criminal Code and the Child and Adolescent Sexual Prevention Statue. The police must request search warrants from prosecutors to conduct such seizures (see section 1.f.).

The GIO, which required that any publications imported from mainland China be sent to the GIO publications department for screening before sale or publication, has the authority to ban importation of publications that advocate communism or the establishment of united front organizations, endanger public order or good morals, or violate regulations or laws. Nevertheless, a wide variety of mainland China-origin material was readily accessible through the Internet as well as in retail stores. Cable television systems are required to send imported material to the GIO for screening and to convert subtitles from the simplified characters used in mainland China to traditional characters before broadcasting.

The media occasionally trampled on individuals' right to privacy. The media often taped and aired police interrogations and entered hospital rooms when the patient was unable to prevent such entry.

Restrictions on academic freedom largely were the same as the restrictions on imported publications noted above regarding the advocacy of communism or united front organizations, endangering public or good morals, or violating regulations or laws. In practice the government did not interfere with academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the authorities generally respected these rights in practice. Although the National Security Law gives the government the authority to prevent demonstrations advocating communism or the division of the national territory, pro-independence and pro-reunification demonstrations took place without government interference.

The Civic Organizations Law requires all civic organizations to register. Registration was granted routinely.

Under the Civic Organizations Law, the Constitutional Court, which is made up of the Council of Grand Justices, has the power to dissolve political parties. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the “Republic of China.” The Constitutional Court heard no cases under this law during the year.

c. Freedom of Religion.—The law provides for freedom of religion, and the authorities generally respected this right in practice. Religious organizations may register with the central authorities through their island-wide associations under the Temple Management Law, the Civic Organizations Law, or the chapter of the Civil Code that governs foundations and associations; however, registration is not mandatory.

Registered religious organizations operate on a tax-free basis and are required to make annual reports of their financial operations. While individual places of worship may register with local authorities, many chose not to register and operated as the personal property of their leaders. There is no state religion.

Societal Abuses and Discrimination.—The government at all levels strives to protect the right to practice religion freely and does not tolerate its abuse, either by the authorities or private actors. Moreover, the generally amicable relationship among religions in society contributed to religious freedom.

The Jewish community consisted of approximately 150 members. There were no reports of anti-Semitic acts.

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

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

All travelers from the China mainland are required to have invitations from sponsors and are subject to approval by the Mainland Affairs Council. Mainland tourists are not allowed to change their itineraries after arriving in Taiwan, must travel in groups rather than individually, stay at designated hotels, and return to their hotel rooms by 10 p.m. In addition, travel agencies responsible for arranging the visits are required to deposit a guarantee of \$29 thousand (NT\$1 million), which is confiscated if any of the tourists are involved in any legal problems or are reported missing. There are also restrictions on mainland visitors who come to Taiwan for family and business purposes. They are required to report their location to the police on a regular basis and cannot seek employment in Taiwan.

Regulations require mainland Chinese spouses applying for a national identification card to pass a security clearance. In September a regulation was implemented requiring fingerprinting of all mainland Chinese who are spouses of Taiwan nationals, visiting relatives, or are seeking residency in Taiwan.

The authorities permit People’s Republic of China (PRC) correspondents to be posted to the island for up to one month per visit, and Xinhua News Agency, *People’s Daily*, China Central Television, China National Radio, and China News Service have established bureaus in Taiwan. However, in March, following the PRC’s adoption of the Anti-Secession Law, Xinhua News Agency and *People’s Daily* were temporarily barred from stationing journalists in Taiwan on the grounds that the news services had practiced “deceptive journalism”; the journalists have yet to be allowed back. On August 10, the authorities announced that reporters from the mainland China newspapers *Nanfeng City News* and *Xinmin Evening News* could work in Taiwan. During the year the first correspondents from regional Chinese media outlets were allowed into Taiwan. In addition, during the first 9 months of the year, 6,535 PRC scholars, 1,562 artists, and 934 journalists visited Taiwan to participate in cross-Strait exchanges.

The law does not provide for forced exile, and it was not practiced.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status. Although the authorities were reluctant to return to the mainland

those who might suffer political persecution, they regularly deported to the PRC, under provisions of the mainland relations act, mainlanders who illegally entered the island for what were presumed to be economic reasons.

In 2004 two PRC democracy activists entered Taiwan illegally by fishing boat and requested asylum. After brief confinement in a detention center, the two were released and allowed freedom of movement. They continued to receive renewals on their three-month temporary visas and financial assistance from the authorities; however, the government refused their requests for long-term visas, and they continued to seek asylum in a third country. The law requires the return to the PRC of all PRC citizens unlawfully present, including victims of trafficking in persons (see section 5).

The government repatriated illegal immigrants to their countries of origin throughout the year. The Ministry of Interior (MOI) stated that the frequency of repatriations of PRC illegal immigrants increased. This was confirmed by the Taiwan Red Cross (TRC), which acts as a mediating party in the cross-Strait repatriation process. PRC illegal immigrants continued to wait long periods in detention centers, however; some have waited well over two years. The Bureau of Entry and Exit and the TRC faulted PRC authorities for delays in repatriation. The average period of detention for PRC illegal aliens was 212 days, compared with 172 days in 2004. As of November, the authorities had deported 1,440 illegal immigrants back to the PRC.

Non-PRC illegal aliens averaged just over 40 days of detention before being repatriated.

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.—On June 7, an ad hoc National Assembly approved a constitutional amendment package that among other changes halves the number of LY seats and replaces the existing system of multi-member districts with single member districts and proportionally elected seats to be allocated according to a separate vote for a political party. The change is expected to strengthen the larger parties and weaken the influence of smaller political parties and independents.

According to the Public Election and Recall Law for Civil Servants, independents and political parties are free to declare their candidacy for any election as long as they meet all requirements. The DPP and the KMT, the two major political parties, hold a primary election when more than one candidate competes to run for an office, and the DPP also utilizes public opinion polls to select candidates. The smaller PFP and the Taiwan Solidarity Union (TSU) also compete in elections. Independent candidates are common. The law specifies and regulates the maximum budget each candidate can spend in an election, although this law has not been enforced in practice. In general individuals and parties are given full freedom within the confines of the law to participate in elections.

In the March 2004 presidential election President Chen Shui-bian was re-elected and in the December 2004 legislative elections, the opposition KMT–PFP coalition won a narrow majority in the LY. Both elections were hotly contested in an intense partisan atmosphere but generally were regarded as free and fair. The extremely close result of the presidential election and the wounding of President Chen and Vice President Lu on the eve of the vote continued to be matters of controversy. On August 18, the supreme court prosecutor's office released a final report that concluded that the assassination was attempted by a retired construction worker, Chen Yi-hsiung, who committed suicide after the incident. The opposition was dissatisfied with the report and vowed to establish a second truth investigation committee in the next legislative session.

The constitution provides for equal rights for women. In 2004 Vice President Annette Lu was re-elected to a second term. In May Yeh Chu-lan became the first female deputy premier, and in September she became the first female acting mayor of Kaohsiung City. Of the 46 cabinet members, 8 were women. Of the 20 members of the Examination Yuan 3 were women. Two of the 15 members of the DPP Central Standing Committee and 8 of the 34 members of the DPP Central Executive Committee were women. Nine of the 31 members of the KMT Central Standing Committee were women. There were 47 women in the 225-member LY. Moreover, the current law stipulates that at least one of every five seats in multimember constituencies must be filled by a woman even if male candidates receive more votes, a provision that was eliminated in the June constitutional amendment package.

Aborigine representatives participated in most levels of the political system. They held eight reserved seats in the LY, half of which were elected by plains Aborigines and half by mountain Aborigines. The proportion of legislative seats allocated to Aborigines was almost twice their approximately 2 percent of the population. An Aborigine served as Chairman of the Council of Aboriginal Affairs. In accordance with the latest constitutional amendment reducing the LY membership by half, beginning with the seventh LY to be elected in 2007, Aborigines will hold six seats.

Government Corruption and Transparency.—The government continued to take action to combat corruption in the executive and judicial branches of government. There were allegations of government corruption during the year. Allegations of vote buying continued, although all political parties have committed publicly to ending the practice.

As of November, prosecutors had indicted 1,041 persons on various corruption charges, and 259 persons were convicted. Of the 1,041 accused, 23 were government officials, 157 were mid-level, 307 were low-level, and 38 were elected government officials. In 2004 920 persons, including 451 government officials, were prosecuted on charges of corruption, and 419 were convicted. Elected officials accounted for 7 percent of the accused. Prosecutors charged 834 persons for vote buying during the 2004 legislative elections, and 6 had been convicted by year's end.

The JY took several measures to reduce political influence on judges. An independent committee using secret ballots decides judicial appointments and promotions. Judicial decisions are no longer subject to review by presiding judges, except in the case of decisions by "assistant judges." The judges themselves decide on distribution of cases. Finally, judges and the president of the JY are prohibited from taking part in political activities. An NGO, the Judicial Reform Association, monitors the performance of individual judges and prosecutors.

The government led an anticorruption campaign in 2004 and reinforced the JY's efforts to eliminate judicial corruption. The campaign prompted revised precepts for evaluating judicial performance and strengthened reviews of judges' financial disclosure reports. In August 2004 the MOJ established a special task force to examine corruption charges against judicial personnel and announced that 10 senior officials were under investigation. As of September, 32 prosecutors and 11 judges had been placed under investigation for corruption or other irregularities. According to MOJ statistics, between 2000 and 2004, 146 prosecutors were punished for corruption, dereliction of duties, and other irregularities.

In 2002 the LY passed "Enforcement Rules for Public Servants in Prevention of Profiting" to curb corruption in public sectors. On August 29, PFP legislator Fu Kun-chi was indicted on charges of violating the security transaction law and for breach of trust for alleged involvement in illegal stock trading. The prosecutors recommended that Fu be sentenced to 42 months in jail and fined \$1.6 million (NT\$50 million).

The law allows the public to request access to regulations, plans, statistics, contracts, treaties, meeting records, and other unclassified government information.

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

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

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

The constitution provides for equality of citizens before the law "irrespective of sex, religion, race, class, or party affiliation." It also provides for the rights of persons with disabilities and there are no laws prohibiting homosexual activities. While the authorities were committed to protecting these rights, discrimination against some groups continued.

Women.—Violence against women, including domestic violence and rape, remained a serious problem. The law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. Through November there were 1,589 cases prosecuted and 1,312 persons convicted for domestic violence. Typically persons convicted in domestic violence cases were sentenced to less than six months prison time. Strong social pressure not to disgrace their families discouraged abused women from reporting incidents to the police.

Rape, including spousal rape, is a crime and remains a serious problem; its victims were stigmatized socially. Experts estimated that the total number of rapes was 10 times the number reported to the police. The law provides protection for

rape victims. Victims under 16 or mentally handicapped are allowed to testify via a two-way television system and rape trials may not be open to the public unless the victim consents. By regulation, doctors, social workers, police, and prosecutors jointly question victims of sexual abuse to reduce the number of times a victim is questioned. 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 5 years' imprisonment, and those convicted usually were given sentences of 5 to 10 years in prison. According to the NPA, as of November there were 5,297 charges of rape or sexual assault filed, 1,351 allegations of rape or sexual assault prosecuted, and 1,379 persons convicted.

The law requires all city and county governments to set up violence prevention and control centers to address domestic and sexual violence, child abuse, and elderly abuse. These government- and NGO-funded centers provided victims with protection, medical treatment, emergency assistance, shelter, legal counseling, and education and training on a 24-hour basis. As of November the centers received 57,512 calls from victims and reported 28,745 cases to the authorities. Between June 1999 and July 2005, the centers obtained 53,562 protection orders from the courts. In 2004 the MOI set up a toll free hot line specifically for male victims of domestic violence, which received approximately 25 calls per day. During the year, the MOI established a domestic violence hot line staffed by personnel conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese to assist the growing numbers of foreign spouses.

Prostitution, including child prostitution, was a problem. Prostitution is illegal. Trafficking in women remained a problem. Authorities report that the number of prostitutes from Southeast Asian countries, mainly Vietnamese, Indonesians, and Cambodians, entering Taiwan increased. During the year 204 Southeast Asian women were indicted for prostitution, 59 more than in 2004. A total of 1,215 women from the PRC, Hong Kong, and Macau were arrested for prostitution during the year, down by 870 or approximately 43 percent from 2004. Authorities cited tighter border controls, including compulsory interviews upon arrival at airports, and other deterrents for the decrease. There were reports of a growing trend of teenagers and young women being lured into prostitution by Internet advertisements promising employment, large salaries, and adventure.

The law prohibits sex discrimination. The Gender Equality in the Workplace Act provides for equal treatment with regard to salaries, promotions, and assignments. Women's advocates noted, however, that women were promoted less frequently, occupied fewer management positions, and worked for lower pay than their male counterparts. Women were not granted maternity leave or were forced to quit jobs due to marriage, age, or pregnancy. According to the Council on Labor Affairs, salaries for women averaged 85 percent of those for men performing comparable jobs. Most city and county administrations set up committees to deal with complaints of sexual discrimination in the workplace. The law also stipulates that measures be taken to eliminate sexual harassment in the workplace.

The National Union of Taiwan Women Associations is a confederation of 70 women's organizations that have joined to promote women's rights.

Children.—The government is committed to the rights and welfare of children, and the law includes provisions to protect them. Education for children between 6 and 15 years of age is free, universal, and compulsory, and this was enforced. According to government statistics, 99 percent of school-age children attended primary and junior high school. Children were provided health care under the national health insurance plan.

Child abuse continued to be a widespread problem. In 2004 nearly 5,800 cases of child abuse were reported, according to MOI statistics, an increase of almost 8 percent over 2003. As of September, 7,481 cases of child abuse were reported, including physical, mental, or sexual abuse or harm due to guardian neglect. The government and private organizations continued efforts to increase public awareness of child abuse and domestic violence. Approximately 90 percent of abusers were parents, relatives, or caregivers. Hospitals, schools, social welfare organizations, or the police reported most cases.

By law, any persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities; child welfare specialists must make such notification to county or city governments within 24 hours; and the governments must respond with appropriate measures within 24 hours. County or city officials are required to submit a request for investigation to a supervisory agency within four days. Both the MOI's Children's Bureau and NGO specialists monitored cases to ensure that these requirements were followed. The MOI provided guidance to city and county governments for day-care facilities in their localities and for chil-

dren's halfway houses and education centers. Financial subsidies were provided to low-income families with children in day-care facilities and to local governments to promote child protection efforts. A hot line accepted complaints of child abuse and offered counseling. Courts are authorized to appoint guardians for children who have lost their parents or whose parents are deemed unfit.

Child prostitution was a problem, particularly among aborigine children. The law provides for up to two years incarceration for customers of prostitutes under the age of 18. As of November 799 persons were indicated for this crime, and 858 were convicted, including cases from previous years. In 2004, 952 persons were indicted, and 794 were convicted. The law also requires the publication of the names of violators in newspapers. The law prohibits the media from running advertisements involving the sex trade and imposes penalties on citizens arrested abroad for having sex with minors; these laws were enforced in practice.

Trafficking in Persons.—There is no comprehensive trafficking law, although most forms of trafficking are criminalized through a number of statutes. The law does not address prevention of trafficking or victim protection, which authorities nonetheless provide on an ad hoc basis. The MOJ and the MOI are responsible for combating trafficking.

Trafficking in persons remained a problem. Taiwan continued to be a destination for women and girls, mainly from the PRC, trafficked for the purpose of sexual exploitation and forced labor. Trafficking victims from Southeast Asia, primarily from Vietnam, Cambodia, and Thailand, also were forced or coerced into the commercial sex trade through fraudulent offers of employment or marriage. As of October 189 persons were indicted for trafficking and 84 persons were convicted, compared with 241 indictments and 150 convictions in 2004. Authorities cited tighter controls at borders and other deterrent measures as factors contributing to the decrease. Some women were trafficked to Japan for sexual exploitation.

NGOs reported that fraudulent marriages were increasingly used as a vehicle for human trafficking, in part because the penalties for the fake husbands were lenient. Foreign brides, mainly from the PRC, but also increasing numbers of women from Vietnam, were lured to Taiwan by marriage brokers, only to be forced into prostitution or exploitive labor. Many incidents of physical and mental abuse have been reported in the media and by NGOs.

Labor trafficking was a problem. NGOs reported that families hired female foreign workers to care for elderly persons (for which the government provides subsidies to families) but that when the workers arrived they were forced to do other tasks, including: childcare, working in family shops or businesses, cleaning houses, and helping other family members with domestic work. In other cases, foreign laborers were hired overseas as domestic workers but then sent to work in factories when they arrived and paid only a fraction of the local prevailing wage. Penalties for such violations were light. In one case, an inspector discovered a domestic caretaker was working in the employer's flour factory. The inspector returned the foreign worker to the employer's family and fined the employer \$1 thousand (NT\$30 thousand). The employer was allowed to continue using the foreign worker as a housekeeper. Labor authorities remove an employer's right to hire domestic caretakers only after a third offense.

Authorities took steps to combat trafficking. Officials worked to intercept criminal syndicates that smuggled migrants, including trafficking victims. A January 2004 law stipulates that any person found guilty of smuggling mainland Chinese into Taiwan shall be punished with a prison term of 3 to 10 years and fined up to \$150 thousand (NT\$4.5 million). In late March authorities disrupted a trafficking ring run by two army officers and their wives. A yearlong investigation produced a number of arrests for trafficking of PRC women for exploitation in the sex industry. In January a trafficker convicted of killing six PRC victims in 2003 was executed.

NGOs stated that more government involvement was needed to eliminate deceptive marriage brokering. NGOs reported instances of corrupt lower-ranking police officers, who collaborated with brokers in facilitating trafficking of persons into Taiwan. On February 5, a police officer was sentenced to 11 years in prison for accepting bribes from a PRC prostitution ring.

The authorities continued to support NGO antitrafficking prevention programs with government funding for public awareness programs targeting minors and Southeast Asian women married to local men. Taiwan also funded publicity campaigns in source countries.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities and sets minimum fines for violations. As of September there were 910 thousand persons identified as having disabilities.

The law stipulates that the government must provide services and programs to the disabled population. Free universal medical care was provided to persons with disabilities. NGOs stated that more public nursing homes were needed and current programs, such as home care services, needed to be expanded to meet the growing needs of the population, especially the growing numbers of elderly persons.

Employment quotas for persons with mental and physical disabilities require large public and private organizations to hire persons with disabilities equal to 2 and 1 percent of their work force, respectively. Organizations failing to do so must pay, for each person with disabilities not hired, the amount of one basic monthly salary or approximately \$500 (NT\$15,840), into the Disabled Welfare Fund, which supports institutions involved in welfare for persons with disabilities. Employers hired more persons with disabilities during the year than in 2004. As of September persons with disabilities constituted 4 percent of the public sector workforce.

The law provides monetary assistance for up to five years, and additional support through other programs for those with occupational injuries. NGOs maintained that the government needed to extend the current five-year limit and liberalize the qualifications for assistance.

By law new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. Violations resulted in fines of from \$1,800 to \$9,100 (NT\$60 thousand to NT\$300 thousand). There did not appear to be a substantial effort aimed at refitting older buildings to accommodate persons with disabilities. Lobbying for "barrier free access" to both public and non-public buildings was a top priority for NGOs. Handicap accessible public transportation, although limited to larger cities, increased to 192 special vehicles. NGOs stated that more vehicles were needed to accommodate demand.

Indigenous People.—The only non-Chinese minority group consists of the aboriginal descendants of Malayo-Polynesians, who were well established on the island when the first Chinese settlers arrived. According to MOI statistics, Aborigines accounted for approximately 2 percent of the population. More than 70 percent were Christian, while the dominant Han Chinese were largely Buddhist or Taoist. The civil and political rights of Aborigines are protected under law (see section 3). The National Assembly amended the constitution in 1992 and again in 1997 to upgrade the status of aboriginal people, protect their right of political participation, and to ensure their cultural, educational, and business development. In addition, the authorities also instituted social programs to help Aborigines assimilate into the dominant Chinese society.

To address a longstanding grievance regarding their inability to own their ancestral land, President Chen signed a partnership document with representatives from all aborigine tribes recognizing their land rights and allowing some form of autonomy. The Council of Aboriginal Affairs, in addition to continuing the investigation and mapping of traditional tribes and their territories, coordinated with other ministries to draft or amend legislation on issues such as development in the aborigine reservations, zoning, national parks, and hot spring tourism.

Other Societal Abuses and Discrimination.—According to a 2003 survey conducted by the Taiwan Homosexual Human Rights Association, more than 30 percent of homosexuals said they suffered discrimination. In November 2004 some 4,500 persons took part in a rally to call for society to respect the civil rights of homosexuals. Societal discrimination against persons with HIV and AIDS was a problem, and some politicians made derogatory remarks about such persons. The national health insurance provides free screening and treatment, including antiretroviral therapy, for all HIV-infected nationals.

Section 6. Worker Rights

a. The Right of Association.—The right to unionize is protected by law but is highly regulated. Approximately 29 percent of the 10.3 million-person labor force belongs to one of the 4,308 registered labor unions. Many of them are also members of one of the eight island-wide labor federations.

Workers other than teachers, civil servants, defense industry workers, and domestic workers are protected by the Labor Union Law (LUL). Under the LUL, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because of their union-related activities. The LUL requires that labor union leaders be elected regularly by secret ballot, and in recent years, workers have sometimes rejected management-endorsed union slates. However, in practice employers sometimes dismissed labor union leaders without reasonable cause or laid them off first during employee cutbacks, and according to the pro-labor, pro-Taiwan independence NGO Taiwan Labor Front, the law has no specific penalties for violations.

Some public employees, including teachers, civil servants, and defense industry workers have only limited rights to form unions. These restrictions have led to a

long-running dispute between the authorities and groups that represent teachers and civil servants. Teachers and civil servants are allowed to form professional associations to negotiate with authorities but are not allowed to strike. A teacher's union established in 2003 has not been recognized by the Council of Labor Affairs (CLA).

Moreover, a number of laws and regulations limit the right of association. While labor unions may draw up their own rules and constitutions, they must submit those rules and constitutions to their county and city governments as well as the CLA National Labor Federation for review. Labor unions may be dissolved if they do not meet certification requirements or if their activities disturb public order.

In 1971 the PRC replaced Taiwan in the International Labor Organization (ILO). However, Taiwan's Chinese Federation of Labor attends the ILO annual meetings as an affiliate of the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—Except for some public employees, the law gives workers the right to organize, bargain, and act collectively. As of March, there were 254 collective agreements in force; however, they covered only a small proportion of the labor force, and 79 percent of industrial labor unions had no collective agreements.

The law provides for the right to strike, and workers exercised this right in practice. However, the law, which recognizes the right of labor unions to strike, also imposes restrictions that in practice make legal strikes difficult and seriously weaken collective bargaining. For example, the law requires mediation of labor/management disputes when authorities deem disputes to be sufficiently serious or to involve "unfair practices." The law forbids both labor and management from disrupting the "working order" when either mediation or arbitration is in progress. Moreover, labor unions are only allowed to strike over issues of compensation and working schedules. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them, although no such cases were reported during the year.

Recent efforts to privatize state-run enterprises resulted in rising tensions between labor unions and the authorities. In the last few years, strikes and protests by labor unions at Business Bank of Taiwan, Changhwa Commercial Bank, Taiwan Power Company, and Chunghwa Telecom have delayed privatization efforts. As of November 77,260 persons had been involved in labor disputes, compared with 69,951 in all of 2004. Much of this increase can be attributed to privatization efforts by the state-run Chunghwa Telecom Corporation.

The labor laws are applicable in export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were several cases of forced child prostitution prosecuted by the authorities and evidence of labor trafficking (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law stipulates age 15, the age at which compulsory education ends, as the minimum age for employment. County and city labor bureaus effectively enforced minimum age laws. The law protects children from debt bondage, prostitution, pornographic performances, and other illicit activities specified in ILO Convention 182.

e. Acceptable Conditions of Work.—The Labor Standards Law (LSL) addresses rights and obligations of employees and employers. The law also provides standards for working conditions and health and safety precautions. By the end of June, the LSL covered 6 million of Taiwan's 7.2 million salaried workers. Those not covered included nursery workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, and domestic workers.

The minimum monthly wage is approximately \$500 (NT\$15,840). While sufficient in less expensive areas, this wage did not assure a decent standard of living for a worker and family in urban areas such as Taipei. However, access to universal healthcare and free public education up to the university level helped to fill the gap. In addition, the average manufacturing wage was more than double the legal minimum wage, and the average for service industry employees was even higher. Legal working hours are 336 hours per 8-week period (for an average of a 42-hour workweek). While a five-day workweek is mandated for the public sector, 53 percent of private enterprises also have reduced the normal workweek to five days, according to a CLA survey.

The law provides standards for working conditions and health and safety precautions and gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. Although the CLA has conducted publicity campaigns to increase public awareness of the law and operates telephone hot lines to accept complaints of LSL violations, NGOs claim that the

CLA does not effectively enforce workplace laws and regulations because it employs too few inspectors. During 2004 there were 298 inspectors responsible for approximately 280 thousand enterprises covered by the Occupational Safety and Health Law. By combining health/safety inspections with working conditions inspections, the number of health and safety inspections increased 23 percent from 86,774 in 2003 to 107,087 in 2004.

The CLA does not provide the same protection to foreign workers that it does for citizens. The LSL does not cover the more than 126,700 foreign workers involved in domestic care (housekeepers, caregivers, etc.). These foreign workers typically work long hours with few days off, are rarely permitted to change employers, and often are not fully informed of options in the event of abuse.

Neither foreign nor citizen domestic workers are entitled to the minimum wage. Despite the fact that the minimum wage is not a legal obligation, most domestic workers are hired through brokers who negotiate the minimum wage to ensure that the worker earns enough to cover the brokers' fees. Of the \$500 (NT\$15,840) a month typically paid to domestic caretakers, after deductions by the brokers, reportedly most domestic caretakers received only \$100 (NT\$3 thousand) to \$200 (NT\$6 thousand) per month in the first two years of working in Taiwan. Domestic workers can only change jobs under rare circumstances, increasing their vulnerability to abuse by employers.

NGOs reported that the broker system in Taiwan was the source of many of the problems that foreign workers faced. Brokers extracted placement fees in the form of loans before workers came to Taiwan or as salary deductions once they were in Taiwan. As a result, most workers expected to save almost nothing in their first one to two years in Taiwan. According to several NGOs, many problems, from labor trafficking to unsafe working conditions, stemmed from the fact that the workers, and sometimes their entire families, were in debt to brokers. NGOs claimed that many workers did not go to the authorities with complaints for fear they would be repatriated, preventing them from paying off their debts. Foreign domestic workers were often at an even greater disadvantage if they were unable to speak Chinese, as few authorities outside of Taipei provided interpreter services.

One case that attracted considerable attention involved a riot on August 21, by 1,700 Thai workers who had been brought to Taiwan to build a rapid transit system connecting Kaohsiung and the surrounding area. The incident was set off when one of the foreign workers was struck with an electric cattle prod for an infraction. The workers claimed that local authorities not only had ignored illegal practices, but may have been complicit in them. Both the mayor of Kaohsiung and the head of CLA resigned over the incident.

The Thai workers' main grievance was that the workers were officially paid approximately \$1 thousand (NT\$29 thousand) a month but actually received only and estimated \$300 (NT\$9 thousand) after salary deductions. Legally, companies that hire foreign workers can deduct up to \$120 (NT\$4 thousand) a month for living expenses. In the case of the Thai workers, however, the broker deducted up to \$700 (NT\$23,300) a month.

In a December 12 demonstration in Taipei, foreign workers and human rights activists called for abolition of the broker system, an end to the six-year maximum limit on work permits, and extension to foreign workers of the protections in the LSL and Household Services Act.

In an effort to reduce broker fees, the CLA has on occasion revoked permits of agencies charging excessive fees. The CLA has also negotiated direct hire agreements with a few countries and encouraged NGOs to establish nonprofit employment service organizations to assist foreign laborers in locating employment. Moreover, the CLA has established 24 offices around the island to provide counseling and other services to foreign workers, and provided financial assistance to city and county governments to conduct inspections of places where foreign workers are employed. In 2004 the CLA established a legal aid office to provide free legal services to foreign workers. NGOs have said the office was instrumental in bringing legal actions in a few high profile cases involving foreign workers.

According to many NGOs, CLA's steps were only a beginning and much more needed to be done. They pointed to the large disparities in funding and support given to foreign workers depending on which county they were in. For example, foreign workers in the city of Taipei enjoyed services that did not exist in the rest of the island. The city had two government shelters, a community center and 19 full-time labor inspectors. Outside Taipei, however, service was sometimes nonexistent, and lack of interpreters made the services that were available inaccessible to many of the workers.

EAST TIMOR

East Timor is a parliamentary republic; its population is approximately 925 thousand. Its first parliament was formed from the 88-member constituent assembly chosen in free and fair, UN-supervised elections in 2001. The 41-member cabinet was dominated by the Fretilin Party, which won the majority of assembly seats. Mari Alkatiri, Fretilin's secretary general, was prime minister and head of government, and Xanana Gusmao, elected in free and fair elections in 2002, was president and head of state. The UN Mission of Support in East Timor (UNMISSET) completed its mission in May, and a smaller UN Office for East Timor (UNOTIL) replaced it. UNOTIL's mission is scheduled to end on May 20, 2006. Civilian authorities generally maintained effective control of the security forces; however, there were a few instances in which members of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were problems in some areas. A continuing problem for the international community and for the government was dealing with the human rights abuses during the period of Indonesian rule, and particularly with the crimes committed in 1999. The following human rights problems were reported:

- excessive use of force and abuse of authority by police
- prolonged pretrial detention
- denial and restriction of the rights to due process and to an expeditious and fair trial
- instances of violations of the rights of expression and association
- domestic violence against women, rape, and sexual abuse
- trafficking in persons
- lack of infrastructure to care for persons with disabilities
- child labor in the informal sector

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, in February a national police (PNTL-*Policia Nacional de Timor-Leste*) officer who had been assaulted by other PNTL officers in December 2004 died, apparently from injuries sustained during the assault and exacerbated by insufficient medical care. PNTL officers had arrested the officer for alleged indecent behavior and then assaulted him at the police station in Los Palos. According to the official investigation of the incident, the arresting officers, including the district commander, repeatedly kicked him in the head. The autopsy reportedly concluded that he died as a result of blunt trauma to the head. Five PNTL officers, including the district commander, were charged in connection with the ill-treatment and initially expelled from the PNTL; however, the case was subsequently dismissed and they were allowed to return to active duty. The district commander was transferred to the police academy in Dili.

In January a member of Colimau 2000, an organization suspected of links to anti-independence militias, was killed in Bobonaro District. Strong circumstantial evidence suggested that the killers were former militia members normally resident in West Timor. Later in January a militia member was arrested following a firefight with police. He denied any knowledge of the killing and was charged and convicted only of illegal arms possession.

There were no developments in the investigation of the 2003 killing of fugitive militia leader Francisco Vegas Bili Atu by a member of the PNTL. There also were no developments in the case of the former militia members arrested after attacking a bus near Aidabaleten in 2003, in which two persons were killed and several others injured.

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 by police officers. On January 7, members of the Border Patrol Unit (BPU) arrested an Indonesian citizen in the enclave of Oecusse for illegally crossing the border. BPU officers beat and kicked the man, and did not intervene when members of the community beat him and burned him with cigarettes. The case was investigated by the PNTL district commander and the results sent directly to the national police

commissioner. No further action had been taken at year's end. In early March two men and one woman were arrested without warrant in Cailaco for allegedly providing food to former anti-independence militia members. PNTL officers reportedly punched and kicked the men and forced a pistol into one's mouth. No investigation has been opened for this case. In early June a man accused of assaulting the wife of a PNTL officer by pulling her hair was arrested without warrant and beaten and kicked until unconscious. He was then brought to the police station and beaten again. Following treatment at the hospital, one of the PNTL officers threatened that they would beat him to death if he took legal action against the officer who instigated the arrest. The PNTL investigation unit in Dili opened an investigation but suspended it, reportedly because members of parliament had begun an investigation. At year's end there were no known further developments in this case.

On July 26, the PNTL raided the Baucau offices of the *Comite Popular de Defesa-Republica Democratica de Timor-Leste* (CPD-RDTL), an organization that sometimes claimed to be the legitimate government and some of whose members were accused of criminal activity, and, according to credible reports, indiscriminately beat and detained members (see section 1.d.). The acting PNTL district commander said that only those persons who actively resisted the operation were briefly detained.

In November following a traffic incident involving a truck, the minister of interior and three of his bodyguards, who were members of the PNTL's Rapid Intervention Unit, pursued the truck and forced it to a stop. The truck driver escaped on foot, but the minister and two of the bodyguards kicked and beat two passengers in the truck. According to an eyewitness account, the minister hit one of the passengers in the back of the head with a rifle butt, reportedly fracturing his skull.

There was one reported case of illegal law enforcement activity by a member of the military. In mid-July a captain in the national defense force, *Falintil-Forca Defesa Timor Leste* (F-FDTL), and military police under him beat and detained for several days a man who had been involved in an alleged assault on the captain. The man filed a complaint with the police but by year's end no investigation was carried out.

In April the international judge presiding in the trial of three PNTL officers accused in the May 2004 rape of a 16-year-old girl freed the accused and closed the case for lack of evidence as the victim and other witnesses did not appear. The judge apparently did not refer to the evidence presented at a previous hearing, nor inquire whether the victim and witnesses had been notified of the trial date. The prosecutor general appealed the dismissal to the Court of Appeals, and at year's end the appeal was still pending. There were no significant developments in the September 2004 case of an off-duty police officer who forcibly entered the home of a 12-year-old girl who had allegedly been statutorily raped by the officer's 19-year-old brother. The Professional Ethics Office (PEO) opened an investigation, but no further action was taken by year's end.

The district court in Oecussi convicted a village chief of arbitrary arrest in the 2003 case in which a police officer reportedly participated in beating and burning with cigarettes a 16-year-old deaf and mute boy who had been accused of petty theft. There were no further developments regarding police involvement in the abuse.

Delay or refusal by police to investigate allegations of rape or domestic violence was a common problem (see section 5).

There were no known judicial or administrative actions in the cases of the April 2004 police assault on a member of a foreign military team; in the May 2004 police assault on two men at a cockfight; in the June 2004 police assault on a security guard at a Dili restaurant; or in the September 2004 police assault, in the presence of the minister of interior, on the driver of an allegedly overloaded car.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, prison facilities were deteriorating, and there were reports of undisciplined behavior and abuse by prison guards. At Gleno prison, the deterioration of the infrastructure gave rise to safety and security concerns, and there were severe water shortages.

There were no developments in the criminal case filed against a guard who in 2003 reportedly beat and injured an inmate at Baucau prison while other guards watched. An investigation was reportedly completed in July 2004, but no further action was taken.

Becora prison added two separate cells for women during the year, so that unlike in previous years all three prisons now have separate facilities for female prisoners. There were two full-time social workers to deal with juveniles, women, elderly, and mentally ill inmates. All prisons operated at or very near capacity throughout the year.

The government permitted prison visits by the International Committee of the Red Cross and independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, there were instances in which these provisions were violated. A number of persons were arrested and detained but ultimately not charged with crimes. Although this sometimes happened due to misunderstandings or because an investigation exculpated the suspect, the circumstances of other cases suggested that law enforcement officers may have held detainees as a form of punishment.

In several cases in which members of groups or organizations were accused of criminal behavior, the police arrested members of these groups without any apparent effort to determine whether the individuals arrested were suspected of involvement in the criminal behavior. For example, on February 7, police arrested seven members of an organization called *Kultura Halibur* in Manatuto following complaints about alleged fraud by members of the group. The arrests and accompanying searches were carried out without warrants and appear to have been based on no specific evidence against the individuals arrested. The police brought the detainees to a community meeting where the district commander said that *Kultura Halibur* was an illegal organization and that community members must seek police permission before participating in any group.

Role of the Police and Security Apparatus.—The national police commissioner oversees the PNTL and is responsible to the civilian minister of interior. Each of the country's 13 districts has a district commander who reports to the office of the national police commissioner. The PNTL comprises approximately 3,300 members, including specialized units. It remained poorly equipped and undertrained; there were numerous credible allegations of abuse of authority (see section 1.c.), mishandling of firearms, and corruption. Reports of abuse of authority and unprofessional conduct decreased somewhat compared to last year; however, it is unclear at this time whether this reflected a positive trend in police conduct or the reduced presence of international personnel monitoring the police.

The PEO investigated allegations of police misconduct and reported its findings to the PNTL commissioner. Cases of severe misconduct were referred to a committee chaired by the vice minister of the interior. During the year some officers were punished for relatively minor misconduct, and in several cases police officers were convicted and sentenced for assaults committed while on duty; however, by year's end, no action had been taken in a number of cases involving serious misconduct. There were allegations that personal connections within the police force or the Ministry of Interior were a factor in some cases.

The PNTL often was slow to respond, willing to overlook required procedures, or ill-equipped to complete an investigation or arrest. In May a man accused of raping his granddaughter was released by police in Baucau because they were unable to reach a judge and prosecutor to arrange a detention review hearing and had no vehicle available to transport him to Dili. No further action was taken. Victims and suspects often were transported in the same vehicle, due to the limited availability of transportation.

Observers continued to be concerned regarding the independence of the police. For example, in July and August police carried out a series of searches and arrests of CPD-RDTL members motivated not by evidence of particular criminal offenses but rather at the direction of senior government officials who also directed details of the operations. (see sections 1.c.). In July the PNTL refused to investigate allegations of domestic violence by a PNTL deputy district commander (see section 5.).

Arrest and Detention.—The law requires judicial warrants prior to arrests or searches, except in exceptional circumstances; however, this provision was often violated.

In July and August the PNTL carried out a coordinated series of searches and detentions targeting the CPD-RDTL. The searches and arrests were carried out without warrants, apparently at the direction of senior government officials. In late July a member of the political party Association of Socialist and Democratic East Timor (ASDT) was arrested without warrant in Suai after police questioned him while he and several friends were putting a roof on a building to be used for ASDT meetings. Police asked him if he had a license for the party and for the "meeting" and arrested him when he replied in the negative. He filed a complaint with the PEO.

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of the arrest and detention and also to provide the right to a trial without undue delay. During these hearings the judge may also determine whether the suspect should be held in detention or released either because evidence is lacking or because the suspect is not considered a flight risk. However, because of a short-

age of magistrates, many suspects were forced to wait longer than 72 hours for a hearing. This situation was particularly acute in areas that did not have a local magistrate or where authorities lacked means to transport suspects to a hearing. Some prosecutors, in violation of regulations, granted police the authority to detain persons beyond 72 hours.

The law provides for access to legal representation at all stages of the proceedings, and there are provisions for providing public defenders to indigent defendants. However, there is an extreme shortage of qualified public defenders, and many indigent defendants relied on lawyers provided by legal aid organizations.

There were no reports of political detainees.

A 2003 ruling by the Court of Appeals stated that the pretrial detention limit of 6 months and the requirement that such detentions be reviewed every 30 days need not apply in cases involving certain serious crimes; however, the 30-day review deadline was missed in a large number of cases involving less serious crimes, and a majority of the prison population consisted of pretrial detainees.

e. Denial of Fair Public Trial.—The law provides that judges shall perform their duties “independently and impartially” without “improper influence” and requires public prosecutors to discharge their duties impartially. These provisions generally were respected.

The court system includes four district courts (Dili, Baucau, Suai, and Oecussi) and a national Court of Appeals in Dili. The Ministry of Justice is responsible for administration of the courts and prisons and also provides defense representation. The prosecutor general is responsible for initiating indictments and prosecutions. Until a supreme court is established, the Appeals Court was the country’s highest tribunal.

Establishing justice sector institutions and recruiting and training qualified judges, prosecutors, and defense attorneys proved difficult. In January the president of the Court of Appeals announced that all 22 sitting judges failed the qualifying exams taken in 2004 and were therefore required to step down. Exceptions were made for judges on the Court of Appeals, the Special Panels for Serious Crimes, and the National Election Commission. In May it was announced that all of the prosecutors and public defenders who had taken their qualifying exams had failed. Four international judges, who had arrived in September 2004, took responsibility for all cases in the district courts. Five international prosecutors and six international public defenders arrived in August and September. Private lawyers continued to represent the majority of defendants in the district courts.

Personnel shortages affected the entire legal system, but it disproportionately affected the operations of the Baucau, Oecussi, and Suai district courts, which operated at irregular intervals. The international judges, who were originally hired to assist their national counterparts in tackling the nationwide case backlog, instead divided their time between covering district court cases and providing training to the ex-judges, prosecutors, and public defenders and were thus only able to travel to the district courts for a few days at a time once or twice a month. During the year many legal experts observed that court processing of criminal cases was slower than in previous years and that no civil cases had proceeded to judgment.

The shortage of qualified prosecutors and technical staff for the office of the prosecutor general resulted in a 2,707 case backlog in the prosecutor’s office, a modest reduction from previous months.

Trial Procedures.—The law provides for the right to a fair trial; however, the severe shortages of qualified personnel throughout the system led to some trials that did not fulfill prescribed legal procedures. Trials are before judges. Except for sensitive cases, such as crimes involving sexual assault, they are public; however, this was inconsistently applied. Defendants have the right to be present at trials and to consult with an attorney in a timely manner. Attorneys are provided to indigent defendants. Defendants can confront hostile witnesses and present witness and evidence of their own. Defendants and their attorneys have access to government-held evidence. Defendants enjoy a presumption of innocence and have a right of appeal to higher courts.

The legal regime is complex and inconsistently applied. Pending development of a complete set of national laws, Indonesian laws and the UN’s transitional regulations remained in effect. The constitution stipulates that UN regulations supersede Indonesian laws (see section 2.a.); however, this was inconsistently applied. For example, in a September 2004 decision the Court of Appeals declared that a UN executive order decriminalizing defamation did not effectively overrule an Indonesian law under which defamation is criminalized.

The Court of Appeals operated primarily in Portuguese. The UN regulations, many of which are in force, were available in English, Portuguese, and Indonesian,

as well as in Tetum, the language most widely spoken in the country. Laws enacted by parliament, intended to supplant Indonesian laws and UN regulations, were published in Portuguese with very few available in Tetum. Litigants, witnesses, and criminal defendants often were unable to read the new laws. Trials are required to be conducted solely in Portuguese and Tetum. However, international judges sometimes refused to provide translations of the trial proceedings. For example, in October 2004 an international judge refused to allow translation of the proceedings of a pretrial hearing for a complainant who spoke Tetum and English but not Portuguese. The complainant claimed that the translation provided was inadequate and that he was pressured to sign a statement in Portuguese, which he did not understand.

The Serious Crimes Unit (SCU) was responsible for investigations and indictments concerning genocide, war crimes, crimes against humanity, murder, sexual offenses, and torture that occurred in 1999. Pursuant to UN Security Council resolutions, the SCU ceased its investigations in November 2004 and ceased virtually all other operations on August 30. At the time of its closure the SCU had filed 95 indictments against 391 persons. Of these 290 remained at large in Indonesia with little chance of being returned to stand trial. In 2000 the transitional administration also established the Special Panels on Serious Crimes within the Dili District Court to try those charged with the mass killings and other gross human rights violations committed in 1999. The two Special Panels, each of which consists of two foreign judges and a local judge, have exclusive and “universal” jurisdiction to adjudicate cases concerning these human rights violations. The Special Panels for Serious Crimes were adjourned on May 20. As of their adjournment the Special Panels had issued 84 convictions, three acquittals (one of which was later overturned by the Court of Appeals), and 13 indictment dismissals.

Although the Special Panels were adjourned, they can be reconstituted whenever needed as long as they meet the requirement of comprising two international and one local judge. In August former militia member and SCU indictee Manuel Maia was arrested after he crossed the border from Indonesian West Timor. At year’s end he remained in pretrial detention and plans were in place to convene a Special Panel to try him. Several other former militia members were also arrested in August and September who reportedly were investigated but not indicted by the SCU. At year’s end it was not clear how these cases would be handled and whether they would be indicted and tried for serious crimes.

The SCU worked very closely with the Truth and Reconciliation Commission of East Timor (CAVR, or *Comissao de Acolhimento, Verdade e Reconciliacao de Timor Leste*). While the SCU is mandated to investigate and prosecute crimes against humanity committed in 1999, the CAVR investigated less egregious human rights violations that occurred between April 1974 and October 1999. CAVR also facilitated reconciliation between victims and perpetrators of these violations (see section 4). The CAVR held its final public meeting in March 2004 and presented its final report to the president on October 31. The president presented the report to parliament on November 28. At year’s end it had not yet been made public.

The Ad Hoc Tribunal, based in Indonesia, failed to achieve accountability for crimes against humanity committed in East Timor in 1999. In February the UN appointed a Commission of Experts (COE) to evaluate the Ad Hoc Tribunal and the SCU and recommend the next steps for achieving accountability. The COE concluded that the serious crimes process in East Timor had “ensured a notable degree of accountability for those responsible for the crimes committed in 1999” but that the Ad Hoc Tribunal in Indonesia was “manifestly inadequate.” The COE report recommended continued UN support of the serious crimes process in East Timor so that investigation, indictment, and prosecution of perpetrators could continue (see section 4).

In December 2004 the governments of Indonesia and East Timor agreed to form a bilateral Truth and Friendship Commission (TFC) to address human rights violations committed in East Timor in 1999 (see section 4). The TFC was inaugurated on August 11 and held several meetings during the remainder of the year. The COE report criticized the TFC’s terms of reference as contradicting international standards that prohibit impunity for crimes against humanity. Throughout the year there was widespread public criticism in East Timor of the TFC as not addressing the need for true accountability. There was continued public support for an international tribunal or other mechanism to bring to justice those indictees who remained at large in Indonesia. The five widely respected East Timorese members of the commission at times expressed guarded optimism about the prospects that the TFC would engage in a thorough and honest search for the truth.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice; however, there were a few reports of arbitrary interference with privacy, family, home, and correspondence. A land law promulgated in 2003 broadly defines what property belongs to the government and has been criticized as disregarding many private claims. Although the government was in the process of drafting a comprehensive land law that is expected to include details on how ownership of land is to be determined in cases of conflicting claims from Portuguese and Indonesian times, the government nonetheless claimed property that had other claimants. For example, in 2003 the government seized the home of an opposition leader and proceeded with construction on the property although the legal ownership was yet to be determined. At year's end the case remained pending in the Dili District Court.

On July 26, coincident with the raids on CPD–RDTL offices in Baucau (see sections 1.d. and 2.a.), the police searched the residence of a journalist in Baucau apparently without a warrant.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, there were instances in which government officials attempted to interfere with these rights.

Individuals could generally criticize the government without reprisal and a UN executive order decriminalized defamation. However, in September 2004 the Court of Appeals decided that the executive order did not overturn the Indonesian statutes that define libel and defamation as criminal offenses (see section 1.e.). During the year there were several cases of persons arrested for criticizing the government. For example, on March 15, a man who complained at the Dili prosecutor's office about lack of action regarding an alleged assault on his mother was arrested for defamation and held overnight. On April 6, two men were arrested in Viqueque for comments they made during the screening of a film during a visit by government officials. The men reportedly disputed the claims of the film and called the president a liar. Under the Indonesian penal code the men were charged with “publicly giving expression to feelings of hostility, hatred or contempt against the government.” They were released on April 13, pending investigation of the case. On June 16, a man was detained on defamation charges for statements against the prime minister in connection with the detention of his son. In each of these cases the suspects were detained briefly and released for lack of evidence following their detention review hearings.

In April after a newspaper published numerous articles that were regarded as unfavorable to the government, including reports on famine deaths that the government had denied, the government evicted it from government-owned headquarters it had occupied since 1993. The eviction was not illegal, but the timing suggested a political motive. On July 26, police, carrying out a raid of the headquarters of CPD–RDTL in Baucau (see section 1.d.), searched without warrant the nearby house of a journalist who works for the local community radio station and a Dili-based daily newspaper. The police accused him of hiding CPD–RDTL members. The journalist's report on this incident appeared August 9. On August 11, police who had gone to the radio station where he worked in response to a fight arrested him without warrant and detained him for 24 hours. The journalist and the director of the community radio station reported that the arresting officers said the detention was in retaliation for critical reporting on the police.

There were four daily newspapers, three weeklies, and several newspapers that appeared sporadically. Their editorials frequently criticized the government and other political entities. During the year there was increased concern regarding the use of defamation suits against the media. In December the Council of Ministers passed a penal code that included provisions criminalizing defamation and insults to a person's “honor.” By year's end, amidst an intense national debate, the president had neither promulgated nor vetoed the law.

The Public Broadcast Service (PBS) owned and operated a radio station and a television station. The PBS radio service was available throughout the country. The PBS television broadcast was available only in Dili and Baucau. In addition to the PBS radio station, there were 18 community radio stations, including at least 1 in each district. Radio was the most important news medium for most of the country.

There were no legal or administrative restrictions on Internet access.

The government generally did not restrict academic freedom; however, in 2004, the Council of Ministers issued a decree requiring that academic research on Tetum and other indigenous languages be approved by the National Language Institute (INL). It gave the INL the power to refuse to authorize linguistic research that “has

no scientific merit” or that “would not be advantageous to the country.” Foreign researchers must obtain authorization from the INL “under penalty of manifest illegality.” There were no reports during the year that this law had been applied to prevent academic research or to punish researchers.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedom of assembly and association, and the government generally respected these rights; however, the authorities violated these rights in some cases.

Freedom of Assembly.—During April 19 to May 8 large-scale, antigovernment demonstrations in Dili, police roadblocks at times stopped participants coming from the districts. The roadblocks were later lifted.

On October 5, police in Dili evicted minibus drivers demonstrating against higher fuel prices from the area in which they were gathered because they had not provided advanced notification. This appeared to be based on a new law on freedom of assembly and demonstrations that had not yet been promulgated and so technically was not in force. The law establishes guidelines for obtaining permits to hold demonstrations and, among other things, requires that police be notified four days in advance of any demonstration or strike. In December police arrested ASDT party members for holding a political meeting without permission.

Freedom of Association.—There were several cases during the year of persons being arrested apparently on the basis of their membership in antigovernment organizations (see section 1.d.). On February 7, the police district commander in Manatuto told community members that they must seek police permission before participating in any group (see section 1.d.).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. More than 90 percent of the population was Roman Catholic, and there were small Protestant and Muslim minorities. Generally, religious minorities were well integrated into society.

The large-scale, antigovernment demonstrations, which took place during April and May (see section 2.b.) were organized by Roman Catholic Church officials. Among other things, they were protesting a government decision that shifted religious education from the core public school curriculum and made it an after-school elective without state funding. At the conclusion of the demonstrations the prime minister and the country’s two Catholic bishops signed a joint declaration that provides that the teaching of religion “must be included as a regular discipline in the public school curriculum,” subject to the right of each child’s parents to opt for their child’s participation or nonparticipation.

In November and December 2004 the government deported to Indonesia a group of Muslims of Malay descent who had occupied a Dili mosque for three years. The group had experienced difficulty integrating into society and obtaining citizenship. Ethnic Timorese Muslims have not faced the same difficulties.

Societal Abuses and Discrimination.—During the year there was a report that Protestant evangelists and their converts in the Liquica area had been harassed and threatened by members of the communities in which they were proselytizing. Subsequently the community was reported to have successfully mediated this conflict. There was also a report that a Protestant minister in the Manatuto area had been threatened and beaten by community members.

There is no indigenous Jewish population, and there were no reports of anti-Semitic acts.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice; however, during large-scale, antigovernment demonstrations in Dili in April and May, police roadblocks at times stopped participants coming from outlying areas (see section 2.b.).

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

The conflicts in 1999 and anti-independence militia activity in 2000 and 2001 resulted in 250 thousand East Timorese fleeing their homes and crossing the border into West Timor. By 2003 approximately 225 thousand had returned home. During the year an additional small number of refugees returned from West Timor.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum; however, there were concerns that the country’s regulations governing asylum and refugee status may pre-

clude 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 contravenes the 1951 convention. These advocates also expressed concern that no written reasons are required when an asylum application is denied.

There were no applicants for asylum during the year. At year's end, nine cases submitted in 2003 and 2004 were still pending final decisions. After the promulgation of the 2003 Immigration and Asylum Act, the government assumed responsibility from the Office of the High Commissioner for Refugees (UNHCR) for adjudicating asylum claims. Throughout the year, UNHCR continued to mentor immigration officials to ensure that asylum applications were processed according to treaty guidelines. The government instituted a process whereby all asylum applications must be approved by the minister of the interior. This requirement led to delays.

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 through periodic elections.

Elections and Political Participation.—In 2002 Xanana Gusmao was inaugurated as the first president, and, in accordance with the constitution, the members of the constituent assembly were sworn in as the first national parliament. Mari Alkatiri became the first prime minister of the country. The 88-member assembly, elected in a free and fair election in 2001, was charged with writing a constitution, which was completed in 2002 and came into effect upon independence. Some observers criticized the provision under which the constituent assembly automatically became the parliament and a parliamentary election is not required until five years after independence.

In 2004 the government, with oversight by independent election authorities and assisted by UN advisors, carried out a voter registration, and the list of registered voters was published for public scrutiny. The resulting voter database was used for local elections and is to be maintained and updated for future presidential and parliamentary elections. Local elections using the new list began in December 2004 and were completed on September 30. The late 2004 elections, in the remote enclave of Oecussi and western districts bordering Indonesia, were plagued by administrative problems, the most significant being errors and omissions on the voter registration lists. However, the national election commission moved quickly to rectify most problems and each successive round of local elections held during the year saw improvements because registration list problems were dramatically reduced. International observers found no evidence of electoral fraud. However, there were allegations by opposition parties of intimidation and misuse of government resources by the ruling party at all stages of the elections. The National Commission on Elections, the independent election oversight body, had extremely limited resources with which to investigate.

There were 23 women in the 88-seat assembly. Women held three senior cabinet positions—minister of state, minister of public works, and minister of finance and planning—and four vice minister positions. One of the four judges on the appeals court was a woman.

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. Both the prime minister and the minister of defense were members of ethnic minority groups.

Government Corruption and Transparency.—During the year there was increased concern within society and among international observers regarding credible reports of corruption in government institutions. There were accusations during the year of lack of transparency in the government procurement process. For example, in July it was alleged that a company partly owned by the prime minister's brother was unfairly granted a monopoly to sell weapons to the government. Opposition members of parliament who asked to review the contracting procedures were not allowed to do so. There continued to be credible rumors of petty corruption at the nation's port. In addition customs and border officials were suspected of facilitating the smuggling of gasoline, tobacco, and alcohol across the border from Indonesia. The Office of the Inspector General carried out investigations into nine cases of maladministration or possible corruption during the year. One case, involving allegations of bribery in a district health office, was referred for prosecution.

The law stipulates that all legislation, supreme court decisions, and decisions made by government bodies must be published in the official gazette. Failure to publish them renders them null and void. Regulations also provide for public access to court proceedings and decisions. In addition rules governing the national budget and accounts ensure public access. The country's Petroleum Fund Law, passed by the parliament on June 20, was consistent with internationally acceptable principles of transparency and oversight.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Nongovernmental organizations (NGOs) have played an active role in assisting and advising in the development of the country, and numerous NGOs were established over the last four years.

According to the controversial 2003 Immigration and Asylum Act, foreigners are prohibited from taking part in political activities. This provision could preclude foreigners and international NGOs from assisting labor unions or projects to promote the development of civil society, and it could also allow the government to restrict noncitizens from monitoring the criminal or judicial systems. In addition the law allows the government to prohibit foreigners from holding conferences and cultural exhibitions if the government believes that the activities would jeopardize the interests of the country. An exception in the law exempts activities contracted by government institutions, funded by bilateral or multilateral assistance programs, and aimed at training or strengthening democratic institutions that are constitutional and regulated by law or strictly academic in nature.

In April 2004 parliament passed a law establishing the constitutionally mandated Office of the Provedor (Ombudsman) for Human Rights and Justice. The *provedor* was elected by parliament in March, and the government designated funds for the establishment of the office. The Office of the Provedor is responsible for the promotion of human rights, anticorruption, and good governance, and it will have the power to investigate cases and make recommendations to the relevant authorities. At year's end the office was not fully established or staffed.

The CAVR, which was charged with inquiring into past human rights violations, was headed by 7 national commissioners and 29 regional commissioners in 6 regional offices. The CAVR sought truth and reconciliation through testimonials by victims and perpetrators of human rights violations. The CAVR held numerous reconciliation meetings in locations throughout the country. In December 2003 the CAVR held a four-day public hearing on internal political conflict between 1974 and 1976, in which several victims and current government leaders publicly discussed the breakdown of relations among domestic political parties and subsequent violence and related human rights violations during the period between Portugal's decision to decolonize the country in 1974 and Indonesia's intervention in late 1975. In March 2004 the CAVR held its final public hearing, dedicated to the topic of violence against children. Twelve witnesses testified on the effect of the various stages of the armed struggle on the lives of children, both before and during the Indonesian occupation.

In February the UN appointed a Commission of Experts to evaluate the Indonesian and East Timorese procedures and to recommend the next steps for achieving accountability for human rights violations committed in 1999. In a May 26 report to the UN High Commissioner for Human Rights the COE concluded that the serious crimes process in East Timor had "ensured a notable degree of accountability for those responsible for the crimes committed in 1999" but that the Ad Hoc Tribunal in Indonesia was "manifestly inadequate." Overall the COE noted that accountability was still lacking for those bearing greatest responsibility for the crimes against humanity committed in 1999. The COE report recommended continued UN support of the serious crimes process in East Timor so that investigation, indictment, and prosecution of perpetrators could continue.

In December 2004 the governments of Indonesia and East Timor agreed to form a bilateral Truth and Friendship Commission to address human rights violations committed in East Timor in 1999. The TFC was inaugurated on August 11, and held several meetings during the remainder of the year. The COE report criticized the TFC's terms of reference as contradicting international standards that prohibit impunity for crimes against humanity. Throughout the year there was widespread public criticism in East Timor of the TFC as not addressing the need for true accountability. One observer noted that the East Timorese were focused on truth and the Indonesians wanted to bypass truth and go directly to friendship. There was continued public support for an international tribunal or other mechanism to bring

to justice those indictees who remained at large in Indonesia. The East Timorese members of the commission at times expressed guarded optimism about the prospects that the TFC could engage in a thorough search for the truth.

Section 5. 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.—Domestic violence against women was a significant problem and sometimes was exacerbated by the reluctance of authorities to respond aggressively to allegations of domestic violence. In some cases a lack of resources was used to justify official inaction and failure to investigate or prosecute cases involving violence against women. The PNTL were particularly slow to follow up on cases where the accused occupied a position of power. For example, in April the wife of a member of parliament (MP) was admitted to a hospital, reportedly as a result of being beaten by her husband. Although the PNTL initially started to investigate the case, they soon suspended the investigation on the basis that parliamentary regulations prohibit the arrest of an MP for offenses punishable with less than a five-year prison sentence. Although the parliamentary rules do not prohibit investigation, no further action was taken. In July PNTL officers refused to investigate allegations of repeated domestic violence by a PNTL deputy district commander. When the officer's wife sought medical treatment for injuries allegedly inflicted by her husband, the doctor at the hospital refused to provide it without authorization from the PNTL district commander. When she took her case to the district commander, he refused to initiate an investigation and instead pressured her to resolve the issue through mediation.

Although rape is a crime, failures to investigate or prosecute, as well as long delays were common in alleged cases of rape and sexual abuse. For example, in April a case of three PNTL officers accused of rape was dismissed when the victim and witnesses failed to appear at trial hearings despite significant evidence that had been presented at a prior hearing (see section 1.c.). The PNTL conducted an investigation of a 2003 case in which a woman allegedly was raped by a member of the F-FDTL. However, at year's end the PNTL reported the case had been dismissed.

Government regulations prohibit persons from organizing prostitution; however, under the Court of Appeals' interpretation of Indonesian laws still in force, prostitution itself is not illegal. Nevertheless, in past years police often arrested women accused of prostitution and some were mistreated while in detention. In past years the government deported some foreign women for alleged prostitution on the ground that they had violated the terms of their visas. However, there were no reports of such deportations during the year. In 2004 a local NGO conducted a study on prostitution and trafficking and estimated that there were up to 358 sex workers in the capital, of whom approximately 115 were possible trafficking victims (see section 5, Trafficking).

There was no law prohibiting sexual harassment; however, sexual harassment was reportedly widespread, particularly within some government ministries and the PNTL. Efforts were being made to establish a case history of sexual harassment complaints and to introduce laws to explicitly address the problem.

There were no reports of gender-based employment discrimination during the year; however, women usually deferred to men when job opportunities arose at the village level.

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.

A UN-created gender affairs unit has continued as the Office for the Promotion of Equality within the prime minister's office. The unit worked with government ministries and departments to promote gender equality and coordinated activities to reduce gender-based violence.

Women's organizations offered some assistance to female victims of violence, established shelters for victims of domestic violence and incest, and operated a safe room at the national hospital for victims of domestic violence and sexual assault. Other NGOs supported women through microcredit lending.

Children.—The constitution stipulates that primary education shall be compulsory and free; however, no legislation has been adopted establishing the minimum level of education to be provided, nor has a system been established to ensure provision of free education. According to a UN study, approximately 25 percent of primary education age children nationwide were not enrolled in school; the figures for rural areas were substantially worse than those for urban areas. Only 30 percent of children in lower secondary education (ages 13 to 15) were enrolled, with an even great-

er difference between urban and rural areas. At least 10 percent of children did not begin school. These statistics were fairly consistent for both male and female students.

Poor health facilities throughout the country resulted in high infant and under-five mortality rates. The major causes of death among children typically were combinations of infectious diseases, persistent malnutrition, and parasitic diseases. The low rate of vaccinations against communicable diseases was a serious problem. Although for some diseases vaccination rates were as high as 72 percent, the UN estimated that less than 15 percent of children between 12 and 23 months had been fully vaccinated. Under the UN's Extended Program on Immunization, vaccines and refrigeration equipment have been supplied to clinics in locations around the country. However, the status of equipment maintenance and condition were unknown at year's end and accessibility to these clinics and the lack of understanding of the need for vaccinations remained problems.

Domestic violence, including violence against children and child sexual assault, was a significant problem. Some commercial sexual exploitation of minors occurred (see section 5, Trafficking).

During the year the prime minister signed a decree establishing an inter-ministerial working group to draft a children's code and another decree establishing a National Commission for Children.

Trafficking in Persons.—The law prohibits trafficking in women and children, whether for prostitution or for forced labor; however, there have been several reports of women and girls trafficked into the country for prostitution in recent years. In 2004 a local NGO conducted a baseline study of human trafficking and the sex industry and estimated that as many 115 foreign sex workers in the capital might be victims of trafficking. Several establishments in the capital were known commercial sex operations and were suspected of also being involved in trafficking. While the PNTL conducted raids on brothels and massage parlors in Dili during the year, there were credible reports that some police and customs officials were guilty of collusion with such establishments or with those who trafficked foreign women into the country to work in these establishments. UN officials and local NGO leaders cited several instances in which foreign women, usually of Chinese, Indonesian, or Thai origin, reported that they had been trafficked to the country and were being held against their will. For example, in 2004 two Indonesian women interviewed by a local NGO stated that they had been hired by a businessman in Jakarta to work as housekeepers in a Dili hotel. When they arrived in Dili, the man confiscated their passports and confined the women to his house, telling them that they had to work as prostitutes to pay back their travel expenses.

There was widespread ignorance about the trafficking issue. Trafficking victims did not understand their rights or who to contact for assistance. Police were uninformed about the nature of trafficking, how to recognize it, and how to handle cases. Indonesian women detained for prostitution typically were dropped off at the border with no due process for investigation into whether they were trafficking victims.

UN authorities and the government established a working group to monitor and control trafficking. The Alola Foundation, an NGO headed by First Lady Kirsty Sword Gusmao, provided assistance to female victims of trafficking and advised the government on trafficking-related issues.

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 disabilities. There were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services; however, difficult access to schools in many districts resulted in many children with disabilities not attending school. Training and vocational initiatives did not give attention to the needs of persons with disabilities. During the year some persons with mental disabilities faced discriminatory or degrading treatment due in part to a lack of appropriate treatment resources. For example, in May a man suffering from mental illness was arrested after allegedly stoning a car. No investigation was carried out but PNTL held him for several days "for his own protection" without contacting mental health workers until UN officials suggested they contact the Ministry of Health.

National/Racial/Ethnic Minorities.—Relations are generally good between the ethnic Timorese majority and members of several small ethnic minority groups; however, there were occasional reports of discrimination against ethnic Chinese (who are less than 1 percent of the population) and ethnic-Malay Muslims. An historic tension between residents of the eastern part of the country, whose cultures and languages are partly of Papuan origin, and the Austronesian inhabitants of the

western part of the country had largely subsided by the time of independence, but it was an occasional aggravating factor in personal and political disputes.

Section 6. Worker Rights

a. The Right of Association.—The country has a labor code based on the International Labor Organization's standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally have been slowed by inexperience and a lack of organizational skills. In 2004 the government established official registration procedures for trade unions and employer organizations.

The Immigration and Asylum Act prohibits foreigners from participating in the administration of trade unions.

b. The Right to Organize and Bargain Collectively.—While collective bargaining is permitted, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

The law provides for the right to strike, but few workers exercised this right during the year (see section 2.b.).

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—Government regulations prohibit forced and compulsory labor, including by children; however, there were reports that in November 2004, PNTL officers in Covalima District forced members of CPD-RDTL to perform labor as a form of punishment. There were no such reports during the year.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code largely prohibits children under 18 from working; however, there are circumstances under which children between the ages of 15 to 18 can work, and there are even exceptional exemptions for children under 15. The minimum age did not apply to family-owned businesses, and many children worked in the agricultural sector. In practice enforcement of the labor code outside of Dili was limited. There were unconfirmed reports that children as young as 10 were being used to smuggle goods across the border between Indonesia and East Timor.

e. Acceptable Conditions of Work.—The labor code does not stipulate a minimum wage; however, employers generally used and employees expected a wage of \$85 (the US dollar is the country's official currency) per month as a minimum standard. This amount provided a decent standard of living for a worker and family. The labor code provides for a standard workweek of 40 hours per week and standard benefits such as overtime, minimum standards of worker health and safety, and days off. As required by the labor code, the government in 2004 nominated members to the National Labor Board and the Labor Relations Board. These boards received several weeks of training and began work in 2004. There are no restrictions on the rights of workers to file complaints and seek redress within these codes or other legislation. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear that they could avail themselves of this right in practice.

FIJI

Fiji is a constitutional republic with a population of approximately 850 thousand. There is an elected president, prime minister, and parliament. Following the attempted civilian coup d'état in 2000 that eventually resulted in the removal of the lawfully elected government, free and fair multiparty elections were held in 2001, and the political situation improved. Laisenia Qarase of the Sogoso Duavata ni Lewenivanua (SDL) party became prime minister in September 2001. While the civilian authorities generally maintained effective control of the security forces, the military voiced public opposition to amnesty provisions of a government-proposed reconciliation and unity bill and threatened to stop the government from functioning if the bill became law and was implemented.

The government generally respected the human rights of its citizens; however, there were serious problems in some areas. Deep divisions between indigenous Fijians (54 percent of the population) and Indo-Fijians (38 percent) continued to influence all aspects of the nation's politics. Ongoing reform of the police resulted in fewer complaints of police abuse during the year. The following human rights problems were reported:

- poor prison conditions, including serious overcrowding

- increased attacks against religious facilities, particularly Hindu temples
- government corruption
- violence and discrimination against women
- increased commercial sexual exploitation of children
- discrimination against persons with disabilities and ethnic minorities
- employer intimidation of union organizers and workers

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were some reports of abuses by police. The number of complaints to the Fiji Human Rights Commission for violation of the right to freedom from cruel and degrading treatment and torture declined significantly over the previous three years. Reported incidents of beatings and other abuse of apprehended persons and prisoners were investigated and, when appropriate, offending officers were prosecuted and jailed. All such cases appeared to be isolated incidents, not condoned by supervisory officers. A case in which police officers failed to obtain prompt medical treatment for a suspect severely injured during apprehension was under investigation at year's end.

The police internal affairs unit is required to investigate complaints of police brutality. The law permits corporal punishment as a penalty for criminal acts; however, in 2002 the Court of Appeal ruled that corporal punishment in the penal system was unconstitutional. In May a magistrate's court sentenced a man to five strokes with a cane, but the punishment was not carried out. The Human Rights Commission conducted periodic training courses for police, prison officers, and military personnel, using a new human rights manual based on international standards.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards. The prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services. Courts released prisoners, including some facing serious charges, on bail to minimize their exposure to an unhealthy and overcrowded prison environment. The national prison system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. In some cases pretrial detainees and convicted prisoners were held together.

During the year the International Committee for the Red Cross (ICRC) visited 8 detention facilities and interviewed more than 80 detainees. Family members were routinely permitted to visit prisoners.

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

Role of the Police and Security Apparatus.—The Ministry of Home Affairs oversees the Fiji Police Force, which is responsible for law enforcement and the maintenance of internal security. The police maintain a network of 32 stations and 95 police posts throughout the country. Policing of more remote and smaller islands is done through regularly scheduled visits. The government continued a program initiated in 2003 to improve policing standards and combat corruption. Allegations of corruption, once rampant in the police force, were investigated, and disciplinary and criminal cases initiated. Some officers were removed from the force. However, although there were improvements, corruption remained a problem.

Arrest and Detention.—Police officers may arrest persons without a warrant for violations of the penal code. Police also arrest persons in response to warrants issued by magistrates and judges. 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. Unlike in 2004, there were no claims of incommunicado or arbitrary detention. There was a well-functioning bail system.

The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys.

There were no reports of political detainees.

The courts had a significant backlog of cases, and 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, and the government generally respected this provision in practice. However, there were allegations that some judges held biases stemming from events surrounding the 2000 coup.

The country's judicial structure is patterned on the British system. The principal courts are the magistrates' courts, the High Court, the Court of Appeal, and the Supreme Court. In addition to its jurisdiction in civil and criminal cases, the High Court has special-interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Except for the Family Court, there are no special civilian courts. Military courts try members of the armed forces, and there is an internal police tribunal mechanism.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants have the right to a public trial and to counsel. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. Most cases were heard in the magistrates' courts, but a case cannot be tried in a magistrate's court without the defendant's consent. Absent such consent cases are tried in the High Court. Trials in the High Court provide for the presence of assessors, typically three, who are similar to jurors but only advise the presiding judge. Magistrates are not authorized to impose prison sentences longer than 10 years. Magistrates' courts' sentences in most domestic and family law cases were relatively light. Defendants enjoy a presumption of innocence and can question witnesses, present evidence on their own behalf, and access government-held evidence relevant to their case. The right of appeal exists but often was hampered by delays in the process.

Although the majority of the key participants in the 2000 coup have been charged and tried, several investigations continued during the year. At year's end approximately 200 defendants were still awaiting trial on coup-related charges.

The military court system provides for the same basic rights as the civilian court system, although bail is granted less frequently in the military system. In August the Court of Appeal set aside the convictions of 20 former soldiers involved in the November 2000 mutiny at the military forces headquarters and ordered a retrial. The defendants had argued that delays in their arrest and trial was a violation of their constitutional rights, and that their court martial was not properly constituted. In December the High Court granted bail to 9 of the 20 defendants pending trial in January 2006. The court cited delays in their retrial resulting from a delay in the government's appointment of a new judge advocate.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

Unlike in previous years, the Media Council's Complaints Committee, a private watchdog group of media and academic figures, received no complaints regarding government pressure on, or interference with, the media.

Legislation pertaining to the press is contained in the Newspaper Registration Act and Press Correction Act. Under these acts all newspapers must register with the government before they can publish. The acts give the minister of information sole discretionary power to order a newspaper to publish a "correcting statement" if, in the minister's view, a false or distorted article was published. A newspaper refusing to publish the minister's correction can be sued in court and, if found guilty, fined. Individuals in such cases can be fined, imprisoned for six months, or both. These acts authorize the government to arrest any person who publishes "malicious" material. This would include anything the government considered false that could create or foster public alarm or result in "detriment" to the public. However, this authority has never been used.

The independent media were active and expressed a wide variety of views without restriction, printed in English, Fijian, and Hindi. The country's television news production was owned and operated by Fiji One, one of two national noncable television stations. A trust operating on behalf of the provincial governments owned 51 percent of Fiji One; the remainder was privately held. The government owned the Fiji Broadcasting Corporation, which operated four radio stations. The government also had shares in two daily newspapers, the *Daily Post* and the *Fiji Sun*. The govern-

ment briefly directed government advertising exclusively to the *Daily Post* but dropped this policy under criticism from other newspapers. There were several thriving independent radio stations broadcasting in English, Fijian, and Hindi.

The 1992 Television Decree permits the government to influence programming content. There was no attempt to use the programming authority during the year.

Academic freedom was generally respected; however, government work-permit stipulations and University of the South Pacific contract regulations effectively deterred most university employees from participating in domestic politics. There were no government restrictions on the Internet.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Although civic organizations frequently were granted permits to assemble, permits for some political demonstrations and marches were denied.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The majority of citizens (52 percent) are Christian and government-sponsored meetings and events often begin with a Christian prayer.

In December the government denied an entry visa to the Reverend Sun Myung Moon, head of the Unification Church, stating that Reverend Moon's teachings were considered "misleading, repugnant, and divisive."

Societal Abuses and Discrimination.—Racial polarization was reflected in religious differences, which were largely along ethnic lines; this sometimes contributed to political problems. Most ethnic Fijians were Christians, and most Indo-Fijians were Hindu, with a sizable minority of Muslims. The dominant Methodist Church has closely allied itself with the interests of the pro-indigenous Fijian movement.

Break-ins, vandalism, attempted arson, and thefts directed at houses of worship, predominantly Hindu temples, continued to increase. The attacks were broadly viewed as reflections of intercommunal strife.

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

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

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

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

Protection of Refugees.—The law includes provisions for providing refugee and asylum status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. At year's end the government was in the process of establishing a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the forced return of persons to a country where they feared persecution. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The government received no applications for refugee status or asylum during the year.

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

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

Elections and Political Participation.—The most recent elections, held in 2001, were judged generally free and fair. Party politics was largely race based, although this did not limit participation in the political process. The governing SDL party was primarily ethnic Fijian and the opposition Fiji Labor Party was primarily Indo-Fijian, although both parties had membership across racial lines.

There were 6 women (5 elected and 1 appointed) in the 71-seat House of Representatives and 2 women in the 32-member Senate. There were four ethnic Fijian women in the cabinet (two ministers and two assistant ministers). Women also played important roles in the chiefly system and could be chiefs in their own right.

There were 27 Indo-Fijians in the House of Representatives and 4 in the Senate. There was one Indo-Fijian cabinet minister. Indo-Fijians, who accounted for 38 percent of the population, continued to be significantly underrepresented at senior levels of the civil service and in the military. Indo-Fijians comprised approximately 35 percent of the civil service overall.

The political primacy of indigenous Fijians is to some extent enshrined in the constitution, which mandates that 14 of Parliament's 32 senators be appointed by the

indigenous Fijian Great Council of Chiefs, a hereditary body, and 1 by the Rotuma Island Council. Thus the support of only two additional senators is needed to give indigenous Fijians effective control in the Senate. Under 1997 amendments to the constitution, the prime minister and the president may be of any race. The amendments establish a 71-member lower house with 25 seats open to any ethnicity and 46 seats allocated to different ethnic communities. The open seats are apportioned into districts of approximately equal population. Of the 46 communal seats, 23 are allotted to indigenous Fijians, 19 to Indo-Fijians, 3 to "general voters" (for the most part mixed-race, Caucasian, and East Asian voters), and 1 to Rotumans (an ethnically distinct Polynesian group). These allotments were generally proportional to the ethnic composition of the country's population.

Government Corruption and Transparency.—Corruption within government, including the civil service, was a problem. The media continued to raise numerous allegations of nonaccountability, bribery, abuse of office, fraud, misuse of public property, financial mismanagement, failure to complete statutory audits, and conflicts of interest regarding officials and ministries. In some ministries transparency was virtually nonexistent. The constitution gives the auditor general the right to audit all national and local government bodies. In its annual report to Parliament, the auditor general's office highlighted numerous instances of corrupt practices in government offices and ministries.

During the year several individuals imprisoned for their participation in the 2000 coup were released from prison, ostensibly on medical grounds or to serve their sentences extramurally. The releases were widely seen as politically motivated. A former cabinet minister granted early release in April returned to the cabinet in September at the conclusion of his extramural sentence. In June the government refused to approve a contract extension for the deputy director of public prosecutions, a foreign national assisting in the prosecution of persons implicated in the 2000 coup, and ordered him to leave the country. Local press reports criticized the government's actions as politically motivated.

There is no law providing for public or media access to government information. The government was sometimes responsive to requests for such information.

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

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

There were several small, foreign-based organizations that concentrated on local human rights causes, including the Coalition for Democracy in Fiji (with offices in New Zealand and Australia) and two United Kingdom-based groups, the International Fiji Movement and the Movement for Democracy in Fiji. There was little interaction between the government and these groups. A number of UN organizations concerned with human rights, including the International Labor Organization, the UN Children's Fund (UNICEF) and the UN Development Fund, had regional offices in the country and worked actively on various human rights issues with the government. The ICRC continued to operate in the country.

During the year government officials, including the prime minister, warned expatriates working in the country that public expression of political opinions was a violation of their work visas and could lead to the revocation of their work permits. This warning, while apparently directed primarily at the business and investment community, may have had an adverse effect on the work of expatriate members of NGOs critical of the government.

The Fiji Human Rights Commission (HRC), a constitutionally mandated statutory body, appeared to be impartial and independent, generally operating without government interference. During the year it received its own budget allocation for the first time. The HRC continued to receive and investigate reports of human rights violations and requests for assistance, some involving alleged abuses by the military, police, and prison officials. The HRC issued widely distributed quarterly and annual reports on its work.

The government's proposed Reconciliation, Tolerance, and Unity Bill, which, among other provisions, provides for the possibility of amnesty for participants in the 2000 coup, was presented to Parliament in June. The bill's amnesty clauses were widely denounced by victims of the coup and numerous human rights organizations and activists, who alleged the bill would undermine the rule of law by freeing from prison individuals duly convicted of crimes related to the coup and would hinder prosecutors and the courts from fulfilling their responsibilities in criminal cases. At year's end a parliamentary committee report had recommended substan-

tial changes to the bill, including certain changes to the amnesty provisions, but the government had not yet addressed the proposed changes.

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

The constitution prohibits discrimination based on race, sex, place of origin, ethnicity, sexual orientation, color, primary language, economic status, age, disability, or opinions or beliefs. The government generally enforced these provisions effectively, although there were problems in some areas. The constitution also cites the "paramountcy" of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens. A compact included in the constitution specifically 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.

Women.—Domestic abuse, rape, incest, and indecent assault were significant problems. Police practiced a "no-drop" policy, under which they pursued investigations of domestic violence cases even if a victim later withdrew her accusation. The police generally were more responsive to domestic violence cases than in the past. Nonetheless, cases of domestic abuse and incest often were dismissed by courts or the perpetrators received minimal sentences. Incest was widely believed to be underreported. Traditional practices of reconciliation between aggrieved parties were sometimes taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest. An active women's rights movement sought to raise public awareness about 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 child support.

The women's rights movement pressed for more severe punishments for rape. Sentences varied considerably. Rape cases heard in the lower magistrates' courts typically resulted in shorter sentences. Women's groups continued to urge that all rape cases be heard in the High Court, where lengthier sentences are available. The Court of Appeal has ruled that 10 years is the minimum appropriate sentence in child rape cases. Women's activists continued to press for criminalization of spousal rape. At year's end a new domestic violence bill, including a provision criminalizing spousal rape, was under discussion in draft form but had not been formally considered by Parliament.

Prostitution is illegal, but it occurred, particularly in cities. There were some reports of sex tourism, which was prohibited by law. Sex tourism reportedly occurred particularly in tourist centers such as Nadi and Savusavu and in many cases involved children. Reportedly taxi drivers often acted as middlemen, facilitating the commercial sexual exploitation of children.

The law does not specifically prohibit sexual harassment. However, laws against "indecent assaults on females" prohibit offending the modesty of women and could be used to prosecute sexual harassment cases. According to a recent survey, one in three women has been sexually harassed in the workplace.

The Women's Crisis Center provided a gender awareness program to educate soldiers and police officers about women's concerns.

Women have full rights of property ownership and inheritance but often were excluded from the decision-making process on disposition of communal land. Many women were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women generally were paid less than men for similar work.

Children.—The government devoted 28 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15. However, the inability of some families to pay school fees and bus fares limited attendance for some children. There was no significant difference between the school enrollment rates for boys and girls.

The government provided free medical care for children at public health centers and hospitals, including immunizations in primary schools.

Child abuse was an increasing problem. Some attributed this to societal changes that have undermined traditional village and extended family-based structures. Multiple reports suggested that child prostitution increased during the year. Child prostitution was particularly evident in poverty-stricken urban areas and among homeless urban youth (see section 5, Trafficking).

Increasing urbanization led to more children working as casual laborers, often with no safeguards against abuse or injury.

Trafficking in Persons.—There are no laws that specifically address trafficking in persons, although laws against procuring a woman to become a prostitute, kidnap-

ping, and bonded and forced labor could be used to prosecute traffickers. There were no substantiated reports of trafficking to or from the country during the year.

There were reports of children trafficked within the country during the year. Many observers cited poverty as the underlying reason for multiple reports of sexual exploitation of children. Urban migration and the subsequent breakdown of community structures, children from outer islands living with relatives while attending high school, and homelessness all appeared to be risk factors that increased a child's chance of being exploited for commercial sex.

The government did not sponsor or provide assistance to any programs to combat or prevent trafficking in persons.

Persons with Disabilities.—All persons are considered equal under the law, including persons with disabilities, and discrimination against persons with physical disabilities in employment, education, and the provision of state services is illegal. In addition the law provides for the right of access to places and modes of transport open generally to the public and obliges proprietors of such places and services to “facilitate reasonable access for disabled persons to the extent provided by law.” The 2004 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 persons with disabilities. Building regulations issued in 2004 require new public buildings to be accessible to persons with disabilities. However, according to an HRC survey of 70 percent of public facilities in the capital, only a single fast food restaurant was fully accessible to persons with disabilities.

Persons with mental disabilities largely were separated from society and normally were supported at home by their families. Institutionalization of persons with severe mental disabilities was in a single overcrowded, underfunded public facility in the capital. There were a few special schools for persons with mental disabilities; however, costs limited access.

The government-funded Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several NGOs also promoted attention to the needs of persons with various disabilities.

National/Racial/Ethnic Minorities.—Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. The 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 it also specifies the “paramountcy of Fijian interests” as a protective principle (see section 3).

There were instances of racial antagonism in Parliament resulting in racial and religious slurs directed in particular against Indo-Fijians. During the year the government pursued a policy of political predominance for ethnic Fijians.

Land tenure remained a highly sensitive and politicized issue. Ethnic Fijians communally held more than 80 percent of all land, the government held another 8 percent, and the remainder was freehold land, which private individuals or companies may hold.

Ethnic Fijians' traditional beliefs, cultural values, and self-identity are intimately linked to the land. Most cash-crop farmers were Indo-Fijians, the majority of whom were descendants of indentured laborers who came to the country during the British colonial era. Virtually all Indo-Fijian farmers were obliged to lease land from ethnic Fijian landowners. Many Indo-Fijians believed that their very limited ability to own land and their subsequent dependency on leased land from indigenous Fijians constituted de facto discrimination against them. Refusals by ethnic Fijian landowners to renew expiring leases have resulted in evictions of Indo-Fijians from their farms and their displacement to squatter settlements. This situation contributed significantly to communal tensions. Many indigenous Fijian landowners in turn believed that the rental formulas included in the Agricultural Land Tenure Agreement (ALTA) discriminated against them. Although a bill providing for changes in the existing ALTA was introduced in Parliament, it was defeated during the year.

During the year the Chinese Association of Fiji expressed concern about an increasing number of violent attacks directed against members of the minority Chinese community.

Other Societal Abuses and Discrimination.—The constitution prohibits discrimination on the basis of sexual orientation, but pre-existing statutes criminalize homosexual acts. In April a local citizen and an Australian tourist who engaged in consensual homosexual sexual activity were each sentenced to two years in prison on charges of an “unnatural offense” and “indecent practice between males.” In August the convictions were overturned on appeal, but the case set off a widespread public debate, sparked in part by an aggressive campaign by the Methodist Church opposing homosexual rights.

Section 6. Worker Rights

a. The Right of Association.—The law protects the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, and the authorities respected these rights in practice. An estimated 36 percent of the work force was unionized.

All unions must register with, but are not controlled by, the government. While certain unions were ethnically based, both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

The Employment Act makes it 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. Numerous cases of victimization of workers who expressed an inclination to join a union were reported to the Ministry of Labor. However, the ministry did not protect workers effectively from antiunion discrimination, and no employer was prosecuted.

b. The Right to Organize and Bargain Collectively.—Workers have the right to organize and bargain collectively. However, wage negotiations generally were conducted at the level of individual companies rather than on an industry-wide basis. Employers are required to recognize a union if more than half of the employees in a workplace have signed membership cards; no ballots are held to determine representation. The government has the power to order recalcitrant employers to recognize unions, and it has done so in the past. Traditional key sectors of the economy, including sugar and tourism, were heavily unionized. Although the law encouraged unionization, union organizers' jobs were not protected, resulting in low unionization in some sectors.

Strikes are legal, except in connection with union recognition disputes. Trade unions can conduct secret strike ballots without government supervision. To carry out a legal strike, organizers must give an employer 28 days' notification. The Ministry of Labor also must be notified of the dispute 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. There were some strikes during the year. Most disputes, including those in which strike action was deemed illegal, were settled by referral to a permanent arbitrator.

Union organizers were occasionally vulnerable to dismissal or to other interference by employers, particularly when operating on company premises, although in theory they have legal protection. Intimidation of workers continued to be a problem, particularly in the export processing zones (EPZs) and the retail sector. EPZs are subject to the same laws as the rest of the country. However, the Fiji Trade Union Congress (FTUC) has been unsuccessful in obtaining collective bargaining agreements in EPZs and claimed that intimidation of workers by employers was widespread. The FTUC argued that because of illegal and intimidating practices, including threats of loss of work for those active in organizing workers, unions were effectively prevented from representing workers in the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no confirmed reports that such practices occurred. In previous years there were allegations that work conditions in some garment factories might include forced or bonded labor and excessive work hours; however, by year's end most garment factories had closed or downsized due to increased international competition.

d. Prohibition of Child Labor and Minimum Age for Employment.—Inadequate enforcement of existing child labor regulations failed to fully protect children from exploitation in the workplace. Under the law children under age 12 may not be employed except in a family-owned business or agricultural enterprise. Children between ages 12 and 15 may be employed on a daily wage basis in nonindustrial work not involving machinery provided they return to parents or guardian every night. Persons between the ages of 15 and 17 may be employed in certain occupations not involving heavy machinery; however, they must be given specified hours and rest breaks. In practice the Ministry of Labor had few or no resources to investigate reports of child labor. There were only two inspectors at the ministry who conducted annual workplace inspections, and there were no inspectors to investigate reports of child labor violations. There was no comprehensive policy to eliminate the worst forms of child labor. During the year migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and prostitutes. There were reports of trafficking in children during the year (see section 5).

e. Acceptable Conditions of Work.—There was no single, national minimum wage, although the Ministry of Labor set minimum wages for certain sectors. Entry-level wages in unregulated sectors, especially service industries, provided a sparse and

often only marginally adequate standard of living for a worker and family. There were no regulations on maximum hours of work for adult males. Other than a prohibition from working in mines, there were no limitations on female employment. Workers in some industries, notably transportation and shipping, worked excessive hours.

There are workplace safety regulations, a worker's compensation act, and an accident compensation plan. Safety standards applied equally to citizens and foreign workers. However, government enforcement of safety standards suffered from a lack of trained personnel and lags in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces; however, many work areas did not meet standards and were not monitored by the Ministry of Labor for compliance. In response to public complaints, the Ministry of Labor condemned some facilities as unfit for occupation. The law accords employees the right to remove themselves from a hazardous work site without jeopardizing their employment, but most feared the loss of their jobs if they did so.

INDONESIA

Indonesia is a multiparty, democratic, presidential republic with a population of approximately 241 million. In October 2004 Susilo Bambang Yudhoyono became the country's first directly elected president as a result of elections that international and domestic observers judged to be free and fair. Voters also chose two national legislative bodies in 2004: the house of representatives (DPR) and the newly created house of regional representatives (DPD). While civilian authorities generally maintained effective control of the security forces, in some instances elements of the security forces acted independently of civilian authority.

There were improvements in the human rights situation during the year and, although significant problems remained particularly in areas of separatist conflict, the end of the country's long-running internal conflict in Aceh Province was a major step forward. The government faced an intermittent, low intensity guerrilla conflict in Papua and West Irian Jaya provinces; inter-communal violence in Maluku and Central Sulawesi provinces; and terrorist bombings in various locations. Inadequate resources, poor leadership, and limited accountability contributed to serious violations by security forces. Widespread corruption further degraded an already weak regard for rule of law and contributed to impunity. Poverty, high unemployment, and a weak education system rendered all citizens, particularly children and women, vulnerable to human rights abuses. During the year the government devoted considerable resources and attention to the recovery effort following the devastating December 2004 earthquake and tsunami that left more than 130 thousand persons dead and missing in Aceh and North Sumatra provinces. The country struggled to come to terms with human rights abuses committed by prior governments. The following human rights problems were reported:

- extrajudicial killings, particularly in areas of separatist conflict
- disappearances
- torture
- harsh prison conditions
- arbitrary detentions
- a corrupt judicial system
- warrantless searches
- infringements on free speech
- restrictions on peaceful assembly
- interference with freedom of religion by private parties, sometimes with complicity of local officials
- violence and sexual abuse against women and children
- trafficking in persons
- failure to enforce labor standards and violations of worker rights, including forced child labor

During the year there were significant improvements in the human rights situation. For the first time, citizens directly elected leaders in 149 local elections at the city, regency (county equivalent), and provincial level. On August 15, the government signed a peace agreement with the Free Aceh Movement (GAM), which both sides implemented thereby greatly reducing human rights abuses in that province.

In Papua and West Irian Jaya provinces, the government inaugurated the Papuan People's Assembly and took other steps toward fulfilling the 2001 Special Autonomy Law on Papua. Security forces showed increasing restraint in response to nonviolent separatist demonstrations in Papua. The government began an anticorruption campaign that achieved some results, including high profile convictions.

Armed separatist groups, terrorists, and militant groups also committed serious human rights abuses. In Aceh, prior to the August 15 peace agreement, rebels committed killings and kidnappings. In Central Sulawesi, Maluku, and Bali provinces terrorists conducted bombings that killed and injured many civilians. In Maluku extremists launched an attack against security forces. Militant groups attacked minority religious believers and acted to restrict religious freedom.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Security forces continued to commit unlawful killings of rebels, suspected rebels, and civilians in areas of separatist activity, where most politically motivated extrajudicial killings also occurred. There was evidence that the Indonesian Armed Forces (TNI) considered anyone killed by its forces in conflict areas to be an armed rebel. The government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses in Aceh and Papua.

Following the December 2004 earthquake and tsunami that hit Aceh Province, the government and GAM rebels pursued negotiations that resulted in an August 15 peace accord in the form of a Memorandum of Understanding (MOU). Implementation of the MOU ended an almost three decades-long conflict and resulted in a substantial decrease in human rights violations by the TNI, police, and GAM rebels.

The Human Rights Nongovernmental Organization (NGO) Coalition in Aceh reported that during the year the TNI killed 42 GAM insurgents and arrested 1; 44 civilians were killed. The same organization reported that 40 civilians and 37 GAM members were killed before the MOU and 4 civilians and 5 GAM members were killed after the MOU.

On January 3, in Bireuen, Aceh, six members of the TNI special forces (Kopassus) reportedly killed two men and injured another when the men tried to intervene in the alleged apprehension of the son of a GAM member.

Humanitarian volunteers reported that TNI and Police Mobile Brigade (Brimob) personnel killed three suspected rebels after capturing them during a joint operation in Serba Jaya village in Aceh Jaya District.

The NGO Commission for Disappearances and Victims of Violence Aceh reported that GAM killed seven civilians; the Human Rights NGO Coalition reported that GAM killed 17 soldiers during the year.

On May 4, GAM rebels allegedly shot and killed a seven-year-old boy in North Aceh Regency during a rebel ambush of a vehicle carrying the boy. The incident left 10 others, including three soldiers, injured.

The TNI and the police rarely investigated extrajudicial killings and almost never publicized such investigations.

There was no known progress in the following cases from 2004: the four civilians found dead in a jungle near Peureulak, East Aceh; the killing of civilian Cut Musdaifah in Wakheuh village; the alleged GAM killing of local legislature candidate Muhammad Amin; and the shooting death of a paramedic in South Aceh. There were no developments in the May 2003 killing of local legislature member Jamaluddin Hasany; in the July 2003 killing of former GAM member Cut Aca Budi; in the July 2003 killing of schoolteachers Muslim Sulaiman and his wife Darmawati; or in December 2003 bombing that killed 9 persons at an outdoor concert in Peureulak.

In Papua Province, the government continued to conduct operations against rebels of the Free Papua Movement (OPM), and OPM rebels continued sporadic, low intensity operations against military and police units. TNI authorities estimated that OPM forces consisted of 620 guerillas armed with approximately 150 firearms ranging from modern M-16s to outdated Mausers.

On January 17, TNI personnel allegedly beat local Papuan residents in Nabire, leaving seven seriously injured and one, Miron Wonda, dead. On April 10, in pursuit of a group of 11 OPM rebels, police carried out a raid in Mulia City, capital of Puncak Jaya Regency; the police shot and killed Tolino Iban Giri and arrested eight other persons. Local church leaders told the press that Tolino Iban Giri and the eight others were not members of OPM.

In March, in Mulia, according to the military district command, an unknown person, believed to be an OPM member, shot and killed local civilian Tinius Tabuni.

Also in Papua, the TNI and police continued to cooperate with US law enforcement in their joint investigation of the 2002 ambush that killed 2 American citizens and 1 Indonesian and injured 12 other persons near a large gold and copper mine near the city of Timika. A joint task force sought to apprehend the perpetrators, including OPM guerrilla Anthonious Wamang, who was indicted by a US grand jury in connection with the killings.

The government made limited progress in establishing accountability for numerous human rights violations committed in Papua in previous years, including those committed in Biak (1998), Abepura, Wasior, and Wamena. During the year a human rights court in Makassar acquitted both defendants of all charges in the 2000 Abepura case in which police allegedly killed at least 3 persons and assaulted up to 100 persons during a raid (see section 1.e.). In 2004 the National Human Rights Commission (Komnas HAM), an independent organization created and funded by the government, completed its report on the 2001 Wasior incident, in which police allegedly killed 12 civilians following an attack on a police post that left five policemen dead, and on the 2003 Wamena incident, in which dozens of residents of the central highlands area of Kuyowage allegedly were tortured and villages razed during a military operation that followed the April 2003 break-in at the Wamena armory. In these two cases, the commission found that soldiers and police had committed gross human rights violations, including murder, forced displacements, and torture. Komnas HAM categorized these violations as crimes against humanity and, in September 2004 submitted its report to the attorney general's office (AGO) for possible prosecution. The AGO reportedly told Komnas HAM that it would not investigate the case because Komnas HAM's report did not meet the AGO's standards or represent admissible testimony. At year's end, Komnas HAM had no plans to revise its report.

Police used deadly force to apprehend suspects or acted recklessly in pursuit of suspects, and these actions sometimes resulted in the deaths of civilians. In other cases, suspects in police custody died under suspicious circumstances.

On March 27, during a raid on a gambling establishment, police shot Sunaryoko in Tasikmadu village, East Java. Local police later detained the officers involved and reportedly disciplined them. No details about the nature of the disciplinary action were available.

During the year the government made no significant progress establishing accountability for the following 2004 abuse cases: the beating death of an East Java resident by police in June, the August killing of three persons who allegedly tried to escape police custody in Sragen, Central Java, the August killings of Hermansyah and Ade Candra who allegedly tried to escape police questioning in Pekanbaru, or the July police shooting in Poso that injured Bambang, a wrongly accused murder suspect.

In September 2004 unknown persons fatally poisoned prominent human rights activist Munir Said Thalib on a flight from Jakarta to the Netherlands via Singapore. According to a Dutch government autopsy, the cause of death was arsenic poisoning. On December 20, the Central Jakarta Court convicted Polycarpus Budihari Priyanto, a pilot who was on the flight as a passenger, for the murder of Munir and sentenced him to 14 years in prison. The judges described the murder as a conspiracy and called for further investigation. A report on the case prepared by a presidentially appointed fact-finding team was not publicly released, but, according to press reports, concluded that Munir's killing was a conspiracy and recommended investigation of former and current officials of the State Intelligence Agency (BIN) and of Garuda airlines officials. At year's end both the prosecution and the defense were appealing the trial court's decision on Polycarpus.

There was no progress in the investigation of the 2003 alleged suicide of Ihwanuddin, a suspected member of the terrorist organization Jemaah Islamiya (JI).

On March 29, the Palu District Court in Central Sulawesi, sentenced Sofyan, previously detained for suspected involvement in the 2004 killing of prosecutor Ferry Silalahi, to eight months in prison for possessing an illegal firearm. He was acquitted of all charges in the killing of Silalahi. During the year police arrested three new suspects for the shooting of Silalahi: Hence Said, Farid Podungge, and Wagiman. In August police turned Wagiman's case file over to prosecutors for trial; however, there have been no reported developments since that time. In November police arrested Andi Ipong, a suspect in as many as nine cases of violence in Palu and Poso. At year's end he was being questioned. There was no progress in the investigation of the 2004 killing of Reverend Freddy Wuisan near Membuke Church, Poso.

The government made very little progress during the year in prosecuting those responsible for the 1998 killing of four students at Trisakti University and nine demonstrators at Semanggi intersection, and the 1999 killing of an additional four

demonstrators at Semanggi. In 2004 Komnas HAM Chairman Abdul Hakim Garuda Nusantara asked the DPR to reverse its 2001 decision not to classify these cases as human rights violations. In July members of the DPR representing several political parties proposed forming a special committee to reopen the shooting cases based on the recommendation from the House Commission for Legal and Human Rights. However, by year's end, there were no known further developments.

During the year bombings occurred in Aceh, Bali, the Maluku islands, and Sulawesi. On October 1, three suicide bombers killed 19 persons and injured more than 100 in the tourist areas of Kuta and Jimbaran in Bali. Several senior members of the terrorist organization JI, including Malaysian national Noordin Mohammad Top, remained at large and the focus of law enforcement counter-terrorism efforts.

The courts tried a number of suspected terrorists in connection with major terrorist incidents, including the September 2004 bombing of the Australian embassy, which killed 10 and injured more than 150. Law enforcement and judicial officials arrested, tried, and convicted six men for their roles in the attack. Two of the perpetrators, Iwan Dharmawan Mutho and Achmad Hasan, both charged with planning and organizing others for the attack, received death sentences. Their appeals were pending at year's end. The other four convicted persons received sentences ranging from 3½ to 10 years in prison.

On November 9, the police exchanged gunfire with approximately five suspected terrorists, resulting in the death of two and the wounding of one police officer. The dead included Azahari bin Husin, a Malaysian national and expert bomb-maker linked with four major terrorist bombings, including the October 1 Bali bombing.

In August the Makassar District Court in South Sulawesi sentenced Agung Abdul Hamid to life imprisonment for the 2002 bombings of a McDonald's restaurant and a Toyota car dealership.

The courts continued with prosecutions related to the August 2003 Marriott hotel bombing that killed 12 persons. By year's end the courts sentenced 15 suspects to terms ranging from 3 to 12 years. The trials of two other suspects were ongoing.

Since 2002 courts convicted nearly 130 persons in connection with terrorist attacks. The harshest punishments included five death sentences and seven life sentences.

In Central Sulawesi, at least 37 persons were killed, and at least 104 persons were injured during the year. Political and economic tensions between Christians and Muslims contributed to the violence.

On May 28, a bomb exploded in a major market in the Christian majority town of Tentena, Poso Regency, killing at least 21 persons and injuring 40 others. Other small explosions occurred in front of the Indonesian Democratic Party-Struggle's office on May 15; at the Tentena market on June 29; and in the back yard of the Poso election commission on July 12. No major casualties were reported in these incidents.

During the year 13 persons were killed and approximately 80 injured in Maluku Province, significantly fewer than in 2004. As in Central Sulawesi and other conflict areas, it was not clear whether these deaths were due to interreligious conflict, or to criminal or other motives.

On May 16, unidentified gunmen attacked a Brimob operations command post in Loki village, Piru District, in West Seram Island, Maluku Province, killing seven persons, including five police officers. Police said the attackers were members of a local Islamic extremist group. On May 19, police arrested two suspects, who reportedly admitted to the attacks.

Government and police continued to make some progress in handling conflicts in Central Sulawesi and Maluku. Police made stronger efforts to investigate, arrest, and prosecute those involved in violence. In August two suspects were arrested in the investigation into the November 2004 shooting death of Reverend Susianti Tinulele; there was no further reported progress in the case. In June police declared 18 persons suspect in the May 28th Tentana bombing, including Hasman, the head of Poso prison. Police subsequently released Hasman and 13 others for lack of evidence. In October and November, five teenage girls—four Christian and one Muslim—were killed in and near Poso, Central Sulawesi (see section 2.c.).

The Central Sulawesi provincial government and police pressed in some cases for the investigation and trial of security forces allegedly involved in past religious violence in that province. In April the national police headquarters publicly named a senior police officer as a suspect in December 2004 church bombings in Palu, Central Sulawesi—the first senior officer so identified.

In March the Maluku police detained 3 men for possible involvement in that month's bus attack that killed 4 and injured 14.

b. Disappearance.—During the year dozens of disappearances occurred, most frequently in Aceh Province, and large numbers of persons who disappeared over the

past 20 years, mainly in conflict areas, remained unaccounted for. The government reported little progress in prosecuting those responsible for disappearances that occurred in previous years.

According to the Human Rights NGO Coalition, in Aceh, 31 civilians and 1 GAM member were kidnapped during the year; 46 civilians and 4 GAM members reportedly were kidnapped in 2004. There were no reports of kidnappings after the signing of the MOU.

The security forces were implicated in some disappearances. On January 22, five TNI officers in civilian clothes allegedly kidnapped a civilian, Hamdani, and threatened his wife. The soldiers freed Hamdani three days later. On April 21, two units of the Military Joint Intelligence Unit allegedly kidnapped Dhalan bin Abdurrahman and Ardiyansyah bin Amin Yusuf, both accused of being GAM members, while conducting an operation in Cot Bak U village.

There was no known progress in the 2004 case of a wounded 16-year-old boy whom police allegedly took into custody or in the cases of Mukhlis and Zulfikar, members of the local NGO Link for Community Development.

The GAM also abducted persons during the year. On February 14, GAM members allegedly kidnapped four persons, including an eight-year-old child, and demanded a ransom. At year's end their whereabouts remained unknown. In June GAM members allegedly abducted Marhaban, a Muslim cleric representing the United Development Party, after failure to extort money from him. GAM released Marhaban after he paid an unspecified amount of money.

There was no known progress in the 2004 disappearances of elementary school teachers Muhammad Amin Alwi and Hasballah who were forcibly taken by 10 armed men in military uniforms in Nagan Raya Regency.

On December 10, police arrested the suspected kidnapper of Pentecostal minister Jarok Ratu, who was kidnapped in South Buru Island, Maluku Province in December 2004. The minister remained missing at year's end.

On September 14, Komnas HAM announced the results of their inquiry into the 1998 abductions of 12 to 14 prodemocracy activists during the rule of former president Suharto. Despite refusals from military personnel to cooperate in the investigation, Komnas HAM concluded that all victims still missing were dead and identified suspects for an official investigation without publicly releasing their names.

In Papua there were no credible reports of disappearances during the year. The government did not report any progress in prosecuting those responsible for disappearances that occurred in previous years, including those of Martinus Maware, Mathius Rumbapak, or Hubertus Wresman.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law makes it a crime punishable by up to four years in prison for any official to use violence or force to elicit a confession; however, law enforcement officials widely ignored such statutes. Security forces continued to employ torture and other forms of abuse. The government made some efforts to hold members of the security forces responsible for acts of torture. During the year the use of torture to obtain confessions from suspects was most apparent in Aceh and Papua.

Torture was sometimes used to obtain confessions, punish suspects, and seek information that incriminated others in criminal activity. Security forces also allegedly used torture to extort money from villagers. Reliable figures on the number of incidents of torture that occurred during the year were difficult to obtain. Torture used included random beatings, bitings, whippings, slashings, and burnings.

In Aceh Province the Human Rights NGO Coalition reported 80 cases of civilians and no cases of GAM members tortured, compared with 77 civilians and 7 GAM members tortured in 2004. In September 2004 Human Rights Watch (HRW) reported widespread abuse of prisoners in Aceh by security forces, including electric shocks and beatings with wooden beams and gun butts. The government announced it would investigate the allegations; however, at year's end, there were no known investigations.

The Legal Aid Foundation in Papua and Komnas HAM in Papua reported that there were 35 cases of torture by security forces in Papua during the year.

On February 16, 10 Marines reportedly beat 6 internally displaced persons (IDPs) in Aceh for being unable or unwilling to supply them with information on the whereabouts of GAM members. In another alleged incident, eight TNI members dragged a 53-year-old village head behind a pickup truck from his village to the nearest TNI post, allegedly as punishment for not reporting that GAM members passed in front of his house on occasion.

In May local NGOs accused a police officer and three military personnel of torturing Ivan Mardawan, a Surabaya resident. The then Surabaya police chief publicly pledged to investigate the case; at year's end, no information regarding the status of an investigation was available. In January the NGO People's Justice and

Human Rights Legal Aid Commission (LBHKR–HAM) reported the Surabaya police to the provincial legislature for alleged human rights violations. LBHKR–HAM accused the Surabaya police of mistreating two suspects during interrogation in a narcotics case.

On July 14, soldiers allegedly tortured a presumed OPM member by slashing his face and body with a knife and razor and then pouring petrol over his head and setting his hair on fire. On July 22, 14 soldiers allegedly tortured two Papuan civilians over the course of a day. The soldiers reportedly kicked, bit, and punched them. The soldiers then tied up one of the victims and set fire to dried weeds on his back after whipping him.

The government reported no progress in prosecuting those responsible for acts of torture committed in Aceh in 2004 or 2003, including in those cases detailed in reports by HRW and Amnesty International (AI).

There was no new progress in the case of suspected JI member Saifudin Umar, alias Abu Fida, who was found seriously injured in an East Java hospital in August 2004. He claimed to have been secretly arrested and tortured by police, who admitted arresting Abu Fida for helping to hide two JI fugitives; however, police denied torturing him.

On March 24, in Blang, Bintang District of Aceh Besar, the Banda Aceh military court sentenced six military personnel to three months in jail each for beating Farid Faqih on January 26. Faqih was in custody for allegedly stealing aid meant for victims of the December 2004 tsunami.

During the year television news broadcasts frequently aired scenes of police hitting and kicking apprehended criminal suspects, including minors, and footage of persons in police custody who clearly appeared physically abused.

On June 24, in Aceh, Shari'a (Islamic law) police publicly caned 52 persons convicted of gambling, consumption of alcohol, and being alone with members of the opposite sex who were not blood relatives.

On August 15, dozens of military personnel from an infantry battalion in Lumajang, East Java, attacked Kalibuntu village of Probolinggo Regency, East Java. The incident left approximately 100 persons injured and several motorcycles, cars, and houses damaged. Local residents believed the attack may have been prompted by the stabbing a week earlier of a member of the battalion by a village resident. The East Java military commander later apologized publicly to local residents and promised to fire all personnel involved in the attack. In August the military discharged the battalion commander and two other members of the infantry battalion involved in the attack.

Rapes occurred in conflict zones (see section 5). Human rights advocates blamed many of the rapes on soldiers. Statistics were unavailable, but credible sources provided a number of accounts involving soldiers. The extent to which rape was a problem in Aceh was hard to assess, due to social stigma, lack of reporting, and restricted access to the region.

The Council of the Central Information for Referendum Aceh (SIRA) (a GAM-funded NGO) reported four cases of rape by military personnel in Aceh.

According to SIRA, on February 7, soldiers raped a villager in Julok, East Aceh. The local unit commander questioned the victim but there was no information regarding any further investigation. SIRA also reported that on May 6, soldiers raided a house in Kambam, North Aceh in search of a suspected GAM member but when the soldiers found only his wife they interrogated and raped her, reportedly as punishment for her answers regarding her husband's activities and whereabouts.

There was no reported progress in the investigation of the 2004 case of the TNI soldiers who repeatedly raped a 16-year-old girl in Kampung Meureu Baro-Indrapuri over a period of several months, leaving her pregnant.

In September police charged Bogor police chief Bambang Wasgito with assault for slapping a subordinate who failed to intervene in an attack against Wasgito's 15-year-old son. Wasgito's driver was also charged with serious assault for causing severe injuries.

On April 29, Brimob personnel attacked a TNI soldier in revenge for a previous assault by a group of soldiers on a police station in Cimanggis, Depok. According to the latest public information available, the police had no suspects at year's end.

On March 21, two unidentified men hurled a hand grenade into a Muslim neighborhood in the Baturerah area of Ambon City, injuring five persons. The incident sparked retaliation from Muslim residents, who attacked a bus carrying Christians in the nearby Kapaha neighborhood, injuring a total of 14 persons.

On April 26, in Poso City two small explosions occurred in front of the offices of the NGOs, Poso Conflict Resolution Working Group and Institute for the Empowerment of Civil Society; there were no injuries. Police and local persons believed that

the attacks were related to upcoming local elections or a corruption case involving Poso refugee funds.

On August 24, a home-made bomb exploded inside a pedicab in the Mardikaa market in Ambon, injuring nine persons and damaging motorcycles and cars parked nearby. Police made five arrests, four of them just hours after the incident. While in pursuit of the four, police shot and wounded two suspects, one of whom died in the hospital. At year's end the police were investigating the suspected planner of the bombing.

Mobs carried out vigilante justice, but reliable statistics on such actions were not available. Incidents of theft or perceived theft triggered many such incidents. For example, on February 13, in Banyumas, Central Java, a mob beat and badly injured Suhartim after a house owner spotted him breaking into his house. On July 4 in Sanur, Bali, a mob beat Putu Bayu Widiantara for stealing a cellular telephone. No official action was taken against those responsible for these beatings.

Unlike last year there were no reports of security forces marking the houses of families of suspected GAM members with a red "X" or "GAM."

No known progress was made in the investigation of the alleged revenge burning by Brimob of 80 shops and homes in Keude Seuneddon, North Aceh, in a 2003 incident that occurred immediately after the killing of 2 Brimob officers.

Prison and Detention Center Conditions.—Conditions at the country's 365 prisons and detention centers were harsh, and overcrowding was widespread. Occupancy frequently was two or three times over recommended capacity. Guards regularly mistreated inmates and extorted money from them. There were widespread reports that the government did not supply sufficient food to inmates, and family members often brought food to supplement their relatives' diets. Unruly detainees were held in solitary confinement for up to six days on a rice-and-water diet.

On July 30, Miftahudin Yulianto, a prisoner at Salemba Prison, died after allegedly being denied proper medical attention.

The wealthy or privileged had access to better treatment in prison. During the year the country's most famous inmate, Hutomo "Tommy" Suharto, the son of former president Suharto convicted of arranging the killing of a judge in 2004, reportedly left his Central Java prison cell for Jakarta every month via helicopter and stayed at a luxury hotel while being treated at Subroto Army Hospital for a benign tumor behind his eye.

Most children convicted of serious crimes served their sentences in juvenile prisons. However, in the arrest and trial phases, authorities held juveniles in detention centers with adults (see section 5). In theory, prisons held those convicted by courts, while detention centers held those awaiting trial; however, in practice, pretrial detainees at times were held with convicted prisoners.

There were no official restrictions on prison visits by human rights monitors, and prison officials granted varying degrees of access. The International Committee of the Red Cross made some visits to prisoners during the year.

d. Arbitrary Arrest or Detention.—The law contains provisions against arbitrary arrest and detention but lacks adequate enforcement mechanisms, and authorities routinely violated it. 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.

Role of the Police and Security Apparatus.—The president appoints the national police chief, subject to DPR confirmation. The police chief reports to the president but is not a full member of the cabinet. The National Police has approximately 250 thousand officers deployed throughout the 33 provinces. The police have largely maintained a centralized hierarchy, in which local police forces formally report to their national headquarters rather than to local governments. The military is responsible for external defense but also has domestic security responsibilities. In Aceh the Shari'a police, a provincial body, is responsible for enforcing Shari'a law.

During the year police generally improved their ability to fight crime and apprehended more than 45 suspects in terrorist attacks. Overall, however, police professionalism remained low, as did their respect for human rights and effectiveness at investigating human rights abuses. Impunity and corruption remained significant problems. There were instances in which the police failed to respond to mob or vigilante violence. Police commonly extracted bribes, from minor payoffs in traffic cases to large bribes in criminal investigations. The Division of Profession and Security (Propam) reportedly investigated 90 police officers in Jakarta, resulting in 34 dismissals during the year. Other punishments varied from demotion to criminal prosecution. Unlike in previous years, the police also investigated several high-ranking

police officers. In October Propam arrested police Brigadier General Ismoko for discriminatory practices against suspects in the Bank Negara Indonesia (BNI) bank fraud case. He has been charged under criminal law and at year's end was awaiting trial. In the same BNI case, Commissioner General Suyitno Landung (former head of the Criminal Investigation Division and current governor of the National Institute of Defense) was arrested in December on suspicion of accepting bribes.

In November Propam forced police Inspector General Binarto into early retirement; Binarto admitted sending a text message to the chief of police in Surabaya asking him to release a suspect in a case of illegal logging.

In December Propam declared Inspector General Saleh Saaf a suspect in the investigation of corruption in the purchase of communications equipment.

Arrest and Detention.—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; prosecutors may detain a suspect 30 days initially, with a 20-day extension permitted. Prosecutors may extend police detention periods, and a district court may further extend prosecutors' detention of a suspect. 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. In addition, the law allows detention periods to be extended up to an additional 60 days at each level if a defendant faces a possible prison sentence of 9 years or longer or if the individual is certified to be mentally or physically disturbed. Authorities generally respected these limits in practice.

In areas of separatist conflict, such as Aceh and Papua, police frequently and arbitrarily detained persons without warrants, charges, or court proceedings. The authorities rarely granted bail, frequently prevented access to defense counsel during investigations, and limited or prevented access to legal assistance from voluntary legal defense organizations.

On March 3, Brimob forces detained Muladi bin Sulaiman, a farmer from Aceh Jaya Regency suspected of being a GAM member, and beat him until he was unconscious. He was later transferred to West Aceh police resort before his release.

Amnesty.—On August 30, the government amnestied more than 1,500 GAM prisoners. In accordance with the MOU, the government unconditionally released all remaining prisoners and detainees held due to the conflict. The government facilitated the reintegration of the released prisoners, which proceeded without violence. The government continued to hold a relatively small number of GAM personnel who it maintained had been convicted on criminal charges.

e. Denial of Fair Public Trial.—The law provides for judicial independence. In practice, the judiciary became increasingly independent but remained influenced at times by the executive branch, the military, business interests, and politicians. The Constitutional Court demonstrated significant independence and, in some major cases, ruled against the government. Low salaries continued to encourage corruption, and judges were subject to pressure from government authorities, which often influenced the outcome of cases.

Under the Supreme Court are general, religious, military, and administrative courts. The law provides for the right of appeal. The Supreme Court does not consider factual aspects of a case but rather the lower court's application of the law. Parallel to the Supreme Court is the Constitutional Court, which is empowered to review the constitutionality of laws, settle disputes between state institutions, dissolve political parties, resolve certain electoral disputes, and decide allegations of treason or corruption against the president or vice president. The judicial branch theoretically is equal to the executive and legislative branches, and it has the power of judicial review of laws passed by the DPR; government regulations; and presidential, ministerial, and gubernatorial decrees. In practice, the judiciary was less influential than the executive and legislative branches.

In the country's 2,418 district courts, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and assessing punishment. At times, judges reversed initial judgments in the appeals process, and sometimes lengthened or shortened sentences. Both the defense and prosecution can appeal verdicts.

Trial Procedures.—The law presumes that defendants are innocent until proven guilty. It also permits bail, which was used but rarely in areas of separatist conflict. Court officials sometimes accepted bribes in exchange for granting bail. Defendants have the right to confront witnesses and call witnesses in their defense. An excep-

tion 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. The courts allowed forced confessions, particularly in conflict areas, and limited the presentation of defense evidence. Defendants have the right to avoid self-incrimination but generally were required to give testimony before the conclusion of a trial. However, in practice, defendants regularly refused to answer questions.

The law gives defendants the right to an attorney from the time of arrest and at every stage of examination, and requires that counsel be appointed in cases involving capital punishment or a prison sentence of 15 years or more. In cases involving potential sentences of five years or more, the law requires the appointment of an attorney if the defendant is indigent and requests counsel. In theory, indigent defendants may obtain private legal assistance, and nongovernmental lawyer associations provided free legal representation to indigent defendants. For example, the Women's Legal Aid Foundation (LBH-APIK) represented many women who otherwise could not afford representation. In many cases, procedural protections, including those against forced confessions, were inadequate to ensure a fair trial.

Prior to the implementation of the MOU, many suspected GAM members were denied their right to a fair trial. Defendants rarely had counsel present during interrogations and usually had no counsel during court proceedings. Defendants rarely were able to confront their accuser. The prosecution usually based its cases on testimony given by witnesses to government investigators; neither witnesses nor investigators appeared in court, and only written witness statements were submitted. Prosecutors rarely produced physical evidence, which they claimed was not available because it consisted of military weapons. In 2004 a lawyer with a legal aid organization told AI that in nearly 100 cases handled by his organization only 2 defense witnesses agreed to appear.

Widespread corruption continued throughout the legal system. Bribes influenced prosecution, conviction, and sentencing in countless civil and criminal cases. The National Ombudsman Commission (KON) reported that 36 percent of complaints they received were related to judicial corruption, which involved judges, clerks, and lawyers. For example, former Aceh Governor Abdullah Puteh's attorney, Teuku Syaifuddin Popon, was caught delivering \$25 thousand (250 million rupiah) to two Jakarta high court clerks, Ramadhan Rizal and Mochammad Soleh, to win his client's case. Popon, Rizal, and Soleh were all standing trial at year's end. On September 30, the Corruption Eradication Commission (KPK) arrested five employees of the Supreme Court and a lawyer in an alleged bribery incident involving Probosutedjo, the half-brother of former president Suharto. According to press reports, KPK officials confiscated approximately \$480 thousand (approximately 5 billion rupiah), which they believed was to be used to bribe Supreme Court Chief Justice Bagir Manan (see section 3). Probosutedjo admitted to paying \$600 thousand (6 billion rupiah) to his lawyer to bribe the court, but claimed he did so to assist an anticorruption investigation. Bagir Manan denied accepting a bribe from Probosutedjo.

Most judges earned \$180 to \$203 (1.8 million to 2.03 million rupiah) per month, while a judge with three decades' experience earned approximately \$594 (5.94 million rupiah) per month. Key individuals in the justice system not only accepted bribes but also appeared to turn a blind eye to other government offices suspected of corruption.

Apart from the handful of soldiers who were tried in human rights courts, hundreds of low-level and sometimes mid-level soldiers were tried in military court, 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 or not to prepare a case. While administratively managed by the TNI, military prosecutors and judges were responsible to the AGO and the Supreme Court for the application of laws. However, under the "one roof system" adopted in 2004, the Supreme Court exercises administrative control over military and religious courts. A three-person panel of military judges heard trials while the military high court and the military supreme court heard appeals. Some civilians criticized the short length of prison sentences imposed by military courts. TNI legal officials noted that all personnel sentenced to terms of three months or longer, regardless of their record or length of service, were discharged from military service.

Four district courts adjudicated cases of gross human rights violations. 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 high 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.

On September 8 and 9, in its first verdict, the country's first permanent human rights court in Makassar, South Sulawesi, found that 2000 police attacks against almost 100 victims in Abepura, Papua, were not "crimes against humanity"; the court dismissed all charges against Brimob Brigadier General Johny Wainal Usman and South Sulawesi Police High Commissioner Daud Sihombing. The court also denied the victims' request for rehabilitation and compensation. Prosecutors appealed to the Supreme Court, which had not begun its review of the decision at year's end (see section 1.a.).

In August 2003 the ad hoc Human Rights Tribunal for East Timor concluded its trial phase in Jakarta. Of the 18 defendants, 6 were convicted at the trial level: Adam Damiri (3 years), Abilio Jose Soares (3 years), Noer Muis (5 years), Eurico Guterres (10 years), Sudjarwo (5 years), and Hulman Gultom (3 years). The defendants were convicted in connection with atrocities that occurred during April 1999 and September 1999 in three East Timor locations: Liquica, Dili, and Suai. In July 2004 the Jakarta High Court overturned the convictions of Damiri, Noer Muis, Hulman Gultom, and Sudjarwo, and reduced Guterres' sentence from 10 years to 5 years but confirmed Soares' sentence. In 2004 the Supreme Court acquitted Soares. During the year the Supreme Court confirmed the High Court's acquittal of Sudjarwo and Gultman and the trial court's acquittal of Tono Suratman. The prosecution did not appeal Damiri's case. At year's end the Supreme Court was still reviewing the cases of Noer Muis and Guterres.

East Timor's Serious Crimes Unit indicted a total of 391 individuals for crimes against humanity committed during and after the 1999 referendum; however, 290 of these individuals remained at large with little chance of being returned to East Timor to stand trial. During the year the UN sent a Commission of Experts to Indonesia to evaluate the ad hoc tribunal and Serious Crimes Unit and to recommend next steps for achieving accountability. The commission recommended that either Indonesia retry the perpetrators of violence within six months or that the cases be tried before an international tribunal. The commission also included the possibility of an exceptional international criminal code investigation (that would extend the Court's jurisdiction to crimes committed before its establishment) if the above recommendations were not implemented.

Meanwhile, the governments of Indonesia and East Timor formed a bilateral Truth and Friendship Commission (TFC) to address accountability for the 1999 crimes. Indonesia's commissioners included a Catholic bishop, a senior diplomat, former members of Komnas-HAM and a retired general. The TFC began work, but did not hold public hearings or reach any findings by the end of the year.

In 2003 the ad hoc human rights tribunal for the 1984 Tanjung Priok incident, in which dozens and perhaps hundreds of persons were shot and killed, held its first court sessions in Jakarta. Panels consisting of 5 judges heard the cases of 16 defendants, including retired Army Major General Pranowo; retired Army Major General Rudolf Adolf Butar-Butar; Army Major General Sriyanto Muntrasan, the commander of Army Special Forces; and other lower-ranked military officers and enlisted personnel under the command of Captain Sutrisno Mascung. All of the defendants faced charges of crimes against humanity. The tribunal sentenced Butar-Butar to 10 years in prison and found 13 others guilty and sentenced them to 2 or 3 years in jail. The prosecutors had requested 10-year sentences. The court found Pranowo and Muntrasan not guilty. In July the high court overturned all 14 convictions and upheld the lower court's finding that Pranowo and Muntrasan were not guilty as well. At year's end, all 16 defendants remained free as the Supreme Court considered the AGO's second level appeal.

In September 2004 the Central Jakarta District Court found *Tempo* magazine chief editor Bambang Harymurti guilty of criminal libel and sentenced him to a year in prison. NGOs and journalists complained that the court should have applied the 1999 Press Law rather than the Criminal Code in the case. The use of the Press Law would have provided plaintiff Tomy Winata the right of reply or imposed a fine on *Tempo* rather than a prison sentence. During the year Harymurti filed an appeal but lost again at the high court. At year's end, Harymurti remained free pending the outcome of his second appeal (see section 2.a.).

In September 2004, the DPR passed legislation to establish a "Truth and Reconciliation Commission" to investigate human rights violations before making recommendations to the president to grant amnesty to abusers and rehabilitation to their victims. The legislation would allow the commission to recommend amnesty for a confessed violator even in cases in which the victim does not consent. Once the commission has resolved a case, it cannot later be filed in a human rights court. During the year the government took steps to form the commission. The selection committee narrowed the pool of candidates to 42, from an original pool of 1,883 can-

didates; the president, with DPR approval, will ultimately select 21 commission members.

In October 2004 Supreme Court Chief Justice Bagir Manan inaugurated the first Shari'a courts in Aceh. Under the new system, 19 district religious courts and 1 court of appeals heard cases. The courts heard only cases involving Muslims and used decrees formulated by the Aceh local government rather than the penal code. During the year a new gubernatorial decree made caning the Shari'a court punishment for persons found guilty of gambling, drinking, or being alone with a non-related member of the opposite sex (see sections 1.c. and 2.c.).

Political Prisoners.—The August 15 MOU signed between the government and GAM rebels required the government to release “political prisoners and detainees held due to the conflict . . .” This group of prisoners largely consisted of persons held by the government based on their alleged association with or participation in the armed secessionist conflict, or alleged acts of treason associated with the conflict. The government implemented this requirement but continued to hold a relatively small number of persons whom it said had been convicted of criminal offenses.

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. The authorities occasionally conducted surveillance on individuals and their residences and monitored telephone calls. Corrupt officials sometimes subjected migrants returning from abroad, particularly women, to arbitrary strip searches, theft, and extortion at special lanes set aside at airports for returning workers.

Land disputes generated charges of unfair evictions and the use of excessive force by security officials. The NGO Jakarta Resident Forum estimated that security officials evicted at least 5 thousand persons during the year compared with 20 thousand in 2004.

The National Identity Card (KTP), which all citizens are required to carry, identifies the holder's religion. NGOs charged that the KTPs undermined the country's pluralistic tradition and endangered cardholders who traveled through an area of interreligious conflict. Members of the five religions officially recognized by the government—Islam, Protestantism, Catholicism, Hinduism, and Buddhism—had little or no trouble obtaining accurate identification cards; however, members of other religions frequently were denied either a card or one that accurately reflected their faith. Additionally, low-level officials and village heads responsible for issuing KTPs often demanded small bribes or made the process inordinately bureaucratic, which made it difficult for disadvantaged groups such as itinerant workers, the poor, and the homeless to obtain KTPs.

In many parts of the country, particularly in Kalimantan and Papua, local residents believed that the government-sponsored transmigration program interfered with their traditional ways of life, land usage, and economic opportunities. No new families have transmigrated since 2004. The government continued to support at least 87,678 households moved in previous years from overpopulated areas to 369 more isolated and less developed areas in 24 different provinces.

The government used its authority, and at times intimidation, to appropriate land for development projects, often without fair compensation. In other cases, state-owned companies were accused of endangering resources upon which citizens' livelihood depended. On May 3, President Yudhoyono signed a decree on land acquisition for public use, which allows the government to acquire land for public development projects even if landowners have not agreed on the amount of compensation. A number of NGOs argued that the decree served the interests of wealthy developers at the expense of the poor.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and freedom of the press; however, the government at times restricted these rights in practice. A vigorous, independent media operated in the country and generally expressed a wide variety of views without restriction. However, during the year the government jailed at least three antigovernment protestors convicted of “insulting the president” or “spreading hatred against the government” and four others for raising separatist flags. In addition, politicians and powerful businessmen often filed criminal or civil complaints against journalists whose articles they found insulting or offensive. Also during the year some journalists faced threats or violence.

In May a court sentenced two student activists to jail for insulting the president. The court sentenced Monang Johannes Tambunan, a student activist of the Indo-

nesian National Students Movement Presidium, to six months in prison for calling the president a dog and a pig during a January 28th demonstration held in front of the presidential palace. On May 26, the court sentenced Bay Harkat Jonday Firdaus, a Syarif Hidayatullah State Islamic University student, to five months and two days in prison for burning pictures of President Yudhoyono and Vice President Jusuf Kalla during a protest against the fuel price increase in December 2004. On June 10, the Denpasar District Court sentenced I Wayan Gendo Suardana, a law student at Udayana University, to six months in prison for setting fire to the president's picture during a protest against the government's plan to raise fuel prices.

Courts convicted four persons in Papua of treason for raising the separatist "Morningstar" flag. Courts sentenced Filep Samuel Karma to 15 years in prison and dismissed him from the civil service; Yusak Pakage to 10 years; Moses Aspalek to 6 years; and Moses Holago to 4 years (see section 2.b.).

In May, according to press reports, a court sentenced two journalists from Lampung to nine months in jail for libeling Alzier Dianis Thabranie, the leader of the Golkar Party's Lampung chapter, in a story on vote-buying in Lampung during the 2004 presidential election.

Abdulla Hendropriyono, former chief of BIN, filed criminal defamation charges against Rachland Nashidik, program director for The Indonesian Human Rights Monitor and Usman Hamid, coordinator for The Commission for Disappearances and Victims of Violence. Both Nashidik and Hamid were prominent members on the government-established fact-finding team investigating the murder of human rights campaigner Munir (see section 1.a.). Hendropriyono said the two spread damaging rumors about him and defamed him during the course of the team's work. The police questioned both Nashidik and Hamid, but at year's end they remained free.

Akbar Tandjung, former DPR speaker, sued Retno Listyarti, a civics teacher at a senior high school, and publisher PT Erlangga for writing and publishing a textbook he considered libelous. The textbook used Akbar's 2003 graft trial (in which he was found innocent on appeal) to illustrate issues of transparency and the social safety net. Akbar also complained that the inclusion of the graft trial in the textbook had a psychological impact on one of his daughters, whose school used the book. In an out-of-court settlement, Listyarti agreed to revise the textbook.

On October 6, Chief Justice Bagir Manan directed judges across the country to fine, not imprison, journalists found guilty in criminal cases related to press disputes. However, he defended the application of the criminal code rather than the more liberal press law in certain cases.

Following the December 2004 tsunami, the government eased restrictions on domestic and international press access to tsunami-affected areas in Aceh, imposed under the civil emergency. The government ended the state of civil emergency in Aceh on May 18, lifting legal restrictions on the press, movement, assembly, and other civil rights. In practice, the ability of the TNI to limit information affected the ability of journalists to report freely, as did ad hoc interventions by local officials.

Although the government did not formally restrict foreign journalists from traveling to the provinces of Papua and West Irian Jaya, as a matter of practice the government expected journalists to request permission through the foreign ministry or, if abroad, through the nearest Indonesian embassy. The government approved some requests and denied others. Some journalists traveled to Papua without specific government permission. There were no reports of restrictions on journalists traveling to previous areas of conflict in Maluku, North Maluku, and in Sulawesi.

Journalists faced violence and intimidation from police, soldiers, government officials, rebels, thugs, students, and ordinary citizens. As of August, the Alliance of Independent Journalists (AJI) recorded at least 14 physical attacks against journalists as well as 15 nonphysical acts that included verbal threats and lawsuits. In August, I Wayan Puspa Negara, a member of the Badung District parliament, threatened to shoot Ashadi Iksa, a journalist for the *Nusa* daily, for an article titled "The New Provincial Government Asks for More Budget on Clothes up to Rp. 28 million." In May unknown persons repeatedly telephoned Heri, a journalist for the national news agency Antara, threatening to smash his head if he did not stop writing "awful news."

In 2003 persons linked to tycoon Tomy Winata entered *Tempo* magazine's headquarters in Jakarta and criticized an article that implied Winata stood to benefit from a fire that destroyed a Jakarta market. They assaulted *Tempo* journalists, including chief editor Bambang Harymurti, at the headquarters and later at a police station. *Tempo* lawyers reported the matter to the authorities and sued the assailants, but judges exonerated the group's leader. Winata's attorneys responded by initiating four lawsuits (two civil and two criminal), which free press activists asserted were attempts to intimidate the media. In September 2004 the Jakarta High Court overturned two district court decisions in civil suits against *Tempo*, finding in favor

of *Tempo* and dismissing fines levied by the district court against the magazine. However, two days later, the Central Jakarta District Court found *Tempo* guilty of criminal libel and sentenced Bambang Harymurti to a year in prison; the court acquitted *Tempo* journalists Ahmad Taufik and Teuku Iskandar Ali. Human rights observers called the decision a blow to press freedom in the country and criticized the prosecutors' decision to use the criminal code on libel instead of the 1999 Press Law. Harymurti filed an appeal but the decision was upheld by the high court. At year's end, Harymurti remained free pending a Supreme Court decision on his second appeal.

On June 25, approximately two thousand persons calling themselves the Palu City Muslim community, held a protest against an opinion article entitled "Islam, A Failed Religion" written by Rus'an, a lecturer at Muhammadiyah University in Palu, which highlighted corruption in the country. In response the management of Central Sulawesi's biggest daily, *Radar Sulteng*, decided not to publish the newspaper for three days. The police, after questioning a number of witnesses including expert witnesses from a Central Sulawesi branch of the Indonesian Council of Ulema (MUI), charged Rus'an with insulting Islam. However, MUI later withdrew the charges and authorities released him.

During the year the government took no legal action against any person responsible for crimes committed against journalists in 2004. In 2003 the Central Jakarta District Court ordered Jakarta Governor Sutiyoso to apologize to a reporter intimidated by a city public order officer who tried to prevent him from covering a 2002 eviction. Sutiyoso lost his appeal to a high court and twice appealed to the Supreme Court. The second appeal remained under consideration at year's end.

In 2004 the government implemented a broadcasting law, which included measures for licensing additional frequencies and establishing an impartial broadcasting commission. Since its inception, the Broadcasting Commission has been largely ineffectual due to an inadequate budget and legal uncertainty regarding its authority.

Despite incidents of violence and intimidation of the press, unity among journalists and their commitment to protect their colleagues continued to strengthen. Some members of the press also continued aggressive reporting on such issues as corruption, the Munir murder case, and environmental degradation. Regional media increasingly prospered. In addition, moderate Islamic publications continued to increase in number and popularity.

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

The government-supervised Film Censorship Institute continued to censor domestic and imported movies for content deemed pornographic or religiously offensive. In December the government banned two films about East Timor from being shown at a Jakarta film festival. The film festival organizers quoted the government as stating that the films "might remind the people of an old wound."

By law, communist teachings cannot be disseminated or developed; however, on February 4, with no government interference, former president Abdurrahman Wahid launched the publication of an Indonesian-language version of Karl Marx's *Capital*.

On several occasions during the year an extremist group, the Islamic Defenders' Front (FPI), sought to limit freedom of expression through intimidation. In June FPI attempted to disrupt a beauty contest for transvestites. In September FPI intimidated an art curator into covering up art they found offensive. In both cases, the FPI filed charges of insulting Islam with the police.

A number of Muslim groups, led by FPI, also reported a popular local rock group to the police for blasphemy on April 26; the group allegedly used the word "Allah" in Arabic script on an album cover. The Muslim groups also complained that the band, during a concert, stepped on the word, which was painted on stage. The band changed the album cover. In June the lead singer for the same band received complaints from a Hindu organization for having a Hindu God on the cover of an album. The singer apologized and changed his album cover.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right; however, the government restricted this right in conflict areas. 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.

Although the Papua Special Autonomy Law permits flying a flag symbolizing Papua's cultural identity, police arrested Philep Karma and Yusak Pakage for flying the Papuan Morning Star flag, identified with the armed separatist struggle (see section 2.a.) in December 2004. On December 1, police refused permission for a pro-

separatist demonstration in Abepura, and prevented several hundred demonstrators from occupying the planned site of the aborted demonstration. On the same day, a student demonstration in Jayapura proceeded without incident.

During the year there were reports of police using excessive force in controlling demonstrations. On May 10, a court session in Jayapura trying Karma and Pakage ended in chaos when spectators lobbed stones into the court grounds, and police officers guarding the court fired warning shots. The ensuing violence injured dozens of persons, including 10 police officers. The national police chief asserted that the police had overreacted, and Jayapura police chief Son Ani and his subordinate Novly Pitooy were removed from their positions. Nine other lower-ranking officers were demoted and detained for human rights and procedural violations. On May 26, the Jayapura District Court sentenced Karma and Pakage to 15 and 10 years in jail respectively for treason.

In other instances police showed restraint in dealing with violent demonstrations. For example, in Central Lombok, on September 19, in a dispute between landowners and airport officials, several hundred farmers attacked police with rocks and arrows. The police responded with rubber bullets and other nonlethal crowd control measures. None of the demonstrators were seriously injured.

In Aceh, before the end of the civil emergency on May 18, some permits for gatherings were denied if the meetings were deemed political in nature. In April the civil authorities denied the Consortium for Assisting Refugees and the Displaced in Indonesia's request for a permit to hold a workshop on international standards for refugee care. The authorities did not give a reason for the denial.

Since the end of the civil emergency and especially after the August signature of the MOU, peaceful assemblies occurred frequently and without incident. As a result of the MOU, the authorities granted Muhammad Nazar, chairman of SIRA, amnesty and freed him on August 30. Authorities arrested Nazar in February 2003 for planning a public rally in Lhokseumawe, Aceh.

Freedom of Association.—The law provides for freedom of association, and the government generally respected it in practice. The Communist Party was banned in 1966.

c. Freedom of Religion.—The law provides for “all persons the right to worship according to his or her own religion or belief” and states that “the nation is based upon belief in one supreme God.” The government generally respected the former provision, but only five major faiths—Islam, Protestantism, Catholicism, Hinduism, and Buddhism—received official recognition in the form of representation at the Ministry of Religious Affairs. Other religious groups were able to register with the government, but only with the Ministry of Home Affairs and only as social organizations. These groups experienced official and social discrimination. The law does not recognize atheism, and in practical terms requires all persons to identify themselves with one of the five faiths acknowledged by the government.

The civil registration system continued to discriminate against members of minority religions. Civil registry officials refused to register the marriages or births of children of animists, Confucians, members of the Baha'i faith, and others because they did not belong to one of the five officially recognized faiths. According to the Hindu association Parisadha Hindu Dharma Indonesia, Hindus, particularly in North Lampung, Southeast Sulawesi, Kalimantan, and some areas in East Java, despite official recognition of their religion, sometimes had to travel some distance to register marriages or births because local officials could not or would not perform the registration. Persons whose religion was not one of the five officially recognized faiths as well as persons of Chinese descent had difficulty obtaining a KTP, which was necessary to register marriages, births, and divorces. Several NGOs and religious advocacy groups urged the government to delete the religion category from the KTPs (see section 1.f.).

Men and women of different religions experienced difficulties in marrying and in registering marriage. The government refused to register a marriage before a religious marriage ceremony had taken place. However, very few religious officials were willing to take part in a wedding involving a man and woman of different faiths. For this reason, some soon-to-be brides and grooms converted to their partner's religion. Others resorted to traveling overseas to wed. In July the Indonesian Council of Ulemas (MUI) issued an edict that reaffirmed its 1980 ban on marriages between persons of different faiths. MUI edicts are influential but do not have legal effect.

On September 1, a court sentenced three women to three years in prison each for proselytizing based on their inclusion of Muslim children albeit with parental permission in Christian Sunday school activities. On November 22, the three women lost their appeal, and at year's end an appeal to the Supreme Court was pending.

In November a foreign citizen and an Indonesian working on a dam project on Madura were arrested following accusations that they were trying to corrupt the Muslim community. At year's end possible charges were still pending.

During the year the government took no concrete steps to implement controversial provisions of the education law that require schools to provide religious instruction to students in their own faith.

As in previous years, some political parties advocated amending the constitution to adopt Shari'a on a nationwide basis, but most parliamentarians and the country's largest Muslim social organizations remained opposed to the proposal. On March 28, the third South Sulawesi Muslims Congress urged the provincial government to apply Shari'a throughout the province. However, as in previous years, the provincial government did not respond.

In Aceh Province, the government continued to implement Shari'a courts, which heard only cases involving Muslims and did not enforce the penal code but rather *qanuns*, decrees formulated by local governments. The qanuns covered issues such as "immoral behavior." For example, extramarital contact between a man and woman could be punishable by public lashings or a fine of up to \$555 (5.5 million rupiah). Other qanuns banned gambling and the production, distribution, or consumption of alcohol. A Muslim found guilty of consuming alcohol could receive 40 lashes. On August 26, authorities lashed two young unmarried couples 45 times in Takengon Public Square in Central Aceh for violating qanuns on immoral behavior and the consumption of alcohol while in their vehicle. The press reported that the two women fainted from the lashings. During the year a total of 52 persons were caned: 6 for being alone with persons of the opposite sex who were not blood relatives, 7 for consumption of alcohol, and 39 for gambling.

On May 20, 60 members of the Banda Aceh Shari'a office, supported by local police, enforced headscarf use by Muslim women in front of the provincial parliament and another government building. According to the newspaper *Serambi Indonesia*, hundreds of women were briefly detained and lectured on Shari'a.

In some municipalities outside of Aceh, local leaders also applied stricter Islamic practices. In Bulukumba Regency, South Sulawesi, two years after the implementation of Shari'a, the regent claimed that 100 percent of Muslim women wore headscarves. The law does not apply to non-Muslims and is not enforced in an area popular with tourists. In Padang, West Sumatra, the mayor instructed all Muslim women to wear a headscarf; the local authorities enforced this instruction.

Courts sentenced several persons to jail for insulting Islam. In August a court sentenced Muhammad Yusman Roy to two years in jail for praying in the Indonesian language, which Muslim *ulemas* (religious authorities) said tarnished the purity of Arabic-based Islam. In September an East Java court sentenced each of six drug and cancer treatment counselors to five years in jail and another to three years in jail for violating key precepts of Islam. A local MUI edict had characterized their rehabilitation center's teachings as heretical. Police arrested the counselors while they were trying to defend themselves from hundreds of persons who raided the center's headquarters.

As in previous years, during the Muslim fasting month of Ramadan, many local governments ordered either the closure or limited operating hours for various types of "entertainment" establishments. For instance, the municipal governments of Kendari, Medan, Palembang, and Pekanbaru ordered the closure of all discotheques, massage parlors, karaoke outlets, pubs, and bars during Ramadan. However, authorities said they would allow bars and karaoke outlets in hotels catering to foreign tourists to remain open. The Medan government ordered the closure of such establishments on December 24 and 25 in observance of Christmas. Enforcement of the orders varied.

Societal Abuses and Discrimination.—There were frequent efforts to close unlicensed churches during the year. Through intimidation and sometimes force, FPI and the Alliance for Anti-Apostates shut down dozens of Protestant places of worship in West Java that lacked permits. Police did nothing to stop the closures and, in some cases, assisted in the closures. Many of the churches reopened later in the year.

On July 15, a mob under the banner of the "Indonesian Muslim Solidarity Group" attacked the Ahmadiyah Indonesia Congregation (JAI) compound in Bogor, West Java. Armed with stones and batons, the assailants damaged Ahmadiyah buildings and set fire to a women's dormitory, in spite of a heavy police presence. The attack followed an aborted July 9 attack on the same Ahmadiyah property by individuals associated with the FPI. The police made no arrest of perpetrators in either attack, and the Ahmadiyah compound remained sealed at year's end.

The perpetrators of the attacks justified their actions by referring to a religious edict (*fatwa*) issued in 1980 by the MUI that declared the Ahmadiyah to be "devi-

ants" from Islam. The fatwa, which was renewed in August, has no official force of law. The violence sparked fears of possible attacks against Ahmadiyah members in other parts of the county. In Bandung, West Java, more than one thousand Ahmadiyah followers sought police protection to secure their two mosques in the Cikutra and Bojongloa areas. They also reduced their ritual activities at the mosques. Komnas HAM began an investigation of the JAI campus attacks.

On September 19, in Cianjur, West Java, a mob reportedly attacked and vandalized an Ahmadiyah mosque and private homes and cars belonging to Ahmadiyah members. Unlike the July attacks, however, the police reportedly arrested 45 suspects and were pursuing criminal charges against 12 alleged ringleaders. Shortly after the attack, local government officials in Cianjur Regency formally banned all Ahmadiyah activities purportedly to protect Ahmadiyah members from further attacks.

On October 21, in Central Sulawesi, a man on a motorcycle fired at a house being used for prayer meetings by a Christian congregation; the owner was injured.

Religiously motivated violence and vigilante acts in Central Sulawesi, Maluku, and North Maluku occurred less frequently than in previous years. However, Central Sulawesi continued to experience sporadic bombings, shootings, and other violence in spite of broad societal support for security restoration and reconciliation. On October 29, three teenage Christian schoolgirls were beheaded near Poso, Central Sulawesi. Days later, two teenage girls, one Muslim and one Christian, were shot and killed at a bus stop in Poso. That same week, a Palu-area university professor and his wife were shot and injured. On December 31, unknown persons bombed a Palu pork market killing 7 persons and injuring more than 50.

In March, despite an agreement by Muslim and Hindu leaders in Bali calling on their followers to respect both the Hindu's Nyepi Day (seclusion day) and the Muslim Friday prayer, some villages prohibited Muslims from leaving their homes to perform Friday prayer in mosques, threatening to fine them if they did so. The local MUI in Jimbaran called on Muslims to move out of the villages before Friday so they could perform their Friday prayers.

The indigenous Jewish population is small. *Sabili*, a radical Islamic publication and the country's second largest magazine by circulation, published articles with anti-Semitic statements and themes.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution allows the government to prevent persons from entering or leaving the country, and sometimes the government restricted freedom of movement. 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 continued to restrict freedom of movement for foreigners through a system of "travel letters," required for Papua. Enforcement was inconsistent.

In May 2003 then-president Megawati issued a decree ending martial law in Aceh and establishing a state of civil emergency. The decree returned overall government authority for the province to the governor, but the Provincial Civil Emergency Administration (PDS) maintained authority to issue emergency measures to control travel, trade, transport, and other civilian activities. The government formally ended the state of civil emergency and the PDS on May 18. Following the signing of the MOU, authorities removed all non-locally based TNI units and reduce the TNI's role to protecting against external threats.

The government maintained controls on the movement of residents in Aceh through the use of national identity cards specific to Aceh. These cards required the signatures of the holder's local military commander, police chief, and village head. Acehnese who wished to travel or leave the province had to show these cards at security checkpoints along main highways. Failure to produce the card was cause for arrest. In practice, residents could easily obtain the cards, and there was no evidence that the policy resulted in restriction of movement. In Aceh, those outside Banda Aceh also had to obtain a travel letter from police describing the purpose and length of trip and also naming the persons the traveler would meet. Under the MOU, travel letters were no longer required, and national identity cards specific to Aceh were no longer official. However, in practice the government did not issue standard identity cards, and Acehnese continued to use identity cards specific to Aceh at year's end.

Relations between Madurese and indigenous Dayaks remained poor. In Central Kalimantan, ethnic violence in 2001 prompted approximately 130 thousand ethnic Madurese migrants to leave, mainly going to Madura and East Java. According to Oxfam and the UN Office for Coordination of Humanitarian Affairs, between 30

thousand to 57 thousand Madurese have returned to Central Kalimantan. A Central Kalimantan government regulation stipulates that returning Madurese be: able to live side by side in peace and harmony with community members; be recognized and received by the indigenous population as well as local community members; and obey the values, customs, and traditions of the local culture. The regulation also requires returnees to register with the local government, but only those with identity cards, a house, and a permanent job are qualified to do so. The West Kalimantan city of Sambas remained effectively inaccessible to its former Madurese residents.

The government prevented at least 600 persons from leaving the country during the year. The AGO and the high prosecutor's office prevented most of these departures. Some of those barred from leaving were delinquent taxpayers, convicted or indicted persons, and persons otherwise involved in legal disputes.

In June 2004 the government expelled Sidney Jones, country director for the international NGO International Crisis Group (ICG). In July Jones returned and resumed her work. She subsequently left the country voluntarily and was briefly barred from returning in November, but this restriction was lifted after a few days.

In January, a month after the tsunami, authorities in Aceh briefly detained or asked to leave at least five foreign journalists. On January 7, soldiers asked Martin Chulov and Renee Nowytager of *The Australian* to leave. On January 23, authorities said freelance journalist William Nessen had violated a ban imposed on him in August 2003 and expelled him from Aceh. In March the government barred Dr. Erward Aspinall, a lecturer at Sydney University and an expert on the county, from entering the country. His name was on a blacklist. On September 8, an antiterror police unit in Maluku arrested Rohan Kumar Gunaratna, a Singapore-based professor and expert on terrorism, for failing to show a document allowing him to carry out research on terrorist cells in Maluku Province. Authorities charged Gunaratna with violating immigration law and deported him.

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

Internally Displaced Persons (IDPs).—The National Coordinating Board for Disaster Management reported that there were 977,395 internally displaced persons (IDPs) in the country, 561,478 of whom were in Aceh, almost all the result of the December 2004 tsunami. Some of the Aceh IDPs lived in emergency shelters, while others stayed with host families or were integrated into local communities. The government dealt with many aspects of crisis but continued to rely on international organizations and donors to assist with most IDP needs. IDPs had three options: return to their place of origin, start anew in their current location with the government's assistance, or relocate to another part of Aceh if return to their place of origin was impossible.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. However, in practice, there were no reports of the forced return of persons to a country where they feared persecution. The government cooperated with the UN High Commissioner on Refugees (UNHCR), which maintained an office in Jakarta, for assisting refugees and asylum seekers. At year's end, there were 89 UN-recognized refugees and 58 asylum seekers living in the country. Some were applicants and others were dependents. Most were from Iraq, Afghanistan, or Sri Lanka. During the year the UNHCR shifted its primary focus from assisting refugees and asylum seekers to tsunami relief. However, it did help resettle 75 refugees.

The above figures did not include approximately 28 thousand former refugees from East Timor who resided in West Timor at year's end, according to the UNHCR and the National Coordinating Board for Disaster and IDPs Management Secretariat. In 2003 the government and UNHCR stated that the remaining East Timorese in West Timor would no longer be considered refugees, and on December 31, UNHCR ended its six-year assistance program in West Timor.

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

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

The constitution provides for national elections every five years. The security forces lost their appointed DPR seats in October 2004 with the inauguration of the new legislature. DPR members automatically are members of the People's Consultative Assembly (MPR), which until October 2004 included regional and government appointed representatives. In October 2004 the MPR became a fully elected body

consisting of the 550 DPR members (50 seats were added pursuant to a law adopted in 2003) and the 128 members of the House of Regional Representatives (DPD).

Elections and Political Participation.—Domestic and international observers monitored peaceful, first-ever, direct local elections to choose provincial- and district-level executives beginning in June. By year's end the government had held a total of 149 local elections: 7 governors, 26 mayors, and 116 regents. Observers generally perceived the local elections as free and fair, and, with a few exceptions, without incident affecting the outcome.

Most instances of violence involved supporters of losing candidates attacking local election offices. A riot broke out in Kaur District in Bengkulu Province, where supporters of a losing candidate burned down government and public buildings. In Depok, West Java, a controversial West Java court ruling overturned the mayoral election results. An inquiry into the court's decision found indications of impropriety and recommended sanctions against the judges. In December the Supreme Court overruled the West Java High Court's decision. The losing party planned a further appeal, arguing that according to the election law the high court decision should be final. At year's end a new mayor had not been inaugurated.

In October 2004 President Yudhoyono became the country's first directly elected president. Domestic and international observers monitored the legislative and presidential elections, organized by an independent election commission, and considered the elections free and fair. The national elections featured high voter turnouts, an absence of any notable violence, and broad public acceptance of the results.

All adult citizens are eligible to vote except 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. Former members of the banned Indonesian Communist Party are allowed to vote, and, following a November 2004 Constitutional Court ruling, they may run for office.

There were no legal restrictions on the role of women in politics. A woman, Megawati Soekarnoputri, served as president from July 2001 until October 2004. During the year women held 4 of 36 cabinet seats. The current election law includes a nonbinding call for parties to select women for at least 30 percent of the candidate slots on their party lists. In the 2004 elections, 61 women were elected to the 550-seat DPR, an increase from 1999, when 44 women held seats in the 500-seat DPR. In the DPD, women were 27 of the 128 members. Women won two district chief positions in the local elections.

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 Sudanese, Bugis, Batak, Acehnese, Papuan, Balinese, Arab, or of Chinese heritage.

In Papua the government moved to implement the Special Autonomy Law, which, among other things, provides for a portion of the revenues raised from extractive industries in the territory to be returned to the provincial and regency governments for use in health, education, and infrastructure projects intended to benefit the indigenous population. The Special Autonomy Law also provides for formation of a Papuan People's Assembly (Majelis Masyarakat Papua, MRP) that would provide input into policies, legislation, and appointments affecting indigenous Papuans, and which began work on November 11. Nevertheless, significant discontent with the central government's policies persisted. Thousands of Papuans participated in antigovernment demonstrations held on August 12.

The creation by the central government of a new province, West Irian Jaya, which was carved out of Papua under controversial political and legal circumstances remained contentious. A constitutional court ruling in November 2004 held that while West Irian Jaya's formation was legally invalid, it could continue to function since its institutions were already in place. On November 24, the central government and provincial authorities reportedly agreed that the two provinces would function as a single cultural, economic, and social entity, and that their partition would be strictly administrative; however, at year's end the matter remained under discussion among the central and provincial governments and the MRP.

Government Corruption and Transparency.—There was a widespread domestic and international perception that corruption was a part of daily life. In his first 100 days in office, the president stated that eradicating corruption was one of his goals, and he subsequently established the Corruption Eradication Commission (KPK) with a broad investigative mandate. The AGO prioritized high-profile corruption cases. During the year the government prosecuted corruption cases against two governors, including Aceh Governor Abdullah Puteh, who was convicted and sentenced to 10-years' imprisonment. The government also prosecuted and convicted four members of the National Electoral Commission (KPU) including Chairman

Nazaruddin Sjamsuddin and Commissioner Mulyana Kusumah, for corrupt practices related to KPU procurements. The government also began prosecution of former minister of religion Said Agil Hussein Munawar for embezzlement and arrested staff members of the Supreme Court for accepting bribes (see section 1.e.).

With the exception of Aceh, the AJI reported no problems obtaining unclassified public documents from the government.

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

The government met with local NGOs, responded to their inquiries and took some actions in response to NGO concerns. When prominent human rights activist Munir was murdered in 2004, the president met with a coalition of persons concerned about Munir and formed a fact-finding team (TPF) consisting of leading members of the NGO community, prosecutors, and a senior police officer. However, at year's end, the president had not released the TPF's report, which, according to press reports, called for the investigation of former and active officials of the State Intelligence Agency in connection with Munir's death (see section 1.a.). The president also met with religious organizations to discuss their concern over forced church closings, and instructed the minister of religion to review the joint-ministerial decree that requires houses of worship to obtain community approval before being built (see section 2.c.). At year's end a revised joint-ministerial decree had not been released.

Domestic human rights organizations reported being subjected to monitoring, harassment, and interference by the government; however, they actively advocated improvements to the government's human rights performance. Before the verdict in the Polycarpus trial (see section 1.a.), Komnas HAM reported that since 2000, 14 human rights activists had been killed, and no perpetrators had been brought to justice. There were no reports of any human rights activists killed during the year.

A prominent activist on the TPF investigating Munir's death, as well as Munir's wife, reported receiving numerous, anonymous death threats.

NGOs in Papua reported widespread monitoring by intelligence officials as well as threats and intimidation. Activists reported that intelligence officers took their pictures surreptitiously and sometimes questioned their friends and family members regarding their whereabouts and activities.

In Aceh there was a large increase in the number of international and domestic NGOs to help with the relief and reconstruction following the December 2004 earthquake and tsunami. There were no reports of government interference; however, most international and local NGOs reported they did not conduct human rights work in Aceh for fear of losing their mandate to be in the region.

The government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard with suspicion foreign human rights organizations, particularly those operating in conflict areas. Government monitoring of foreigners was apparent in conflict areas. Some domestic human rights organizations expressed concern about the possible negative consequences of contacting foreigners.

A number of government agencies and affiliated bodies addressed human rights problems, including the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, and Komnas HAM. However, in 2003, Komnas HAM's efforts to expose human rights violations and bring perpetrators to account were undermined by a number of court decisions regarding its jurisdiction or authority. For example, in June 2003 a Jakarta court refused to subpoena former and active military officers who had ignored Komnas HAM summonses to face questioning about 1998 riots, which claimed more than 1,200 lives. In June the TNI stated it could not cooperate with attempts by Komnas HAM to summon retired and active-duty generals to answer questions about the abduction of prodemocracy activists between 1997 and 1998. The TNI insisted that Komnas HAM must first obtain permission from the DPR before it could summon retired and active-duty generals for questioning (see section 1.b.). By law severe human rights violations that occurred before 2000 could be investigated only by an ad hoc human rights court, not Komnas HAM. Such a court could be formed only at the suggestion of the DPR, but for the DPR to know enough about an incident to approve the formation of a court, a thorough investigation was necessary. The resulting stalemate continued to block progress toward accountability.

During the year the government formed a Truth and Reconciliation Commission and, in cooperation with East Timor, a bilateral Truth and Friendship Commission (see section 1.e.).

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

The constitution does not explicitly prohibit discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. However, in practice, the government failed to defend these rights adequately.

Women.—The law prohibits domestic abuse and other forms of violence against women. However, rape and domestic violence were problems.

Violence against women remained poorly documented. Nationwide figures were unavailable. The NGO Mitra Perempuan-affiliated Women's Crisis Centers recorded 329 cases in Jakarta, Bogor, Tangerang, and Bekasi combined, and the local press reported that violence against women continued to increase. In East Java Province incidents of violence against women increased both in number and severity. The East Java Integrated Service Center reported 107 cases of violence against women, whereas the Prodemocracy Women's Coalition reported 63. Most East Java NGOs working on women and children's issues believed the real figure was far higher, noting the tendency of many victims to keep silent. During the year three cases were investigated using the 2004 Domestic Violence Act; however, there were no prosecutions by year's end. Two types of crisis centers were available for abused women: government-run centers in hospitals and NGO centers in the community.

Rape was a problem. Although it is punishable by 4 to 12 years in jail, and the government jailed perpetrators for rape and attempted rape, most convicted rapists were sentenced to the minimum or less. Reliable nationwide statistics were unavailable. The legal definition of rape is narrow and excludes some acts that would commonly be treated as rape in other countries.

Rapes by members of the security forces occurred in Aceh. Human rights activists expressed concern that rapes were underreported in the province, partly because of reluctance by victims to come forward. SIRA accused military personnel of committing four rapes in Aceh, but no cases of rape or sexual harassment had been reported to the authorities. During the year the TNI did not prosecute any of its personnel for rape.

Nationwide, the police operated more than 200 "special crisis rooms" or "women's desks" where female officers received criminal reports from women and child victims of sexual assault and trafficking and where victims found temporary shelter. During the year the police opened a major trafficking victims' recovery center in a police hospital in Jakarta and a similar center in Surabaya.

State policy and the law state that women have the same rights, obligations, and opportunities as men. However, the law also states that women's participation in the development process must not conflict with their role in improving family welfare and the education of the younger generation. 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.

The legal differentiation between a woman and a girl was not clear. The law sets the minimum marriageable age at 16 for a woman (and 19 for a man), but the Child Protection Law states that persons under age 18 are children. A girl who marries has adult legal status. Girls frequently marry before reaching the age of 16, particularly in rural areas.

Female genital mutilation (FGM), also known as female circumcision, was practiced in some parts of the country, including West Java. Complications reportedly were minimal. Two types of persons, midwives and local traditional practitioners, performed the procedure. Researchers said the midwives' procedure involved the tearing, cutting, or piercing of part of the genitals but not the removal of tissue. Most of the local traditional practitioners, on the other hand, said that they customarily removed tissue, but the extent of this removal remained unclear. Similarly, it was unclear whether the removed tissue was from the clitoris, labia minora, or elsewhere. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic.

Prostitution is not specifically addressed in the law. However, many officials interpret "crimes against decency/morality" to apply to prostitution. Child prostitution is illegal. While contrary to societal and religious norms, prostitution was widespread and largely tolerated. Security forces reportedly participated in the running of brothels or protection rackets, which shielded brothels from prosecution. International sex tourism took place, especially on the islands of Batam and Karimun, both near Singapore.

Although it is not explicitly mentioned, sexual harassment is against the law and is actionable under the Criminal Code. In 2004 the State Ministry of Women's Empowerment said that 90 percent of women and 25 percent of men have been victims of sexual harassment in the workplace.

Divorce is open to both men and women. Muslims who sought divorce generally turned to the Shari'a-based family court system as a faster and cheaper alternative to the national court system. Non-Muslims obtained divorces through the national court system. Due to prejudicial attitudes, women often faced a heavier evidentiary burden than men, especially in the Shari'a-based family court system. Although both Islamic and national courts may award alimony, many divorcees received no alimony, since there was no system to enforce such payments. Men and women both keep the separate property they owned before marriage. If there is no prenuptial agreement, joint property is divided equally. The law requires a woman who has become divorced to wait a certain period of time before remarrying; a man can remarry immediately.

The law stipulates that a child's citizenship is derived solely from the father. Children of citizen mothers and foreign fathers are considered foreigners and must have visas to remain in the country until age 18, when they can apply for citizenship. These children are prohibited from attending public schools. In cases in which a citizen mother lived abroad with her foreign husband, divorce could involve child custody problems. The children of foreign women married to citizen men also faced difficulties. A foreign woman married to a citizen can obtain citizenship after one year.

During the year the government continued to implement Shari'a in Aceh (see section 2.c.). The most visible impact on women's rights appeared to be the enforcement of dress codes. After issuing two written warnings to women in violation of the dress code, authorities referred the matter to a Shari'a court. In Banda Aceh, police briefly detained improperly dressed women in the Shari'a enforcement office, where the women were lectured on appropriate attire. Local governments and groups in other areas also undertook campaigns to promote conformance by women with the precepts of Shari'a. Some women told reporters that they felt humiliated when detained for dress code violations.

Women faced discrimination in the workplace, both in hiring and in gaining fair compensation. In 2003 the International Labor Organization's (ILO) Jakarta office reported that on average, women's earnings were 68 percent of that of men. According to the government, 41 percent of all civil servants were women but women accounted for only 7 percent of senior government officials.

Some activists said that in manufacturing, employers relegated women to lower-paying, lower-level jobs. Many female factory workers were hired as day laborers instead of full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. According to the government's central statistics bureau, during the year the unemployment rate was higher for men than for women. By law, if a husband and wife both worked for a government agency, the couple's head-of-household allowance was given to the husband.

A number of organizations promoted women's rights or otherwise addressed women's issues during the year including Solidaritas Perempuan, Mitra Perempuan, LBH-Apik, and the International Catholic Migration Commission (ICMC). During the year the Ministry of Women's Empowerment worked with the DPR to finalize an antitrafficking bill. The ministry also worked on issues of child protection, including trafficking.

Children.—The government stated its commitment to children's rights, education, and welfare, but it devoted insufficient resources to fulfill that commitment. In practice, most schools were not free of charge, and poverty put education out of the reach of many children. Child labor and sexual abuse were serious problems. Although girls and boys ostensibly received equal educational opportunities, boys were more likely to finish school. In 2003 the leader of the National Commission for Child Protection identified the most pressing problems related to the country's youth as child labor, child trafficking, child prostitution, street children, children in conflict areas, and undernourished children. The Child Protection Act addresses economic and sexual exploitation of children as well as adoption, guardianship, and other problems; however, some provincial governments did not enforce its provisions.

Unlike last year there were no reports of children being used as human shields or as combatants; however, one child was killed in a clash in Aceh (see section 1.a.).

By law, children are required to attend six years of elementary school and three years of junior high school; however, in practice, the government did not enforce these requirements. According to the government's 2004 National Socio-Economic Household Survey, school enrollment rates were 96.1 percent for children ages 7 to 12, 79.2 percent for children ages 13 to 15, and 49.8 percent for children ages 16 to 18.

Monthly fees for public schools varied from province to province and were based on average incomes. Some parents continued to find it difficult to send their children to school. Tuition, transportation, and school materials, could cost a family between \$400 and \$700 (4 million to 7 million rupiah) per year for each primary and

secondary student. In June the ILO conducted a limited child labor survey in areas within five provinces (North Sumatra, East Kalimantan, West Java, East Java and South Sulawesi), which revealed that one in five school-age children from low-income families had no access to education and experienced various kinds of exploitation at work—both in the formal and informal sectors. The survey also found that of 2,438 school-age children below 15 years of age, 19 percent were not attending school. It was unclear how many children were forced to leave school to help support their families. In some remote areas of East Java, lack of nearby school locations contributed to drop out rates as high as 50 percent and led children to seek work. In some areas, parents and watchdog groups complained that corruption among public servants severely undermined the quality of education. During the year the tsunami and the lingering effects of conflicts disrupted the education of some children.

Many children grew up in unhealthy circumstances. Malnutrition remained a serious problem. The country's infant mortality rate remained high. According to a demographic and health survey published in December 2003, there were 35 deaths for every 1 thousand live births. There was improvement in under-five mortality, but a lack of improvement in infant mortality led the government to increase its focus on newborn healthcare.

A severe drought exacerbated malnutrition in East Nusa Tenggara Province this year. The total number of children thought to be suffering from malnutrition in East Nusa Tenggara was more than 12 thousand, and at least 59 infants died of acute malnutrition during the year.

Child abuse is prohibited by law, but government efforts to combat it generally have been slow and ineffective. NGOs reported that it continued to take excessively long to bring a child rape case to court and that mechanisms for reporting and dealing with child abuse were vague.

The East Java Children's Protection Agency recorded 389 cases of violence against children in East Java during the year. The East Java police recorded 137 cases of violence against children. In most cases, the offender was a parent of the victim.

Commercial sexual exploitation of children continued to be a serious problem. The number of child prostitutes in the country was unclear; however, a 2004 ILO assessment estimated there were approximately 21 thousand child prostitutes on the island of Java. In 2003 a team of NGO and government health officials visited a prostitution complex in Riau Province and estimated that 30 to 40 percent of the 365 female sex workers there were under 18 years of age. Many teenage girls were forced into or found themselves caught in debt bondage. At times law enforcement officials treated child sex workers as criminals rather than victims. Women's rights activists and religious groups accused government officials, particularly police and soldiers, of operating or protecting brothels that employed underage prostitutes. Corrupt civil servants issued identity cards to underage girls, facilitating entry into the sex trade. According to official East Java government statistics, there were approximately 4 thousand child prostitutes in East Java, 30 percent of the total number of recorded prostitutes; there were approximately 3 thousand child prostitutes in Central Java; and 194 in the city of Yogyakarta. There also were reports of sexual exploitation of boys. NGOs reported long-active pedophile rings operating in Bali, and authorities arrested and tried at least one man, a French national, for pedophilia there.

During the year there were cases in which employment brokers paid parents advances of future salaries to be earned by their daughters. The child was required to repay the employment brokers. Researchers described a "culture of prostitution" in some parts of the country, where parents encouraged their daughters to work as big-city prostitutes and send the proceeds home.

NGO observers said many girls were forced into prostitution after failed marriages they had 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 they were once married.

Child labor was a problem. The Ministry of Manpower and Transmigration reported 4.5 million child workers in its national labor survey; however, in 2003 the ILO reported that 8 million children under 18 were doing the work of adults (see section 6.d.).

During the year all district courts had a juvenile court.

In East Java, local NGOs reported that the government paid little attention to the rights of juvenile offenders. In Surabaya the government held juvenile offenders in the same prison as adult criminals during trial. There was only one prison for juveniles in East Java, located in Blitar. As of July, there were 107 juveniles in the Blitar prison, the majority from Malang and Blitar. Most juveniles from Surabaya are remanded to Surabaya-area adult facilities. Juveniles sometimes experienced

abuse while in detention. In July local newspapers reported that four juveniles in the Rungkut area of Surabaya City claimed that police injured their knees and legs during interrogation conducted in the local police office. The head of the local police denied the accusation.

According to the Ministry of Social Affairs, there were 46,800 street children across 21 provinces. Substantial numbers of street children were apparent in Jakarta and the provinces of East Java, West Java, North Sumatra, and South Sulawesi. Surabaya, in East Java, was home to approximately 8 thousand street children, many reportedly susceptible to sexual abuse and violence. Approximately 40 shelters in the province provided services to such children. The Jakarta City government opened a shelter in 2004 with the capacity for approximately 200 children. The government continued to fund other shelters administered by local NGOs and paid for the education of some street children.

A number of NGOs promoted children's rights, including Child Advocacy Network, National Commission on Child Protection, Center for Study and Child Protection, and Foundation for Indonesian Child Welfare.

Trafficking in Persons.—Trafficking in persons is illegal under the law; however, the law is not comprehensive in its definition of trafficking. During the year persons were trafficked to, from, and within the country for the purposes of prostitution and forced labor, including instances of debt bondage. Internal trafficking was a significant problem.

During the year the government continued to implement the 2002–07 National Action Plan to counter trafficking of women and children. The plan identifies specific roles for the government and civil society at national and local levels and included goals for lawmaking and law enforcement. The Child Protection Act prohibits economic and sexual exploitation of children and also child trafficking. The act specifies severe criminal penalties and jail terms for persons who violate children's rights, including by trafficking in persons. The government, with the help of NGOs, conducted public education efforts on trafficking. Several provincial and district governments adopted new antitrafficking regulations and plans.

The criminal code lacks an adequate legal definition of trafficking in persons. The Solidarity Center and the ICMC identified laws that could be applied in cases of trafficking and related offenses. The penal code prohibits trade in women and male minors but is silent on female minors. The Child Protection Act provides for prison sentences of 3 to 15 years plus fines for child traffickers. In many cases involving underage victims, police and prosecutors used the Child Protection Act, a change from previous reliance on the penal code with its weaker sentencing guidelines. Prior to 2004 judges rarely sentenced traffickers to more than three years in prison; however, during the year judges imposed heavier sentences on child traffickers, with some convictions resulting in five- or six-year jail terms.

Reliable figures were not available on the number of persons trafficked. A study by the Solidarity Center and ICMC estimated between 2.4 and 3.7 million women and children worked in the vulnerable categories of migrant workers, sex workers, and child domestic workers (see section 5, Children). Within these categories, the estimated total number of children ranged from 254 thousand to 422 thousand. These were not estimates of victims but rather of women and children vulnerable to trafficking.

According to the foreign labor federation-financed Center for International Labor Solidarity, hundreds of Burmese fishermen, apparently forced to work on Thai fishing boats, either escaped or were abandoned in Tual, a small island in Maluku Province, where they lived in difficult conditions. In 2004 immigration officials forcibly repatriated a number of Burmese fishermen to Thailand via foreign fishing vessels. During the year the Burmese Seafarers Union estimated that there were still more than 100 Burmese seafarers living near Tual but did not anticipate further repatriations.

During the year the government, NGOs, and the media reported that women were trafficked to Malaysia, Japan, the Middle East (including Saudi Arabia and Kuwait), Taiwan, Hong Kong, Singapore, and other destinations. Malaysia was the destination for the greatest number of credibly documented cases of female trafficking victims. Women possibly trafficked to Indonesia included foreign prostitutes from China, Thailand, Eastern Europe, and Central Asia.

During 2004 police investigated 141 suspected traffickers, while prosecutors tried 51 cases. Courts convicted at least 45 suspects, an increase from 25 in 2003. The average jail sentence for convicted traffickers increased from 2.5 years to 3.2 years, while the average sentence for traffickers convicted under the Child Protection Act reached 5.3 years.

Lack of evidence, insufficient laws, low awareness of trafficking, and corruption were the main obstacles in prosecuting trafficking cases. For example, in December

2004, local police arrested six persons in a brothel in Semarang, Central Java after receiving reports from alleged victims of trafficking. However, the suspects were released due to alleged lack of evidence.

During the year the police and immigration officials launched operations to reduce the number of foreign prostitutes. On August 24, the Jakarta Police apprehended 68 foreign sex workers in raids on nightclubs, saunas, and beauty salons. The 68 were subsequently deported.

On February 26, North Surabaya police arrested a suspected trafficker after receiving a report from the alleged victim who escaped from a Surabaya brothel. A Surabaya court sentenced the trafficker, Radji, to a few months in jail. On March 15, in Probolinggo, East Java police arrested the suspected head of trafficking syndicate that allegedly had sold six children into prostitution in Surabaya; this case remained under investigation. In April East Java police arrested three persons suspected as traffickers in the Bondowoso area. Four girls were reported as their victims.

The Singkawang District of West Kalimantan remained well known as an area from which poor, ethnic Chinese women and teenage girls between the ages of 14 and 20 were recruited as "mail order" brides for men, primarily in Taiwan but also in Hong Kong and Singapore. In some cases the women were trafficked for sex work and slave-like servitude.

In many cases traffickers recruited girls and women under false pretenses. One tactic was to offer young women in rural areas jobs as waitresses or hotel employees in distant regions, including island resorts. After the new recruits arrived and incurred debts to their recruiters, they learned that they had been hired as prostitutes. In October Jakarta police arrested 2 persons for duping at least 51 women with offers to work in Japan as "cultural performers." Once in Japan, the women were exploited as prostitutes. At year's end the two suspects remained in custody awaiting trial.

Many victims became vulnerable to trafficking during the process of becoming migrant workers. Many unauthorized recruiting agents operated throughout the country and were involved in trafficking to various degrees, and some government-licensed recruiting agents also were implicated in trafficking. Recruiting agents often charged exorbitant fees leading to debt bondage and recruited persons to work illegally overseas, which increased the workers' vulnerability to trafficking and other abuses.

The basic three-month course that all police officers received did not include training on counter-trafficking in persons. During the year international agencies continued to provide police with specific counter-trafficking training. Trafficking falls under the purview of the Criminal Investigation Department (CID). In 2003 the police established a separate anti-trafficking unit within CID with operational and coordinating responsibilities.

In 2004 the national police headquarters issued instructions to district police chiefs to break up trafficking rings, assist victims, and report cases to national headquarters.

Credible sources noted that individual security force members were involved in setting up and protecting brothels. Traffickers and brothel owners reportedly paid protection money to security force members. An NGO survey of trafficking in Papua concluded that military members operated or protected brothels that housed trafficking victims. Apart from police and soldiers, some government officials were complicit in trafficking, particularly in the production of false documents. The prevalence and ease of obtaining fraudulent national identity cards, which could document children as adults, contributed to the trafficking problem. Within society and the government, there was continued reluctance to acknowledge that prostitution was a major problem.

Domestic NGOs, with international support, led efforts to monitor and prevent trafficking, frequently in coordination with government agencies. These NGOs included the Consortium for Indonesian Migrant Workers Advocacy, LBH-Apik, Women's Aid and Protection Group, Women's Coalition (Koalisi Perempuan), and Solidaritas Perempuan.

In January the government reacted swiftly to rumors of trafficking of children orphaned or separated due to the December 2004 earthquake and tsunami in Aceh Province. The government restricted the travel of Acehnese minors out of Aceh or abroad and posted police monitors at points of exit. The rumors proved almost entirely unfounded, and few cases of trafficking victims in Aceh emerged in the months following the disaster. NGOs reported some cases of Acehnese women trafficked to a neighboring country later in the year.

National- and local-level assistance to trafficking victims increased compared with previous years but remained small in comparison with the scope of the problem. In

general government assistance was modest and focused on citizens trafficked abroad, while domestic assistance was minimal. Over the year the government and community groups established a number of new shelters in Dumai, Riau Province, and in West Kalimantan Province. The police operated more than 200 women's desks, units established to help women and children who fall victim to violence including trafficking. The women's desks provided temporary shelter, special police handling, and some legal services for victims. The women's desks often cooperated with local NGOs to provide medical and psychological services and longer-term shelter. However, distrust of police discouraged some victims from using these desks.

The government's policy is to "treat persons who are trafficked not as criminals but as victims who need help and protection." During the year the People's Welfare Coordinating Ministry and the Ministry of Women's Empowerment reinforced this policy in public settings and training programs for police and other officials. However, local government and police practice varied, particularly in the lower ranks of law enforcement agencies. Local governments, exercising greater authority under the country's decentralization program, sometimes enacted laws or regulations that tended to treat trafficked sex workers as criminals, contrary to national policy. In many instances, government officials and police actively protected and assisted victims. In other cases, police treated victims such as trafficked prostitutes as criminals, subjected them to detention, and took advantage of their vulnerability to demand bribes and sexual services. Police and immigration officials periodically rounded up foreign prostitutes and quickly deported them without any reported screening for potential trafficking victims. The media and lower-level officials, including police, often failed to protect victims' identities and commonly provided victims' names to the public.

The government encouraged victims to assist in the investigation and prosecution of traffickers, but victims frequently were reluctant or refused to provide testimony due to shame and fear of retribution against themselves or their families.

Persons with Disabilities.—The government classified persons with disabilities into four categories: blind, deaf, mentally disabled, and physically disabled. The constitution requires the government to provide them with care; however, "care" is not defined, and the provision of education to children with disabilities never was inferred from the requirement. The law also mandates accessibility to public facilities for persons with disabilities; however, the government did not enforce this provision. Few buildings and virtually no public transportation facilities provided such accessibility. The law requires companies that employ more than 100 workers to set aside 1 percent of their positions for persons with disabilities. However, the government did not enforce the law, and persons with disabilities faced considerable discrimination.

Recent statistics on the number of persons with disabilities were not available. In 2004 the World Health Organization estimated that 10 percent of the population, or approximately 20 million persons, had disabilities.

In urban areas only a few city buses offered wheelchair access, and many of those have had their hydraulic lifts vandalized, rendering them unusable.

In 2003 the government stated the country was home to 1.3 million children with disabilities, but only 50 thousand of them attended school. The actual number of children with disabilities was believed to be much higher. The law provides children with disabilities with the right to an education and rehabilitative treatment. A government official alleged that many parents chose to keep children with disabilities at home; however, many schools refused to accommodate such children, stating they lacked the resources to do so. According to the government, there were 1,234 schools dedicated to educating children with disabilities; 960 of them were run privately. Some young persons with disabilities resorted to begging for a living.

Human rights activists in Surabaya reported that discrimination against persons with disabilities existed in the employment and education sectors. For example, in November 2004 the Surabaya city government refused a civil service candidate charging that she did not fulfill the health requirement. In May the Surabaya Administrative Court ruled in her favor. City officials appealed to the Supreme Court, and at year's end the appeal was pending.

National/Racial/Ethnic Minorities.—The government officially promotes racial and ethnic tolerance. Ethnic Chinese accounted for approximately 3 percent of the population, by far the largest nonindigenous minority group, and played a major role in the economy. Instances of discrimination and harassment of ethnic Chinese declined compared with previous years. Recent reforms increased religious and cultural freedoms. However, some ethnic Chinese noted that public servants still discriminated in issuing marriage licenses and in other services and often demanded bribes or a citizenship certificate, although such certificates were no longer legally

required. In 2004 an attorney advocate for the rights of ethnic Chinese noted that more than 60 articles of law, regulation, or decree were in effect that discriminated against ethnic Chinese citizens. NGOs such as the Indonesia Anti-Discrimination Movement urged the government to revoke these articles.

There were no reports of overt discrimination against Acehnese outside the province. However, some Acehnese reported that they faced extra scrutiny when trying to leave the country and resented having a different identity card. The MOU signed on August 15 (see section 1.a.) included a provision to issue Acehnese conventional identity cards by April 2006.

Indigenous People.—The government views all citizens as “indigenous,” with the exception of ethnic Chinese; however, it recognizes 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 people, most notably in Papua, remained subject to widespread discrimination, and there was little improvement in respect for their traditional land rights. Mining and logging activities, many of them illegal, posed significant social, economic, and logistical problems to indigenous communities. The government failed to prevent domestic and multinational companies, often in collusion with the local military and police, from encroaching on indigenous people’s land.

In Papua tensions continued between indigenous Papuans and migrants from other provinces, between residents of coastal and inland communities, and among tribes. Some in the indigenous community accused the newcomers of price gouging and condescension, while some newcomers claimed that indigenous Papuans treated them with resentment and suspicion.

In Central Kalimantan, relations between indigenous Dayaks and ethnic Madurese transmigrants remained poor in the wake of 2001 interethnic violence. However, at least 30 thousand to 57 thousand displaced ethnic Madurese had returned to Central Kalimantan by year’s end. Despite interethnic tensions, local elections were orderly and relatively peaceful. Relations between the two groups also remained poor in West Kalimantan, where former residents of Madurese descent were obstructed in their attempts to reclaim their property.

In February the Human Rights Commission in South Sulawesi concluded that the police committed a gross human rights violation in 2003 when they fired on farmers and indigenous persons attempting to reoccupy lands leased by the government to the London Sumatra Company; four persons were killed and more than a dozen were injured.

Human rights activists said that the government-sponsored transmigration program violated the rights of indigenous people, bred social resentment, and encouraged the exploitation and degradation of natural resources on which many indigenous persons relied. In some areas, such as parts of Sulawesi, the Maluku, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were poor.

Other Societal Abuses and Discrimination.—There was some societal discrimination against persons with HIV/AIDS. Some individuals received prejudicial treatment at medical centers, saw their confidential laboratory results released, or had their identity published in a newspaper. In most if not all such cases, the government failed to take corrective action. In Papua, where the incidence of HIV infection is significantly higher than elsewhere in the country, community members and even families often stigmatized and ostracized those known to be infected with the virus. However, the government encouraged tolerance, took steps to prevent new infections, and drew up plans to subsidize antiretroviral drugs.

Section 6. Worker Rights

a. The Right of Association.—The law provides broad rights of association for workers, and workers exercised these rights. The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. The law stipulates that 10 or more workers have the right to form a union, with membership open to all workers, regardless of political affiliation, religion, ethnicity, or gender. Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The government records, rather than approves, the formation of a union, federation, or confederation and provides it with a registration number. Under the law, 87 union federations notified the Ministry of Manpower and Transmigration (the manpower ministry) of their existence and received registration. Ministry officials noted that only 64 federations recorded by the ministry had verifiable members. The vast majority of union members belonged to one of three union confederations: the All-Indonesia

Trade Union Confederation (KSPSI), the Indonesian Prosperity Trade Union Confederation (KSBSI), and the Indonesian Trade Union Congress (KSPI). In addition more than 18 thousand workplace-level units were registered with the manpower ministry.

According to the government, the country's total labor force consisted of approximately 110 million workers, 42 percent of whom worked in the agricultural and forestry sector. From April to September, the manpower ministry conducted a survey of union membership, the results of which indicated a significantly reduced number of union members compared with previous estimates. In the past, the government had relied upon unions' self-reported membership statistics. The manpower ministry estimated total trade union membership at 3.4 million workers, less than 4 percent of the total workforce. However, if compared to the country's 23.8 million regular, formal sector employees (a category that excludes the self-employed, employers, casual workers, and unpaid workers), union membership would be approximately 14 percent.

The law recognizes civil servants' freedom of association and right to organize, and employees of several ministries formed employee associations; union organizations sought to organize these workers. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

The law allows the government to petition the courts to dissolve a union if it conflicts with the state ideology of *Pancasila* or the constitution, or if a union's leaders or members, in the name of the union, commit crimes against the security of the state and are sentenced to at least five years in prison. Once a union is dissolved, its leaders and members may not form another union for at least three years. There were no reports that the government dissolved any unions during the year.

The law prohibits antiunion discrimination by employers and others against union organizers and members and provides penalties for violations; however, the government did not effectively enforce the law in many cases. There were frequent, credible reports of employer retribution against union organizers, including dismissals and violence that were not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized. Legal requirements existed for employers to reinstate workers fired for union activity, although in many cases the government did not enforce this effectively.

During the year the International Union of Food Workers Associations (IUF) accused the management of a sugar plantation of suspending Daud Sukamto, the president of the IUF-affiliated independent Federation of Sugar Plantation and Mill Workers (FSPM TG), following the FSPM TG's founding in February, and of otherwise harassing the union. Manpower officials in Lampung upheld the dismissal based on Daud's rejection of a company wage proposal. The officials withdrew legal recognition of the union. In October the manpower minister informed the union it would need to reregister and asked FSPM TG to withdraw its complaint to the ILO. The local manpower office formally registered the union on October 26.

In April workers at a private security firm in Jakarta, Group4/Securicor, went on strike over the firm's plans to reduce benefits for employees following a company merger. According to the foreign-financed, labor support organization Center for International Labor Solidarity, on May 30, Jakarta police called in for questioning and intimidated four union leaders. The police reportedly explained that they were investigating the union leaders for possible charges of defamation and asked them to identify other workers from photographs taken at a lawful union demonstration in April. The company terminated 200 workers and refused to rehire them despite a decision by the local manpower officer that the strike was legal and the strikers should be rehired. In October a labor dispute resolution committee awarded the workers two months' salary. At year's end the workers had not yet received any monetary compensation.

Local union leader Ahmad Fauzi, from KSBSI, completed an 11-month jail sentence in August. In 2004 a court in Batam convicted Fauzi of theft and sentenced him to jail. The conviction followed a union campaign at PT Batam Expressindo Shipyard. According to the Solidarity Center, Fauzi denied the company's accusation that reportedly centered on the theft of \$8 of scrap aluminum. KSBSI claimed that the company's legal action against Fauzi constituted retribution for his union activities.

Pending implementation of the 2004 Disputes Settlement Act and its new labor court system, regional and national labor dispute resolution committees continued to adjudicate charges of antiunion discrimination. The committees' decisions could be appealed to the state administrative court. However, due to a history of adverse decisions for labor and the long time necessary to process disputes, sometimes re-

quiring years, many unions believed that these committees were not realistic alternatives for settling disputes. As a result, workers frequently presented their grievances directly to Komnas HAM, the DPR, or NGOs. Administrative decisions in favor of dismissed workers usually took the form of monetary awards but rarely reinstated workers. The law required that employers obtain the approval of the labor dispute resolution committee before firing workers, but employers often ignored the law in practice.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference; however, the government often did not protect this right in practice. The law provides for collective bargaining and allows workers' organizations that register with the government to conclude legally binding collective labor agreements (CLAs) with employers and to exercise other trade union functions. The law includes some restrictions on collective bargaining, including a requirement that a union or unions represent more than 50 percent of the company workforce to negotiate a CLA.

The Manpower Development and Protection Act (Manpower Act), which regulates collective bargaining, the right to strike, and general employment conditions does not apply to SOEs. Although the law was written with ILO technical assistance, some unions claim that the law contains inadequate severance benefits and protection against arbitrary terminations; and does not sufficiently restrict against outsourcing and child labor. The government continued to issue implementing decrees for the Manpower Act.

In January 2004 the president approved the Industrial Relations Disputes Settlement Act that, together with the 2000 Trade Union Act and the 2003 Manpower Act, constitutes the revised legal basis for industrial relations and worker rights. The Disputes Settlement Act stipulates a new system of tripartite labor courts, replacing the previous tripartite committees. The act also outlines settlement procedures through mediation and arbitration. The ILO provided assistance in the development of the law. The government had not established the new labor court system by year's end.

According to the manpower ministry, during the year there were 9,146 CLAs in effect between unions and private companies. Company regulations, allowed for under government regulations, substituted for CLAs in another 36,459 companies, many of which did not have union representation. The Manpower Act requires that employers and workers form joint employer/worker committees in companies with 50 or more workers, a measure to institutionalize communication and consensus building. However, the number of such bodies did not increase significantly after passage of the act.

All workers, whether or not union members, have the legal right to strike, except for public sector workers and those involved in public safety activities. The law allows workers in these latter categories to carry out strikes if they are arranged so as not to disrupt public interests or endanger public safety. Private sector workers exercised their right to strike, as did those in state enterprises, although the latter did so with less frequency. The large majority of government-recorded strikes involved nonunion workers. Unions or workers' representatives must provide seven days' notice to carry out a legal strike. The law calls for mediation by local manpower ministry officials but does not require government approval of strikes. In previous years, workers and employers rarely followed dispute settlement procedures, and workers rarely gave formal notice of the intent to strike because manpower ministry procedures were slow and had little credibility among workers. The 2003 passage of the Manpower Act did not significantly change this situation. The number of government-recorded strikes declined in recent years, from 220 strikes involving more than 97 thousand workers in 2002 to 125 strikes involving some 53 thousand workers in 2004.

The underpayment or nonpayment of legally required severance packages precipitated strikes and labor protests. The Solidarity Center documented cases in which foreign employers in the garment and footwear industry, faced with falling orders and plant closures, fled the country to avoid making legally required severance payments.

Labor activists also reported that factory managers in some locations employed thugs to intimidate and assault trade union members who attempted to organize legal strike actions. At times the police intervened inappropriately and with force in labor matters, usually to protect employers' interests. In April the national police adopted new guidelines for "handling law and order in industrial disputes," developed with the assistance of the ILO.

On July 20, security personnel and police clashed with workers protesting layoffs at two companies, PT Pan United and IMES, in Batam. According to a joint state-

ment by 3 labor unions, the violence left 26 workers injured and damaged many motorcycles owned by the protesting workers.

The management of a palm oil plantation in Riau Province, P.T. Musim Mas, fired approximately 700 workers for striking, authorities arrested 6 union officials and members in connection with the strike. The strike followed the company's termination of nine union leaders. On September 15, company security guards reportedly drove a truck into a group of striking workers outside the factory, injuring two of the workers.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs). However, nongovernmental observers, including the Solidarity Center, described stronger antiunion sentiment and actions by employers in EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced labor or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

The government tolerated forms of compulsory labor practiced in the migrant worker recruitment process. The unscrupulous practices of migrant worker recruiting agencies, and poor enforcement of government regulations often led to debt bondage and extended unlawful confinement. According to press reports and research by the Solidarity Center, recruiting agencies frequently kept migrant workers in holding centers for months before sending them abroad. While in the holding centers, migrant workers normally did not receive pay, and recruiters often did not allow them to leave the centers. In most instances, workers were forced to pay recruiters for the cost of their forced stay, which resulted in large debts to the recruiters. Police and manpower ministry officials conducted raids on 14 illegal migrant worker holding centers in Jakarta from December 2004 to January, targeting unlicensed holding centers that forcibly held prospective female workers, both adults and children, some in inhumane conditions. The raids resulted in the release of 1,227 women and girls, and the arrests of 10 suspects. Another 12 police raids through October freed 565 female workers and led to the arrest of 10 persons, according to the manpower ministry.

Forced and compulsory labor by children occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children from working in hazardous sectors and the worst forms of child labor, to include mining, skin diving, construction, prostitution, and offshore fishing platforms. However, the government did not enforce these laws effectively. Law, regulations, and practice acknowledged that some children must work to supplement family incomes. The Manpower Act prohibits the employment of children, defined as persons under 18, with the exception of those 13 to 15 years of age, who may work no more than 3 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. The law does not appear to address exceptions for children ages 16 to 17.

The law addresses economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade, and provides severe criminal penalties and jail terms for persons who violate children's rights. During the year the government prosecuted a small number of cases under these provisions.

The government has a national action plan to eliminate the worst forms of child labor, as well as separate national action plans for combating trafficking and for eliminating the commercial sexual exploitation of children.

Child labor remained a serious problem in the country. An estimated six to eight million children exceeded the legal three-hour daily work limit, working in agriculture, street vending, mining, construction, prostitution, and other areas. More children worked in the informal than the formal sector. Some children worked in large factories, but their numbers were unknown, largely because documents verifying age could be falsified easily. Children worked in industries such as rattan and wood furniture, garment, footwear, food processing, and toy making, and also in small-scale mining operations. Many girls between 14 and 16 years of age worked as live-in domestic servants. The ILO estimated that there were 2.6 million domestic workers in Indonesia, of whom at least 688 thousand were children. According to a June Human Rights Watch report, children between 12 and 15 years of age worked 14 to 18 hours per day, 7 days a week from 4 a.m. to 10 p.m. with employers who often subjected them to physical and sexual threats. Many child servants were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights.

The law and regulations prohibit bonded labor by children; however, the government was not effective in eliminating forced child labor, which remained a serious problem. A significant number of children worked against their will in prostitution,

pornography, begging, drug trafficking, domestic service, and other exploitative situations, including a small number on fishing platforms (see section 5).

Social and cultural resistance remained a challenge in addressing child labor. Many parents disagreed with government efforts to restrict children from working, arguing that the government offered inadequate economic support to guarantee these families' welfare.

Enforcement of child labor laws remained largely ineffective. Despite legislative and regulatory measures, most children who worked, including as domestics, did so in unregulated environments. Anecdotal evidence suggested that local labor officials carried out few child labor investigations.

e. Acceptable Conditions of Work.—Provincial and district authorities, not the central government, establish minimum wages, which vary by province, district, and sector. Provincial authorities determined provincial minimum wage levels based on proposals by tripartite (workers, employers, and government) provincial wage commissions. The provincial minimum wage rates establish a floor for minimum wages within the province. Local districts set district minimum wages using the provincial levels as references. Districts also set minimum wages in some industrial sectors on an ad hoc basis. Provinces and districts conducted annual minimum wage rate negotiations, which often produced controversy and protests.

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 Jakarta offered the highest minimum wage level approximately \$71 (710 thousand rupiah) per month, while the manpower ministry reported official minimum wages as low as \$34 (340 thousand rupiah) per month in one area. In December most provincial governments decided to raise minimum wages by 15 percent or more effective in January 2006. Following that decision thousands of workers in Medan, Surabaya, Jakarta, and elsewhere demonstrated to protest minimum wage rates, which they said were still below the government-determined minimum cost-of-living standard. Employers argued that increasing wage rates, among a number of other factors, made the country's workers less competitive internationally and limited job growth.

Local manpower officials are responsible for enforcing minimum wage regulations. Enforcement remained inadequate, particularly at smaller companies and in the informal sector. In practice, official minimum wage levels applied only in the formal sector, which accounted for 35 percent of the workforce.

Labor law and ministerial regulations provide workers with a variety of benefits. Persons who worked at more modern facilities often received health benefits, meal privileges, and transportation. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency JAMSOSTEK. At year's end, companies had registered 26 million workers, according to JAMSOSTEK.

The law establishes a 40-hour workweek, with one 30-minute rest period for every 4 hours of work. Companies often required a 5½ or 6-day workweek. The law also requires at least one day of rest weekly. The daily overtime rate was 1½ times the normal hourly rate for the first hour and double the hourly rate for additional overtime, with a maximum of 3 hours of overtime per day and no more than 14 hours per week. Workers in industries that produced retail goods for export frequently worked overtime to meet contract quotas. Unions complained that companies relied upon excessive overtime in some electronics assembly plants, to the detriment of workers' health and safety. Observance of laws regulating benefits and labor standards varied between sectors and regions. Employer violations of legal requirements were fairly common, resulting in some strikes and protests. In May approximately 2,500 workers at the Katexindo Citra Mandiri company in North Jakarta occupied the factory in protest of the company's increase in the hourly quota of garment items to be produced from 60 to 85 per hour. Workers described the quota as excessive and in violation of voluntary labor standards endorsed by the company's international buyers. The Manpower Ministry continued to urge employers to comply with the law; however, government enforcement and supervision of labor standards were weak.

Both law and regulations provide for minimum standards of industrial health and safety. In practice, the country's worker safety record was poor. As revealed in press reports, JAMSOSTEK recorded 49,148 occupational accidents in the first half of the year and 95,418 in all of 2004. Local officials have responsibility for enforcing health and safety standards.

In larger companies, the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Workers are obligated to report hazardous working conditions, and employers are forbidden by law from retaliating

against those who do report hazardous working conditions; however, the law was not enforced effectively.

JAPAN

Japan is a parliamentary democracy with a population of approximately 127.8 million. Sovereignty is vested in the citizenry, and the emperor is defined as the symbol of state. Prime Minister Junichiro Koizumi headed a coalition composed of the Liberal Democratic Party and the New Komeito Party. The most recent national elections, accepted as generally free and fair, were held on September 11. The civilian authorities generally maintained effective control of the security forces.

The government made significant progress on trafficking in persons; otherwise, the country's human rights record remained virtually unchanged. The following human rights problems were reported:

- prisoner and detainee abuse
- violence against women
- child abuse
- child prostitution
- trafficking in women
- discrimination against women, the Ainu and *burakumin*, and alien residents

RESPECT FOR HUMAN RIGHTS

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

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

In November the Nagoya District Court handed down suspended prison terms to two Nagoya prison guards who were convicted in 2004 for a 2001 incident that led to an inmate's death. The inmate died from bacterial shock after being sprayed by a high-pressure water hose.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected these provisions in practice. However, there were isolated reports by bar associations, human rights groups, and prisoners that police and prison officials sometimes committed abuses.

Although prison rules remained confidential, reported punishments included forcing Japanese prisoners to kneel motionless in an empty cell for several hours at a time and requiring foreigners and inmates with disabilities to sit on a hard stool. While the Prison Law Enforcement Regulation stipulates that the maximum time prisoners may be held in single cells is 6 months, wardens continued to have broad leeway in enforcing punishments selectively, including "minor solitary confinement," which may be imposed for a minimum of 1 and not more than 60 days. Parole may not be granted for any reason, including medical and humanitarian reasons, until an inmate has served two-thirds of his or her sentence.

Human rights organizations reported that death row prisoners were held for years in solitary confinement with little contact with anyone but prison guards.

The law and the criminal code include safeguards to ensure that suspects cannot be compelled to confess to a crime and that they cannot be convicted or punished in cases where a suspect's confession is the only evidence. Unlike in 2004, there were no reports that police used physical violence that included kicking and beating as well as psychological intimidation during interrogation to obtain confessions. A significant number of all criminal cases going to trial included confessions, reflecting the priority the judicial system placed on admission of guilt.

Unlike in 2004, there were no reports that prison guards sexually abused female inmates. On January 28, the prison officer who raped and impregnated a female inmate in 2003 was convicted and sentenced to a three-year prison term. There was no information on the case of the male prison warden charged with engaging in sexual acts with a female inmate in 2004.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. However, several facilities were overcrowded, unheated, and medically understaffed.

There were no reported deaths in prisons, detention centers, or other government institutions resulting from adverse conditions during the year. However, on October

5, the Japan Federation of Bar Associations reported that the human rights of seven prison inmates may have been violated when they died from medical neglect after being placed in solitary confinement between 1999 and 2002.

In May the Ministry of Justice reported that 20 prisoners committed suicide in 2004.

In 2004 prisons operated at 117 percent capacity. In some institutions two inmates were placed in cells designed for one, and eight or nine were held in cells meant for six. According to media reports, prison officials stated that some prisoners preferred solitary confinement to their overcrowded prison cells.

Most facilities remained unheated and without air conditioning. In August a human rights group reported that inmates were not given sufficient clothing and blankets to protect themselves against cold weather.

Some correctional facilities lacked adequate medical services. Prisoners complained about insufficient food rations and not being allowed to purchase or receive supplementary food.

Men and women were housed in separate facilities; however, male prison guards sometimes guarded women prisoners.

According to the Japan Federation of Bar Associations, authorities may read letters sent or received by prisoners. Letters with contents deemed “inappropriate” may be censored or confiscated. New prisoners are limited to receiving and sending one letter each day. In most cases visits with convicted prisoners were monitored, but prisoners whose cases were pending were allowed private access to their legal representatives.

Unlike in previous years, the government selectively permitted independent monitoring of prison conditions. Visits between prisoners and diplomatic representatives were sometimes monitored by a note-taking guard. Amnesty International reported that the government granted its representatives greater access to detention facilities than in 2004; however, human rights groups were not routinely allowed to meet with prisoners.

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.—Police forces are responsible for law enforcement and maintenance of order within the country. The self-defense forces are responsible for external security and have limited domestic security responsibilities. The National Police Safety Commission, an independent body under the prime minister’s jurisdiction, oversees the National Police Agency (NPA). Each prefecture has a police safety commission as well as a police agency. Corruption and impunity were not problems within either the national or the prefectural police forces.

The National Police Law permits persons to lodge complaints against police with national and local public safety commissions. These commissions have the authority to direct police to conduct investigations. Allegations persisted that police and public safety commissions remained lax in investigating police misconduct.

Arrest and Detention.—Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and detainees were brought before an independent judiciary.

The law provides detainees the right to a prompt judicial determination of the legality of the detention, and authorities respected this right in practice. The law requires authorities to inform detainees immediately of the charges against them. Authorities may hold a suspect in detention at either a regular detention facility or a “substitute” (police) detention facility for up to 72 hours. A judge must interview a suspect prior to detention. A judge may extend preindictment custody by up to 2 consecutive 10-day periods based on a prosecutor’s application. These extensions were routinely sought and granted. Under extraordinary circumstances, prosecutors may seek an additional 5-day extension, bringing the maximum period of preindictment custody to 28 days.

The code of criminal procedure allows detainees, their families, or representatives to request that the court release a detainee on bail. The court generally grants bail unless the detainee is considered a flight risk or has been charged with a serious offense, or the court believes the detainee will tamper with evidence. The amount set for bail depends on the nature of the offense and the detainee’s competence and assets. According to media reports, bail could range from approximately \$13 thousand (1.49 million yen) to approximately \$13 million (1.49 billion yen).

Police and prosecutors have the power to control or limit access of suspects to their legal counsel if authorities believe such contact would interfere with an investigation. Suspects may be detained for up to 23 days without access to counsel. Counsel may not be present during interrogations at any time. A court-appointed attorney is not approved until after indictment; suspects must rely on their own re-

sources to hire an attorney before indictment. Local bar associations provided detainees with limited free assistance. Family members are allowed to meet with detainees, but only in the presence of a detention officer.

Critics claimed that access to counsel was limited both in duration and frequency, but the government denied the charge. Critics also alleged that allowing suspects to be detained by the same authorities who interrogated them heightened the potential for abuse and coercion. The government countered that cases where persons were sent to police detention facilities tended to be those in which the facts were not in dispute.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

There are several levels of courts, including family and summary courts, district courts, high courts, and the Supreme Court, which serves as the court of final appeal. Normally a trial begins at the district court level, and a verdict may be appealed to a higher court and ultimately to the Supreme Court.

Although most criminal trials were completed within a reasonable length of time, cases occasionally took several years to work their way through the trial and appeals process.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law extends this right to all citizens, and it also ensures that each charged individual receives a public trial by an independent civilian court, has access to defense counsel, and has the right of cross-examination. There is no trial by jury.

The government generally respected in practice the legal provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. The average trial period in 2003 and 2004 was 3.2 months for criminal cases. The length of time before a suspect was brought to trial depended on the nature of the crime but rarely exceeded three months from the date of arrest; the average was one to two months.

A defendant is presumed innocent until proven guilty in a court of law. The law provides defendants with the right not to be compelled to testify against themselves as well as to have free and private access to counsel. Although the law protects defendants from the retroactive application of laws and defendants have the right of access to incriminating evidence after a formal indictment, the government's interpretation of these rights was criticized. The government contended that the right to consult with attorneys is not absolute and may be restricted when compatible with the spirit of the constitution. This sometimes resulted in the abridgement of a defendant's access to legal counsel. For example, the law allows prosecutors to control access to counsel before indictment (see section 1.d.). The law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claimed that legal representatives of defendants did not always have access to all needed relevant material in the police record. A defendant who is dissatisfied with the outcome of a trial may appeal to a higher court.

Foreign defendants often complained of not being able to receive a fair trial. During the year no guidelines mandated the acceptable quality of communications between judges, lawyers, and non-Japanese-speaking defendants, and no standard licensing or qualification system existed for certifying court interpreters. Trials proceeded even if no translation or interpretation was provided to the accused. Foreign detainees frequently claimed that police urged them to sign statements in Japanese that they could not read and that were not translated adequately.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

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

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

Church that the government was unresponsive to claims that its members were being abducted and deprogrammed decreased. Unification Church leadership reported that abductions lessened due to the government's increasing willingness to prosecute deprogrammers. However, church leaders continued to express concern over the government's unwillingness to prosecute abductors. According to church officials, police refused to intercede because abductions often involved family members abducting other family members.

Societal Abuses and Discrimination.—Relations among religious groups were generally amicable. An estimated 200 Jewish families lived in the country. There were no reports of anti-Semitic acts.

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

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

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

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not routinely grant refugee status or asylum.

On January 18, pursuant to a 2003 Tokyo High Court ruling, the government deported a Turkish Kurd and his son who had been identified as refugees by the Office of the UN High Commissioner for Refugees. In its ruling, the court cited the appellant's return to Turkey and the spread of democracy in Turkey since the appellant had first entered the country.

The government did not accept any refugees for resettlement during the year, nor did it provide temporary protection to individuals who may not qualify as refugees under either the 1951 Convention or the 1967 protocol.

According to the Ministry of Justice, 673,240 persons were detained in 2004 at immigration detention centers. Unlike in the past, there were no reports that deportations were carried out in secret. From July to September 2004, 2 Kurdish families staged a 72-day protest against their deportation orders in front of the United Nations University in Tokyo.

In recent years the government has granted refugee and asylum status to those claiming fear of persecution in only a small number of cases. Out of 426 refugee claims submitted to the Ministry of Justice in 2004, the government granted asylum to 15 persons from Burma, Turkey, Bangladesh, Iran, China, Pakistan, and Cameroon.

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.—On September 11, the country held its most recent national elections. There were few reported irregularities, and the elections were judged to be generally free and fair.

Except for a brief hiatus in the 1990s, the Liberal Democratic Party has been re-elected as the dominant party in every government since the mid-1950s. There were no government restrictions on the political opposition. Individuals could freely declare their candidacies and stand for election.

Results from the September 11 general elections reflected the highest number of women elected to the Lower House since women first entered the Diet in 1946. There were 43 women elected to the 480-member Lower House and 34 women elected to the 242-member Upper House. The prime minister appointed 2 women to his 18-member cabinet. On a regional level, there were four female governors and seven female deputy governors, which represented a greater number of women holding public office at that level than in years past.

No official government statistics were available regarding minority political participation.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year. According to NPA figures for January through June, there were 39 arrests involving bribery and 9 arrests for bid rigging, compared with 72 for bribery and 11 for bid rigging in 2004.

The law provides for public access to government information. There were no reports that the government denied legal requests for information or required information seekers to pay prohibitive fees to gain access.

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

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

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

The law prohibits discrimination on the basis of race, gender, disability, language, and social status. Although the government generally enforced these provisions, discrimination against women, Japanese ethnic minority groups, and foreigners remained a problem.

Women.—The law prohibits domestic violence against women. The law allows district courts to impose 6-month restraining orders on perpetrators of domestic violence and impose sentences of up to a year in prison or fines of up to \$9,520 (1 million yen). The law covers common-law marriages and divorced individuals; it also encourages prefectures to expand shelter facilities for domestic abuse victims and stipulates that local governments offer financial assistance to 40 private institutions already operating such shelters. A 2004 revision to the law expanded spousal violence to include mental, sexual, and physical abuse and increased the length of restraining orders to two months.

Domestic violence often went unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or children. Consequently, NPA statistics on violence against women most likely understated the magnitude of the problem. According to the Cabinet Office, 42 percent of women abused by their spouses did not report it. Spousal violence consultation assistance centers nationwide received 49,329 consultations in 2004, of which 49,107 were from women. According to NPA statistics, there were 14,264 cases of alleged domestic violence in 2004. Police were quick to respond to cases when reported. They taught victims how to protect themselves and educated them on how to file restraining orders. In 2004 courts issued 4,436 restraining orders in a total of 5,505 cases filed.

The law criminalizes all forms of rape, including spousal rape. According to the NPA, 2,176 rapes were reported in 2004, and 1,945 cases were reported from January through November. Husbands have been prosecuted for spousal rape. There were 118 gang rapes reported in 2004; from January through November, 109 were reported. Gang rape is punishable by a minimum penalty of four years in prison. Many local governments maintained special, women-only consultation departments in police and prefectural offices to provide confidential assistance to abused women.

Local governments and private rail operators enforced measures to address the widespread problem of groping and molesting female commuters. Several railway companies had women-only rail cars on various trains, and an antigroping ordinance makes first-time offenders subject to imprisonment.

Prostitution is illegal, but it occurred. Sex tourism was not a widespread problem. The government continued to address the problem of trafficking in women for prostitution (see section 5, Trafficking in Persons).

The law prohibits sexual discrimination; however, sexual harassment in the workplace remained widespread. In 2004 the Ministry of Health, Labor, and Welfare (MHLW) received 7,706 reports of sexual harassment in the workplace. The National Personnel Authority established rules to stop harassment in public servants' workplaces. The law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance other than allowing the names of offending companies to be publicized. A number of government entities have established hot lines and designated ombudsmen to handle complaints of discrimination and sexual harassment. On December 13, the MHLW notified labor bureaus nationally that mental illness resulting from sexual harassment may be compensated under the law. The government also encouraged and supported private companies and public institutions to make voluntary efforts to prevent sexual harassment.

Under the law women enjoy the same rights as men. According to the Ministry of Internal Affairs and Communication, women composed 40 percent of the labor force, and women between the ages of 15 and 64 constituted 48.3 percent of the labor force. Although the law prohibits wage discrimination, the average hourly wage for women was only 67.4 percent of the hourly wage for men. Much of the disparity resulted from the "two-track" personnel administration system under which

many private sector companies directed men into the higher paying managerial track while steering equally qualified women into the lower paying clerical track.

According to the Tokyo High Court, there were no pending cases regarding comfort women (women forced into sexual servitude for the country's military personnel during World War II); all cases were finalized in 2004. The Asian Women's Fund, established in 1995 to express atonement for comfort women, has been the mechanism through which the government has contributed to various medical and welfare support projects for former comfort women. This fund was scheduled to close in March 2007.

The 2000 Basic Law for a Gender-Equal Society addresses the inequities between women and men in such areas as government, politics, and private sector employment. It also aims to support the efforts of women and men to harmonize work with their family and community lives, eliminate violence against women, and encourage respect for women's human rights. Pursuant to the law, a Council for Gender Equality was created to monitor enforcement; its high-level members included the Chief Cabinet Secretary, cabinet ministers, and Diet members knowledgeable about gender issues. During the year the council regularly met to examine and discuss basic policies on gender equality, monitor progress in achieving gender equality, and survey the impact of government policy on gender equality processes.

Children.—The government is committed to the rights and welfare of children, and in general children's rights were protected adequately.

The highest level of public school education provided is 12 years of schooling. Primary education is free and compulsory through the lower secondary level (age 15 or the 9th grade). Education was widely available to students who met minimum academic standards at the upper secondary level through age 18. Society places an extremely high value on education, and enrollment levels for both boys and girls through the upper secondary level exceeded 94.4 percent, according to the Ministry of Education, Culture, Sports, Science, and Technology. There were no differences in the treatment of girls and boys at any level of school.

The government provides universal health care for all citizens, including children.

Public attention focused increasingly on reports of frequent child abuse in the home. 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 obliges teachers, doctors, and welfare officials to report any suspicious circumstances to a nationwide local child counseling center or municipal welfare center.

The MHLW reported that from 2000, when the Child Abuse Prevention Law was enacted, through June 2003, 127 children died as a result of child abuse. In 2004, 51 children died after being abused, according to the NPA.

In 2003 there were 23,738 cases of child abuse, according to the Cabinet Office. In 2004 there were a record 26,569 cases, according to MHLW. Approximately 50 percent of the cases involved violence, and 40 percent were cases of parental neglect. Child welfare centers reported a record 26,573 calls in 2003, an increase of 2,800 calls from the previous year.

Trafficking of minors, teenage prostitution, dating for money, and child pornography continued to be problems. According to the government, during the year there were 1,582 sex-related crimes associated with Internet dating sites.

Trafficking in Persons.—The law prohibits holding persons in bondage, and the government employed a variety of labor and immigration statutes to carry out trafficking-related prosecutions. Revisions made during the year to the penal code defined and criminalized trafficking in persons and increased penalties for trafficking-related offenses.

In December 2004 the government released an action plan to combat trafficking in persons. Focusing on prevention, prosecution, and protection of trafficking victims, the government tightened the issuance of "entertainer" visas, strengthened immigration control, revised the penal code to make trafficking in persons a new category of crime, and enhanced the protection of victims through shelters, counseling, and repatriation assistance. The plan also modified the law regulating adult entertainment businesses to increase the responsibility of business owners to prevent foreign women working in that industry from being forced into prostitution.

The NPA reported 54 human trafficking investigations through November, compared with 79 in 2004. In 2004 the NPA reported 58 arrests and 48 prosecutions. The NPA improved its handling of trafficking cases and provided guidelines on victim identification and treatment to local police forces. The NPA also took concrete steps to increase cooperation with foreign law enforcement agencies on trafficking cases.

Trafficking of women and girls into the country was a problem. Women and girls, primarily from Thailand, the Philippines, and Eastern Europe, were trafficked into the country for sexual exploitation and forced labor. Women and girls from Colombia, Brazil, Mexico, South Korea, Malaysia, Burma, and Indonesia also were trafficked into the country in smaller numbers. The country was a destination for illegal immigrants from China who were trafficked by organized crime groups and held in debt bondage for sexual exploitation and indentured servitude in sweatshops and restaurants. The government reported that some smugglers used killings and abduction to enforce cooperation.

Although reliable statistics on the number of women trafficked to the country were unavailable, an Organization of American States report in February estimated that approximately 1,700 women per year were trafficked to Japan from Latin American and Caribbean countries. A significant number of those women were citizens of Colombia, Bolivia, Brazil, Mexico, and Peru. Of the 51 women from Southeast Asia and Eastern Europe confirmed to be victims during the year, there were 20 Filipinas, 17 Thais, 4 Indonesians, 4 Romanians, 3 Taiwanese, 1 South Korean, 1 Australian, and 1 Estonian.

There was evidence that trafficking took place within the country, as some recruited women subsequently were forced, through the sale of their "contracts," to work for other employers. Child prostitution was a problem (see section 5, Children).

Between January and June, police referred 29 trafficking cases to the public prosecutor, an increase of 16 from the same period last year. In 2004 the NPA arrested 41 individuals for trafficking-related offenses, 8 of whom were traffickers. Of these, 36 were convicted: 14 received prison terms, 17 received fines, and 5 received both a fine and prison term. During the year efforts were made to improve screening of travelers arriving in Japan from key source countries of trafficking and to tighten the issuance of entertainer visas, which were often used by traffickers. On May 15, the government began implementing more stringent rules on the issuance of entertainer visas to persons from the Philippines.

The government did not consistently consider an individual who had willingly entered into an agreement to work illegally in the country to be a trafficking victim, regardless of that person's working conditions. Thus, government figures understated the scope of the problem, as persons who agreed to one kind of work found themselves doing another kind or were subject to force, fraud, or coercion. However, the government made progress in victim identification through better training of law enforcement officials.

In previous years many women trafficked into the country entered legally on entertainer visas. Entertainers are not covered by the labor standards law and have no minimum wage protections.

Brokers in the countries of origin recruited women and "sold" them to intermediaries, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation often had ties to organized crime.

Women trafficked to the country generally were employed as prostitutes under coercive conditions in businesses licensed to provide commercial sex services. Sex entertainment businesses are classified as "store form" businesses, such as strip clubs, sex shops, hostess bars, and private video rooms, and as "nonstore form" businesses, such as escort services and mail order video services, which arrange for sexual services to be conducted elsewhere. According to NGOs and other credible sources, most women who were trafficked to the country for the purpose of sexual exploitation were employed as hostesses in "snack" bars and were required to provide sexual services off-premises.

Trafficking victims generally did not realize the extent of their indebtedness, the amount of time it would take them to repay the debts, or the conditions of employment to which they would be subjected upon arrival. According to Human Rights Watch, the passports of women trafficked to work in "dating" bars usually were confiscated by their employers, who also demanded repayment for the cost of the woman's "purchase." Typically, the women were charged \$28,570 to \$47,620 (3 million to 5 million yen), their living expenses, medical care (when provided by the employer), and other necessities, as well as "fines" for misbehavior added to the original "debt" over time. How the debt was calculated was left to the employers; the process was not transparent, and the employers reportedly often used the debt to coerce additional unpaid labor from the trafficked women. Employers also sometimes "resold," or threatened to resell, troublesome women or women found to be HIV positive, thereby increasing the victims' debts and possibly worsening their working conditions.

Many women trafficked into the sex trade had their movements strictly controlled by their employers and were threatened with reprisals, sometimes through members

of organized crime groups, to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. There were reports that some brokers used drugs to subjugate victims. Many trafficked women also knew that they were subject to arrest if found without their passports or other identification documents. Few spoke Japanese well, making escape even more difficult.

The government began to improve the training of law enforcement officials to develop better victim identification techniques and stress the criminal nature of trafficking. Nevertheless, there continued to be reports that police failed to identify victims adequately or declined to investigate suspected brokers when presented with information obtained from trafficking victims.

Tokyo Metropolitan and Kanagawa Prefectural governments funded locally based NGOs assisting victims of trafficking. The central government began to house trafficking victims in women's consultative centers and NGO shelters. Generally these trafficking victims were repatriated without being encouraged to testify against their captors. In 2004 the government administratively decided not to treat victims as immediately deportable criminals, which allowed it to develop cases against traffickers. Victims without documentation or sufficient funds to return to their country of origin were referred to the International Organization for Migration for assistance. Several NGOs throughout the country provided shelter, medical aid, and legal assistance to trafficking victims.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the government effectively enforced these provisions.

Persons with disabilities were not generally subject to overt discrimination in employment, education, or in the provision of other state services; however, they faced limited access to these services in practice. The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, has mandated that private companies with 300 or more employees hire a fixed minimum proportion of persons with disabilities. The penalty for noncompliance is a fine.

The law does not mandate accessibility to buildings for persons with disabilities; however, the law on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and tax benefits if they build wider entrances and elevators to accommodate persons with disabilities.

The Law to Promote the Employment of the Handicapped includes those with mental disabilities. The law loosened the licensing requirements for community support centers that promote employment for persons with disabilities, and it introduced government subsidies for the employment of persons with mental disabilities in part-time jobs. According to the MHLW, there were 257,939 workers with disabilities employed by private companies. This number represented 1.46 percent of the total number of regular employees, somewhat less than the legally stipulated rate of 1.8 percent. Several large corporations had special divisions for workers with disabilities, including Omron, Sony, and Honda. For example, 62 percent of Omron's Kyoto factory staff of 207 had disabilities, with the majority having severe disabilities. These employees earned an average of \$29 thousand (3 million yen) per year, which was above the minimum wage.

The government supported the right of persons with disabilities to participate in civic affairs.

National/Racial/Ethnic Minorities.—*Burakumin* (descendants of feudal era "outcasts"), Koreans, and alien workers experienced varying degrees of societal discrimination, some of it severe and longstanding.

The approximately three million *burakumin*, although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing and employment opportunities.

According to the Ministry of Justice, there were nearly 1.97 million legal foreign residents at the end of 2004. The largest group was ethnic Korean (607,419), followed by Chinese (487,570), Brazilian (286,557), and Filipino (199,394). Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) were subject to various forms of deeply entrenched societal discrimination. Harassment and threats against pro-North Korean organizations and persons reportedly have increased since the 2002 admission by North Korea that it had kidnapped more than a dozen Japanese citizens. Other foreigners also were subject to discrimination. There was a widespread perception among citizens that foreigners were responsible for many of the crimes committed in the country. According to a May 2004 government survey, more than 70 percent of citizens worried that an increase in the number of illegally em-

ployed foreign workers could undermine public safety and result in human rights abuses against the workers themselves. Nevertheless, more than 80 percent said the country should accept foreign laborers conditionally or unconditionally.

A controversial Immigration Bureau Web site launched in 2003 allows informants to report the name, address, or workplace of any suspicious foreigners for such reasons as “causing a nuisance in the neighborhood” and “causing anxiety.” Due to protests from human rights groups, the site was amended in March 2004 to remove the preset reasons, but it remained operational at year’s end.

By law aliens with five years of continuous residence are eligible for naturalization and citizenship rights, including the right to vote; however, in practice most eligible aliens chose not to apply for citizenship, partly due to fears that their cultural identity would be lost. Obstacles to naturalization included broad discretion available to adjudicating officers and great emphasis on Japanese-language ability. Naturalization procedures also require an extensive background check, including inquiries into the applicant’s economic status and assimilation into society. Koreans were given the option of adopting a Japanese surname. The government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society.

Indigenous People.—According to the government, there are no indigenous groups. However, the Ainu, descendants of the first inhabitants of the country, claim to be such a group. Under an 1899 law, the government pursued a policy of forced assimilation, imposing mandatory Japanese-language education and denying the Ainu their right to continue traditional practices. The law also left the Ainu with control of approximately 0.15 percent of their original land holdings and empowered the government to manage communal assets.

A 1997 law recognized the Ainu as an ethnic minority, required all prefectural governments to develop basic programs for promoting Ainu culture and traditions, canceled previous laws that discriminated against the Ainu, and required the government of Hokkaido to return Ainu communal assets. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido, failed to address whether they deserved special rights as a distinct ethnic group, and did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal minority. The UN Special Rapporteur to the UN Working Group on Indigenous Populations stated that the Ainu never had entered into a consensual juridical relationship with any state and noted that the lack of such an agreement deprived them of their rights. Many Ainu criticized the Law to Promote Ainu Culture for not advancing Ainu political rights, and they criticized the government for not providing funds for noncultural activities that would improve Ainu living conditions or financial status. Although Ainu-language newspapers, radio programs, and academic programs studying Ainu culture have increased, the Ainu continued to face societal discrimination.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements. Unions were free of government control and influence. Approximately 19.2 percent (10.3 million) of the total workforce was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. Collective bargaining is protected by law and was freely practiced. Unions have a right to strike, and workers exercised this right in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred with adult workers (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law bans the exploitation of children in the workplace, and the government effectively implemented the law. The MHLW is responsible for enforcement. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. Child labor was not a problem. By law children under the age of 15 may not be employed, and those under age 18 may not be employed in dangerous or harmful jobs. An exception is made for children in the entertainment industry, who may begin work at age 13.

e. Acceptable Conditions of Work.—Minimum wages are set on a regional (prefectural) and industry basis, with the input of tripartite (workers, employers, public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages was considered

widespread. Minimum wage rates ranged, according to prefecture, from \$5.77 (606 yen) to \$6.76 (710 yen) per hour. The minimum daily wage provided a decent standard of living for a worker and family.

The law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked over 40 in a week or 8 in a day. However, it was widely accepted within the population that workers, including those in government jobs, routinely exceeded the hours outlined in the law. Labor unions frequently criticized the government for failing to enforce maximum working hour regulations.

Activist groups claimed that employers exploited or discriminated against illegal foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. The government tried to reduce the inflow of illegal foreign workers by prosecuting employers of such workers. The law provides for penalties against employers of undocumented foreign workers. Maximum fines for illegal employment assistance were raised to \$29 thousand (3 million yen) in December 2004. The government continued to study the illegal foreign worker problem, and several citizens' groups were working with illegal foreign workers to improve their access to information on worker rights.

The government set occupational health and safety standards. The Ministry of Labor effectively administered various laws and regulations governing occupational health and safety. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

KIRIBATI

Kiribati is a constitutional multiparty republic with a population of approximately 92 thousand. The country has a popularly elected president and a legislative assembly of 42 members: 40 are elected by universal adult suffrage, the Rabi Island council of I-Kiribati (persons of Kiribati ancestry) in Fiji selects 1, and the attorney general is an ex officio member. The president exercises executive authority and is elected for a four-year term. The legislative assembly nominates at least three, and no more than four, presidential candidates from among its members. The most recent parliamentary and presidential elections, held in May and July 2003 respectively, were considered generally free and fair. Anote Tong of the Boutokan te Koaua party was elected president. Elected village councils run local governments in consultation with traditional village elders. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. The following human rights problems were reported:

- instances of extrajudicial communal justice
- some limits on press freedom
- violence and discrimination against women
- child abuse and child prostitution

RESPECT FOR HUMAN RIGHTS

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

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

In October 2004 at the direction of a traditional local council, a mob on an outer island burned numerous buildings and killed a man. Those involved in the killing were arrested and tried. In February and July the High Court convicted three persons of murder in the case, including the village elder who instigated the attacks. All three were sentenced to life imprisonment.

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. Traditional village practice permits corporal punishment for criminal acts and other transgressions. On some outer islands village associations occasionally ordered strokes with palm fronds to be administered for public drunkenness and other minor offenses, such as petty theft.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. Children under age 16 were not incarcerated. There was no separate facility for juvenile offenders age 16 or older. Juveniles age 16 to 17 generally may be detained no longer than a month in the adult facility. However, for more serious offenses, such as murder, juveniles over the age of 16 can be held in custody for more than a month and can be sentenced to longer terms. Pretrial detainees who did not meet bail were housed with convicted prisoners.

Family members and church representatives were allowed access to prisoners. Diplomats and senior judicial officials visited the prisons, including some unannounced visits, and reported no problems.

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 commissioner of police and prisons, who reports directly to the Office of the President, heads the police force. There are three superintendents under the commissioner responsible, respectively, for crime and security, prisons, and administrative functions. The force consisted of approximately 300 police officers and 44 correctional officers, and was reasonably effective in maintaining law and order. Police corruption and impunity generally were not serious problems. The police commissioner is responsible for investigating allegations of police misconduct, and police officers occasionally were dismissed.

Arrest and Detention.—In most cases magistrates issue warrants before an arrest is 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. During the year one individual was held for several weeks without being charged. 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 themselves. Two police officers must be present at all times during questioning of detainees, who also are provided the option of writing and reviewing statements given to police. Many individuals were released on their own recognizance pending trial, and bail was granted routinely for many offenses. Detainees were allowed prompt access to legal counsel.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary consists of magistrates' courts, the High Court, and the Court of Appeal.

Trial Procedures.—The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. There is no trial by jury. An accused person must be informed of the charges and be provided adequate time and facilities to prepare a defense. The law also provides for the right to confront witnesses, present evidence, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation. Procedural safeguards are based on British common law and include the presumption of innocence until proven guilty.

Cases of 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. However, the incidence of this practice was declining under pressure from the codified national law. There were reports that in extreme cases, those deemed guilty may be banished from an island or even killed (see section 1.a.).

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and with some limitations, the government generally respected these rights in practice. Under the Newspaper Registration Act, newspapers are required to register with the government. In July the information minister and the attorney general publicly admonished the government-owned Broadcasting and Publications Authority (BPA) for airing stories critical of the government, including accusations of corruption. The attorney general stated that the law that created the BPA did not provide for the right of its journalists to carry out investigative reporting.

In December a journalist for Radio Kiribati reportedly was dismissed after refusing to reveal his sources for a report about a case of alleged corruption involving the auditor general.

The country had three weekly newspapers: one government owned, one church owned, and one privately owned. The government also owned AM and FM radio stations in Tarawa. There was one privately owned FM radio station. Churches published newsletters and other periodicals.

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

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The police refused to issue a permit for one demonstration during the year, citing the possibility of violence.

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

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

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. The law prohibits government restrictions on citizens' freedom of movement; however, it does not restrict such actions by village councils.

The law provides for the forced expulsion from the country of a convicted person, if "in the interests of" defense, public safety, order, morality, health, or environmental conservation. The government has not used forced exile. However, on rare occasions village councils have banished persons from a specific island within the country, usually for a fixed period of time. The legality of this form of punishment has never been challenged.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. There were no applications for refugee resettlement or asylum during the year, and the country had no formal association with the Office of the UN High Commissioner for Refugees.

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

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

Elections and Political Participation.—The most recent parliamentary elections were held in May 2003. Then-opposition leader Anote Tong of the Boutokan Te Koaoua party was elected president in July 2003. The elections were considered generally free and fair. The government party and allied independents together held 25 legislative seats. Candidates and parties were free to stand for election. There were no government restrictions on political opponents.

There were 2 women, including the vice president, in the 42-member Parliament, and the head of the civil service was a woman. No women sat on the High Court.

Members of minorities have held cabinet positions in the past. The president and several members of Parliament were of mixed descent.

Government Corruption and Transparency.—Nepotism, based on tribal, church, and family ties, is prevalent. The auditor general (AG) is responsible for oversight of government expenditures. However, in reality the AG lacked sufficient resources, and findings of misappropriations and unaccounted-for funds were generally ignored, or the investigations were inconclusive.

In July the speaker of parliament defended himself against accusations of corruption following media revelations that he had taken his driver to a meeting in Taiwan at taxpayers' expense.

No specific law provides for citizen or media access to government information. In practice the government was fairly responsive to individual requests for information.

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

There were no restrictions on the formation of local human rights nongovernmental organizations, but none have been formed. There were no restrictions on op-

erations by international human rights groups. Government officials were cooperative and responsive to their views.

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

The law prohibits discrimination on the basis of race, creed, national origin, or sex, and the government observed these prohibitions in practice; however, only native I-Kiribati may own land. Society is fundamentally egalitarian and has no privileged class.

Women.—Spousal abuse and other forms of violence against women were significant problems. Alcohol abuse frequently was a factor in attacks on women. The law does not address domestic violence specifically, but general common law and criminal law make assault in all forms illegal. Rape, including spousal rape, is a crime, and the law was enforced when charges were brought to court. However, prosecutions for rape and domestic assault were infrequent, largely due to cultural taboos on reporting such crimes.

Prostitution is not illegal, and child prostitution was highlighted as a problem by the UN Children's Fund and other international NGOs (see section 5, Children). Procuring sex and managing brothels are illegal; however, in many instances police did not actively enforce the law. The law does not specifically prohibit sex tourism. There were multiple reports of Korean fishermen engaging in sexual acts with minors (see section 5, Children). Obscene or indecent behavior is banned.

The law does not prohibit sexual harassment. It sometimes occurred but generally was not regarded as a major problem.

The law prohibits discrimination based on sex; however, the traditional culture, in which men are dominant, impeded a more active role for women in the economy. Nevertheless, women were slowly finding work in unskilled and semiskilled occupations. Women filled many government office and teaching positions. The law prohibits night work by women except in seven occupations, including health worker, business manager, and hotel, bar, and restaurant worker; however, there were no reported prosecutions based on this ordinance. 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 full rights of ownership and inheritance of property as well as full and equal access to education.

Children.—Within its limited financial resources, the government made adequate expenditures for child welfare. Primary education is compulsory, free, and universal for children between the ages of 6 and 14 years. In practice the government did not enforce primary school attendance. According to the Department of Statistics, 93.5 percent of all school-age children attended primary school. Boys and girls had similar attendance rates. The approximately 40 percent of primary school graduates who pass a national examination qualify for 3 additional years of subsidized junior secondary and 4 years of subsidized senior secondary education; a small fee was charged to other students who wished to matriculate at these levels.

The government provided free medical services for children.

Chronic alcohol abuse leading to child abuse (physical and occasionally sexual) and neglect continued to be a problem. Early in the year the police established a unit specifically focused on child and family violence.

A study conducted in June by the National Youth Commission of the Republic of Korea and a Korea-based children's rights group reported commercial sexual exploitation of underage girls by crew members of Korean fishing vessels that stopped in Kiribati. Some of the girls worked as prostitutes in bars frequented by crew members. According to the study, the girls generally received cash or goods in exchange for sexual services.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law does not specifically prohibit discrimination against persons with disabilities; however, there were no complaints of discrimination in employment, education, or the provision of other state services for persons with mental or physical disabilities. Accessibility of buildings for persons with disabilities has not been mandated; special accommodations for persons with disabilities were basically nonexistent.

The central hospital on Tarawa had a wing for persons with mental disabilities, and there was a psychiatrist working on Tarawa. Foreign-based aid workers and the World Health Organization cooperated with the Ministry of Health to conduct outer-island workshops for health workers.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association, and workers are free to join and organize unions; workers exercised these rights in practice.

More than 80 percent of the adult workforce was occupied in fishing or subsistence farming. The small wage-earning workforce had a relatively strong and effective trade union movement. An estimated 10 percent of wage-earning workers were union members. There were no official public sector trade unions, but nurses and teachers belonged to voluntary employee associations similar to unions and constituted approximately 30 to 40 percent of total union and association membership.

b. The Right to Organize and Bargain Collectively.—The law protects workers from employer interference in their right to organize and administer unions. The government did not control or restrict union activities; however, unions must register with the government. The law provides for collective bargaining. The government sets wages in the large public sector. However, in a few statutory bodies and government-owned companies, employees could negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers. In keeping with tradition, negotiations generally were nonconfrontational. There were no reports of antiunion discrimination, and there were mechanisms to resolve any complaints that might arise.

The law provides for the right to strike, but strikes are rare; the last one took place in 1980.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. The prohibition does not mention specifically forced and compulsory labor by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under age 14. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Labor officers from the Ministry of Labor and Human Resources Development generally enforced these laws effectively. Children rarely were employed outside the traditional economy.

Underage girls were solicited for prostitution (see section 5).

e. Acceptable Conditions of Work.—The wage-earning workforce consisted of approximately eight thousand persons, mostly employed on the main atoll of Tarawa, the political and commercial capital. The remainder of the working population works within a subsistence economy. There is no official minimum wage, but the labor ministry estimated the “non-legislated” minimum to be between \$1.20 and \$1.28 (A\$1.60 to A\$1.70) per hour in practice. There is provision for a minimum wage at ministerial discretion, but it has never been implemented. In 2004 the Asian Development Bank reported that approximately one half of the population lived below the national basic needs poverty line. Income tended to be pooled within individual extended families. The standard wage income provided a marginally decent standard of living for a worker and family. There is no legislatively prescribed workweek. Workers in the public sector (80 percent of the wage-earning workforce) worked 36¼ hours per week, with overtime pay for additional hours.

Employment laws provide rudimentary health and safety standards for the workplace. For example, employers must provide an adequate supply of clean water for workers and ensure the availability of sanitary toilet facilities. Employers are liable for the expenses of workers injured on the job. However, a lack of qualified personnel hampered the government’s ability to enforce employment laws. Workers do not have the right to remove themselves from hazardous work sites without risking loss of employment.

DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA ¹

The Democratic People’s Republic of Korea (DPRK or North Korea) is a dictatorship under the absolute rule of Kim Jong Il, general secretary of the Korean Work-

¹ Note on Sourcing: The 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 fully assess human rights conditions or confirm reported abuses. This report is based on information from interviews, press reports, nongovernmental organizations (NGOs) reports, and refugee tes-

ers' Party (KWP). It has an estimated population of 22.7 million. In 1998, the Supreme People's Assembly reconfirmed Kim as chairman of the National Defense Commission (NDC) and designated that position the "highest office of state." Kim's father, the late Kim Il Sung, was declared "eternal president." The titular head of state is Kim Yong Nam, the president of the Presidium of the Supreme People's Assembly (SPA). Elections for the 687-member assembly, held every five years, were last held in August 2003. Only the KWP and two small satellite parties participated, and the elections were not free. There was no civilian control of the security forces, and members of the security forces have committed numerous serious human rights abuses.

The government's human rights record remained extremely poor, and the regime continued to commit numerous serious abuses. The regime subjected citizens to rigid controls over many aspects of their lives. The following human rights abuses have been documented or alleged over the years:

- abridgement of the right to change the government
- extrajudicial killings, disappearances, and arbitrary detention, including many political prisoners
- harsh and life-threatening prison conditions
- torture
- forced abortions and infanticide in prisons
- lack of an independent judiciary and fair trials
- denial of freedom of speech, press, assembly, and association
- government attempts to control all information
- denial of freedom of religion, freedom of movement, and worker rights
- severe punishment of some repatriated refugees

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Defector and refugee reports over several years indicated that the regime executed political prisoners, opponents of the regime, some repatriated defectors, and others, including military officers suspected of espionage or of plotting against Kim Jong Il. In April 2004 the government enacted a new penal code by decree of the Supreme People's Assembly Presidium. The new code prescribes the death penalty for the most "serious" or "grave" cases of four "antistate" or "antination" crimes: active 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; and, suppressing the people's movement for national liberation. In the past, prisoners were sentenced to death for such ill-defined "crimes" as "ideological divergence," "opposing socialism," and "counterrevolutionary crimes." In March a video allegedly filmed in the country depicting the public execution of three men was released on the Internet. The men were sentenced on charges of trafficking in persons; however, the international media alleged the men were accused of helping a refugee cross the border into China. The same video segment was aired as part of a CNN broadcast in November. In the past, border guards reportedly had orders to shoot to kill potential defectors. Similarly, according to refugees in past years, prison guards were under orders to shoot to kill those attempting escape from political prison camps.

Religious and human rights groups outside the country alleged that North Koreans who had contact with foreigners across the Chinese border had been imprisoned or killed (see section 2.c.). However, anecdotal evidence from refugees suggested that refugees forcibly repatriated from China were generally being treated less harshly now than in past years.

As recently as 2004, defectors reported that pregnant female prisoners underwent forced abortions and in other cases babies were killed upon birth in prison camps. Prisoners reportedly continued to die from beatings, disease, starvation, or exposure (see section 1.c.).

timony obtained over the past decade, and supplemented where possible by information drawn from more recent reports from visitors to the country and NGOs working on Chinese border. Refugee testimony is often dated because of the time lapse between refugee departures from North Korea and contact with NGOs able to document human rights conditions. The report cites specific sources and time frames wherever possible, and reports are corroborated to the best of our ability. While limited in detail, the information in this report is indicative of the human rights situation in North Korea in recent years.

b. Disappearance.—The government was responsible for cases of disappearance. Defectors in recent years claimed that individuals suspected of political crimes often were taken from their homes by state security officials and sent directly, without trial, to camps for political prisoners. There are no restrictions on the ability of the government to detain and imprison persons at will and to hold them incommunicado.

Numerous reports indicated that ordinary citizens were not allowed to mix freely with foreign nationals. Amnesty International (AI) reported in past years that a number of citizens who maintained friendships with foreigners have disappeared.

In 2002 the government acknowledged the involvement of DPRK “special institutions” in the kidnappings of 13 Japanese nationals between 1977 and 1983, and stated that those involved had been punished. Five surviving victims were allowed to visit Japan in October 2002 and decided to remain there. Japan continued to seek an accounting for 11 officially designated Japanese abductee cases of citizens said by the DPRK to be dead or never to have entered North Korea. Japan also hoped to gain answers regarding other cases of suspected abductions of Japanese nationals. In December the DPRK and Japan agreed to resume bilateral talks to include the abduction issue.

Credible reports indicated that other nationals were also kidnapped from locations abroad. However, the government continued to deny its involvement in the kidnappings of non-Japanese citizens.

The Republic of Korea (ROK or South Korea) government estimated approximately 485 civilian South Koreans were abducted or detained by the DPRK since the 1950–53 Korean War. A number of South Korean prisoners of war (POWs) and missing in action were also believed to remain in the DPRK. In August DPRK and ROK Red Cross officials met to discuss the issue of ROK abductees and POWs, but the issue remained unresolved.

In March AI reported that North Korean defector Kang Gun may have been kidnapped from China by North Korean agents. The ROK reported it did not have information on this case.

In April alleged North Korean agent Yoo Young-hwa was sentenced by an ROK court to 10 years in prison for his role in the abduction of Kim Dong Shik. Kim, a missionary who worked with North Korean refugees in China, disappeared from his home near the China-DPRK border in 2000. He allegedly was kidnapped by North Korean agents for assisting in the resettlement of DPRK refugees in the ROK. Kim’s whereabouts remained unknown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The penal code prohibits torture or inhumane treatment; however, many sources continued to confirm its practice. According to a 2003 report by the US Committee for Human Rights in North Korea (USCHRNC), torture was “routine” and “severe.” Methods of torture reportedly included severe beatings, electric shock, prolonged periods of exposure, 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 one’s wrists, being forced to stand up and sit down to the point of collapse, and forcing mothers recently repatriated from China to watch the infanticide of their newborn infants. Defectors continued to report that many prisoners died from torture, disease, starvation, exposure, or a combination of these causes.

In September a refugee reported that she lost the use of her feet due to severe beatings she received by North Korean police for attempting to leave the country.

In 2003 Kim Yong, a former police lieutenant colonel, told USCHRNC that as an inmate in a political prison camp in the 1990s, he had been forced to kneel for long periods with a steel bar placed between his knees and calves, suspended by his handcuffed wrists, and submerged in waist-deep cold water for extended periods.

Over the years there have been unconfirmed reports from a few defectors alleging the testing on human subjects of a variety of chemical and biological agents up through the early 1990s.

According to reports from refugees who fled the DPRK in the last five years, North Korean officials continued to prohibit live births in prison, and forced abortions were performed, particularly in detention centers holding women repatriated from China. According to defectors, in at least some cases of live birth, the child was killed or left for dead by prison guards. In addition guards reportedly sexually abused female prisoners.

Prison and Detention Center Conditions.—An estimated 150 thousand to 200 thousand persons were believed to be held in detention camps in remote areas, including for political reasons. NGO, refugee, and press reports indicated that there were several types of camps, and separate camps reportedly existed for political prisoners.

Using commercial satellite imagery to bolster their assertions about the existence of the camps and point out their main features, defectors claimed the camps covered areas as large as 200 square miles. The camps contained mass graves, barracks, work sites, and other prison facilities. The government continued to deny the existence of political prison camps. In recent years the government reportedly reduced the total number of prison camps from as many as 20 to fewer than 10, but the prison population appeared to have been consolidated rather than reduced.

Reports indicated that conditions in the camps for political prisoners were extremely harsh and many prisoners were not expected to survive. In the camps, prisoners received little food and no medical care.

Reeducation through labor was a common punishment, consisting of forced labor, such as logging, mining, or tending crops under harsh conditions. Reeducation involving memorizing speeches by Kim Jong Il and forced self-criticism sessions focused on work performance were also a standard practice. In the past, visitors to the country observed prisoners being marched in leg irons, metal collars, or shackles. According to refugees, in some places of detention prisoners were given little or no food and were denied medical care. Sanitation was poor, and refugees who escaped from labor camps continued to report that they were rarely able to bathe or wash their clothing, nor were they given changes of clothing during months of incarceration.

The government did not permit inspection of prisons or detention camps by human rights monitors.

d. Arbitrary Arrest or Detention.—In 2004 the penal code was revised to reflect the principle of *nullum crimen sine lege* (no crime without a law), a shift from the past position, which conferred powers on the authorities to criminalize acts not covered by the criminal code by means of “analogous interpretation” of the law. According to UN reports, the government also published a compendium of laws for general distribution, but gaps remained between principles and practice.

Role of the Police and Security Apparatus.—The omnipresent internal security apparatus includes the Ministry of Public Security (MPS) and the State Security Department. Members of security forces committed numerous serious human rights abuses including arresting and transporting political prisoners to prison camps without trial and participating in torture and other cruel and unusual punishment of prisoners in prison camps. Reports of diversion of food aid to the military and regime officials and of official quid-pro-quo bribery were indicative of corruption in the security forces.

Arrest and Detention.—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 reportedly 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.

Entire families, including children, reportedly have been imprisoned when one member of the family was accused of a crime (see section 1.f.).

Amnesty.—On August 15, the regime announced amnesties of an unknown number of persons in honor of the 60th anniversary of Korean liberation. Criminals were occasionally amnestied on Kim Il Sung’s (April 15) or Kim Jong Il’s (February 16) birthdays.

e. Denial of Fair Public Trial.—The constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary did not exist. The constitution mandates that the central court is accountable to the Supreme People’s Assembly, and the criminal code subjects judges to criminal liability for handing down “unjust judgments.” Furthermore, individual rights are not acknowledged.

Trial Procedures.—The public security ministry dispensed with trials in political cases and referred prisoners to the State Security Department for punishment. Little information was available on formal criminal justice procedures and practices, and outside access to the legal system has been limited to show trials for traffic violations and other minor offenses.

The constitution contains elaborate procedural protections, stating that cases should be heard in public, except under some 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 crimes and common criminals and claimed that the government offered trials and lawyers only to the latter. There was no indication that independent, nongovernmental defense lawyers existed.

Political Prisoners.—The government considered critics of the regime to be political criminals. Reports from past years described political offenses as including sitting on newspapers bearing Kim Il Sung's picture, mentioning Kim Il Sung's limited formal education, or defacing photographs of the Kims.

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 informers to identify critics and potential troublemakers. Entire communities sometimes were subjected to security checks. The possession of "antistate" material and listening to foreign broadcasts are crimes that could subject the transgressor to harsh punishments, 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 very restricted circumstances. Reportedly there were several separate phone networks: one was for international calls, which was available to foreigners; another allowed embassies to communicate with DPRK ministries and organizations; and a third served the domestic needs of citizens. Foreign diplomats in Pyongyang stated that the local network was further subdivided so phone use remained a privilege. Although a government-controlled cellular phone network exists, cell phone use was banned for the general population in the aftermath of the April 2004 train explosion at Ryongchon. During the year the network officially remained closed, although visitors to Pyongyang reported observing an increased number of persons with cell phones. NGOs also reported that migrants were able to obtain cell phones across the border in China and used them on a limited basis in border areas of the DPRK on the Chinese network. Foreigners were allowed to have North Korean mobile phones, although in practice few do.

Reports from previous years indicated that persons had been placed under surveillance through their radio sets. Allegations continued to circulate that imprisonment and execution had been ordered for individuals who made statements at home that were critical of the regime.

In the late 1950s the regime began dividing society into three classes: "core," "wavering," and "hostile." Security ratings were assigned to individuals; according to some estimates, nearly half of the population was designated as either "wavering" or "hostile." Loyalty ratings determined access to employment, higher education, place of residence, medical facilities, and certain stores. They also affected the severity of punishment in the case of legal infractions. Citizens with relatives who fled to the ROK at the time of the Korean War were classified as part of the "hostile class." Between 20 and 30 percent of the population was considered potentially hostile. Members of this class were subject to discrimination, although defectors reported their treatment had improved in recent years. Indirect evidence in recent years—for example, favorable portrayals of persons with bad class backgrounds who were hard workers—suggested that the regime wished to moderate its stance. Economic reforms may also have eroded rigid loyalty-based class divisions to some extent, although growing economic disparities have also resulted from price and wage reforms. In his August report, the UN special rapporteur on the situation of human rights in North Korea stated that "while this practice may have been abolished in law, it seems to persist and is implied by the testimonies of those who leave the country in search of refuge elsewhere."

Citizens of all age groups and occupations remained subject to intensive political and ideological indoctrination. The cult of personality of Kim Jong Il and his father remained important ideological underpinnings of the regime, at times seeming to resemble tenets of a state religion. Faced with famine and the succession process in the mid-1990s, Kim Jong Il's regime increasingly emphasized a "military first" policy to gradually replace *juche* (often described as extreme self-reliance) as the de facto ruling logic. However, *juche* still remained an important ideological concept. Indoctrination was intended to ensure loyalty to the system and the leadership, as well as conformity to the state's ideology and authority.

Indoctrination was carried out systematically through the mass media, schools, and worker and neighborhood associations. According to North Korean media, Kim Jong Il frequently told officials that ideological education must take precedence over academic education in the nation's schools. He also repeated past calls for the intensification of mandatory ideological study and discussion sessions for adult workers. Indoctrination continued to involve mass marches, rallies, and staged performances, sometimes including hundreds of thousands of persons.

Collective punishment reportedly was practiced in the past. Entire families, including children, have been imprisoned when one member of the family was accused of a crime. In November 2003 an investigator for a human rights NGO said that punishment could involve imprisonment of three generations for life at hard labor. Refugees have also documented this practice in prior years.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press; however, the government prohibited the exercise of these rights in practice. Articles of the constitution that require citizens to follow “socialist norms of life” and to obey a “collective spirit” again took precedence over individual political and civil liberties.

The constitution provides for the right to petition. However, when anonymous petitions or complaints about state administration were submitted, the State Security Department and Ministry of Public Security sought to identify the authors, who could be subjected to investigation and punishment.

The government sought to control virtually all information. The government carefully managed visits by foreigners, especially foreign journalists. In April 2004 the government denied journalists access to the scene of a train explosion at Ryongchon station that killed hundreds of persons, although foreign diplomats were granted access. On occasion, when it served its agenda, the government allowed foreign media to cover certain events, including the 60th anniversary celebration of the KWP founding and the annual Arirang festival. During visits by foreign leaders, groups of foreign journalists were permitted to accompany official delegations and to file reports. During the year numerous reports indicated that the DPRK granted more visas for known journalists, particularly at times that coincided with high-profile events. In August CNN founder Ted Turner visited the DPRK and met with Kim Yong Dae, vice president of the Presidium of the SPA. CNN reporter Mike Chinoy accompanied Mr. Turner and interviewed Vice Foreign Minister Kim Gye Gwan. In all cases journalists were strictly monitored. They generally were not allowed to talk to officials or to persons on the street, and cellular or satellite phones had to be held at the airport for the duration of a visitor’s stay.

Domestic media censorship continued to be enforced strictly, and no deviation from the official government line was tolerated. In 2004 Reporters Without Borders (RWB) reported that a state radio journalist was punished for mistakenly referring to a deputy minister as minister. He reportedly was sent to a “revolutionization” camp for several months. The regime prohibited listening to foreign media broadcasts except by the political elite, and violators were subject to severe punishment. Radios and television sets, unless altered, received only domestic programming; radios obtained from abroad must be altered to operate in a similar manner. RWB reported that in 2004 authorities designated radio sets as “new enemies of the regime,” after human rights activists announced their intention to send transistor radios by balloon into the country. During the year there was evidence that radios were more accessible than in the past, due primarily to corrupt border guards. Some NGOs have reported that more defectors said they had listened to foreign broadcasts than in previous years.

Some deluxe hotels in Pyongyang offered Internet service in the rooms of foreign visitors when it was ordered in advance, but for citizens Internet access was provided only to high-ranking officials and other designated elites, including select university students. This access was granted via international telephone lines through a provider in China, as well as a new local connection that was linked with a German server. Reporting from foreign diplomats indicated that North Koreans employed by foreign organizations and missions in Pyongyang have considerable access to the Internet. NGO and press reports claimed that the DPRK established an “intranet” in 2004, available to a slightly larger group of users including an elite grade school, selected research institutions, universities, factories, and a few individuals. The Korean Communication Corporation acts as the gatekeeper, downloading only acceptable information for access through the intranet. RWB reported that some e-mail access existed through this network.

The government has long restricted academic freedom and controlled artistic and academic works. A primary function of plays, movies, operas, children’s performances, and books was to buttress the cult of personality surrounding Kim Il Sung and Kim Jong Il.

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 without prior authorization.

Freedom of Association.—The constitution provides for freedom of association; however, the government failed to respect this provision in practice. There were no known organizations other than those created by the government. Professional associations existed primarily to facilitate government monitoring and control over organization members.

c. Freedom of Religion.—The constitution provides for “freedom of religious belief;” however, in practice the government severely restricted religious freedom, including organized religious activity, except that which was supervised by officially recognized groups linked to the government. The law also stipulates that religion “should not be used for purposes of dragging in foreign powers or endangering public security.” There was no change in the poor level of respect for religious freedom during the year, and genuine religious freedom did not exist.

The personality cult of Kim Il-Sung and Kim Jong-Il remained a virtual civil religion that provided a spiritual underpinning for the regime. Refusal on religious or other grounds to accept the leader as the supreme authority exemplifying the state and society’s needs was regarded as opposition to the national interest and continued to result in severe punishment.

According to a South Korean press report, in 2002 the chairman of the Association of North Korean Catholics stated that the Catholic community in the North had no priests but held weekly prayer services at the Changchung Catholic church in Pyongyang. In its 2002 report to the UN Committee on Human Rights, the government reported the existence of 500 “family worship centers,” although the existence of such centers has not been independently confirmed. Some unconfirmed reports indicated that such worship centers were tolerated as long as they did not openly proselytize or have contact with foreign missionaries. There continue to be unconfirmed reports of underground Christian churches.

Most of the 300 Buddhist temples in the country were regarded as cultural relics, but in some of them religious activity was permitted. Monks reportedly resided at a few temples that were being restored, although they were expected to serve primarily as guides for South Korean tourists.

Several schools for religious education existed in the country, including three-year religious colleges for training Protestant and Buddhist clergy. A religious studies program also was taught at Kim Il Sung University. In 2000 a Protestant seminary was reopened with assistance from foreign missionary groups. In 2003, construction reportedly was completed on the Pyongyang Theological Academy, a graduate institution for pastors and evangelists.

Several government-sponsored religious organizations served as interlocutors with foreign church groups and international aid organizations. Foreigners who met with representatives of these organizations reported that some were genuinely religious, but noted others appeared to have little knowledge of religious doctrine or teachings. During the year the Korea Institute for National Unification’s (KINU) white paper on human rights in North Korea indicated that the regime utilized authorized religious entities for external propaganda and political purposes and that local citizens were strictly barred from entering their places of worship. Ordinary citizens considered such sites to be primarily “sightseeing spots for foreigners.”

Many religious figures have visited the country in recent years, including papal representatives and religious delegations from foreign countries. In June Venerable Beop Jang, the chair of the national council on religious leaders in the ROK, traveled to Pyongyang to mark the fifth anniversary of the Inter-Korean summit.

Overseas religious relief organizations have been active in responding to the country’s food crisis; however, they have been denied access to many areas of the country and their movement restricted and closely monitored. Some foreigners who visited the country stated that church services contained political content supportive of the regime in addition to religious themes.

Members of government-controlled religious groups did not appear to suffer discrimination. Some reports claimed, and circumstantial evidence suggested, that many have been mobilized by the regime. There were unconfirmed reports that the nonreligious children of religious believers may be employed at midlevels of the government. In the past, such individuals suffered broad discrimination with sometimes severe penalties or even imprisonment.

According to some defectors, the regime has increased repression and persecution of unauthorized religious groups in recent years. These defectors reported that persons engaging in religious proselytizing, persons with ties to overseas evangelical groups operating across the border in China, and specifically, persons repatriated and found to have contacted Christian missionaries outside the country have been arrested and subjected to harsh punishment. During the year ROK media reports, including testimony from a North Korean who defected in 2003, asserted that North Koreans who received help from churches inside China were considered political

criminals and received harsher treatment. This has included imprisonment, prolonged detention without charge, torture, and execution. According to defector reports, the government was concerned that faith-based South Korean relief and refugee assistance efforts along the northeast border of China had both humanitarian and political goals, including overthrow of the regime.

Religious and human rights groups outside the country continued to provide numerous unconfirmed reports that members of underground churches have been beaten, arrested, detained in prison camps, tortured, or killed because of their religious beliefs. Members of underground churches connected to border missionary activity were regarded as subversive elements.

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

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for the “freedom to reside in or travel to any place”; however, the government did not respect these rights in practice. During the year the regime continued to attempt to control internal travel. Numerous reports, including the UN special rapporteur’s August report, suggested that internal travel rules were relaxed to allow citizens to search for food, conduct local market activities, or engage in enterprise-to-enterprise business activities.

Only members of a very small elite and those with access to remittances from overseas had access to personal vehicles, and movement was hampered by the absence of an effective transport network and by military and police checkpoints on main roads at the entry to and exit from every town. Use of personal vehicles at night and on Sundays was severely restricted. For a period of a few weeks early in 2004, the government also restricted the use of bicycles to major roads in Pyongyang. The bicycle ban, while explained as a security measure following a streetcar accident, was seen as an attempt to further control movement.

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.

The regime only issued exit visas for foreign travel to officials and trusted businessmen, artists, athletes, academics, and religious figures. Short-term exit papers were available for some individuals seeking to engage in small-scale trade and residents on the Chinese border to enable visits with relatives in bordering regions of China.

In the past, the government engaged in forced internal resettlement to relocate tens of thousands of persons from Pyongyang to the countryside. Sometimes this occurred as punishment for offenses, although 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, have been sent out of Pyongyang into internal exile. Since most of these persons were sent out in the past, there was no indication that this practice continued on a large scale.

The government did not allow legal emigration, although officials in border areas reportedly often have taken bribes from, or simply let pass, persons crossing the border with China without required permits. During the year, periodic crack-downs on this practice, with a stepped-up military presence along the border, were reported in official media.

Substantial numbers of North Koreans crossed the border into China over the years, and tens of thousands were estimated to live there during the year. Some settled semipermanently in Northeastern China, others traveled back and forth across the border, and still others seek asylum and permanent resettlement in third countries. Approximately 1,300 North Koreans were permanently resettled in the ROK after transiting through other Asian countries during the year. There was evidence that the number of North Koreans crossing into China declined during the year.

China considered North Koreans to be illegal economic migrants, denied the office of the UN High Commissioner for Refugees (UNHCR) access to this population, and detained and deported an estimated few hundred North Koreans to the DPRK each month. In April China reportedly repatriated 30 North Koreans following a visit by North Korean Vice Foreign Minister Kang Sok Ju. In October China repatriated seven North Koreans who had sought refuge at a Korean international school.

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 subjected to indefinite terms of imprisonment and forced labor, confiscation of property, or death. Many would-be refugees who were returned involuntarily have been imprisoned under harsh conditions (see section 1.a.). Some sources indicated that the harshest treatment was reserved for those who had extensive contact with foreigners. In October the ROK press reported that seven North Korean refugees who tried to cross the border from China into Russia in 2000 and were subsequently deported to the DPRK were imprisoned in a camp, where several died.

Regulations under the 2004 penal code may be aimed at differentiating between defectors and the migrants who illegally leave the country to seek economic opportunities in China. Sentences of up to two years of “labor correction” for the lesser crime of illegally crossing the border are stipulated. Reports from defectors indicated that as recently as 2003 the regime was differentiating between persons who crossed the border in search of food, who might be sentenced only to a few months of forced labor, and persons who crossed repeatedly or for political purposes, who were sometimes sentenced to heavy punishments. According to the UN special rapporteur’s August report, there was a new policy to enable persons leaving the country for nonpolitical reasons to return to the DPRK with the promise of a pardon under the 2004 penal code. Other NGO reports indicated that North Koreans returning from China were often able to bribe North Korean border guards into letting them freely pass across the border. Several NGOs operating in the region confirmed that the punishments seemed to be less severe than in the past.

AI reported that in September 2004 Chang Gyung Chul and Chang Gyung Soo were sentenced to 10 years’ imprisonment for their unauthorized exit from the country. Their cousin Chang Mi Hwa reportedly was sentenced to 5 years’ imprisonment and was thought to be under house arrest.

Since the June 2000 inter-Korean summit, there have also been several family reunions in the North and the South involving hundreds of persons.

The government has permitted an increasing number of overseas Koreans to visit relatives in North Korea over the past decade.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, nor has the government established a system for providing protection for refugees. 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 leadership or government peacefully. The KWP and the KPA, with Kim Jong Il in control, dominated the political system. Little reliable information was available on intraregime politics. The legislature, the Supreme People’s Assembly (SPA), meets only a few days per year to rubber-stamp resolutions presented to it by the party leadership.

The regime justified its dictatorship with unabashed nationalism and demanded a near diety-like reverence for both Kim Jong Il and the late Kim Il Sung. The military first policy and “our-style socialism” mark the twin pillars of the government’s ideology under Kim Jong Il’s direction. Military first touts the People’s Army as the main ideological force of the revolution, and “our style socialism” emphasizes the supposed superiority of North Korean method of governance.

Elections and Political Parties.—In an effort to give the appearance of democracy, the government has created several “minority parties.” Lacking grassroots organizations, they existed only as rosters of officials with token representation in the SPA. Free elections have never existed, and the regime regularly criticized the concept of free elections and competition among political parties as an “artifact” of “capitalist decay.”

Elections to the SPA are held every five years. Provincial, city, and county assemblies were held irregularly. Elections were not free and fair. Elections were held in 1990, 1998, and in August 2003; the outcomes of all were virtually identical.

Women reportedly made up 20 percent of the membership of the SPA as of the 2003 elections, but only approximately 4 percent of the membership of the central committee of the KWP.

The country is racially and ethnically homogenous. Officially there are no minorities, and there is, therefore, no information on minority representation in the government.

Government Corruption and Transparency.—Reports of diversion of food aid to the military and regime officials and of official *quid pro quo* bribery were indicative of corruption in the government and security forces. The government continued to

deny any diversion of food aid, although it did hint that it was combating internal corruption.

The government earned hard currency through illicit activities including narcotics trafficking, counterfeiting of currency and goods such as cigarettes, and smuggling.

The government has not taken steps towards transparency that would make it eligible for membership in international financial institutions.

Section 4. 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 has denied the existence of any human rights violations in the country.

The government maintained that most international human rights norms, particularly individual rights, were illegitimate, alien, and subversive to the goals of the state and party. In 2001 a North Korean delegate reporting to the UN Human Rights Committee dismissed reports of human rights violations in the country as the propaganda of "egoistic" and "hostile forces" seeking to undermine the sovereignty of the country.

The government has ignored requests for visits from human rights NGOs; none were known to have taken place since a 1996 AI visit. The NGO community and numerous international experts continued to testify to the grave human rights situation in the country during the year.

A number of countries that have established relations with the DPRK in recent years have sought to raise the matter of human rights abuses. North Korea emphasized that it had ratified most UN human rights instruments. In April for the third consecutive year, the UNCHR adopted a resolution on the situation of human rights in the country. The resolution expressed "deep concern about reports of systemic, widespread and grave violations of human rights...and note(d) with regret that the authorities...have not created the necessary conditions to permit the international community to verify these reports..." In November, for the first time, the UN General Assembly passed a similar resolution condemning the DPRK's human rights record. The government has not allowed UN Special Rapporteur on the situation of human rights in the DPRK Vitit Muntarbhorn to visit the country to carry out his mandate. In August Muntarbhorn issued a report that formed the basis of the UN General Assembly debate on the issue. In 2004 the United Kingdom sent a delegation to Pyongyang for formal discussions on human rights; two members of the UN Committee on the Rights of the Child also visited the country in 2004.

Although not involved in monitoring human rights, the World Food Program (WFP) visited 160 of the country's 203 counties during the year to monitor food distribution and survey nutritional needs. While the number of WFP monitoring visits increased substantially since the WFP first established its presence in the country, the average number of visits per month declined over the last 2 years, from 513 per month in 2003 to 440 per month in 2004 and 388 per month through November of 2005. The government usually approved proposed visits, but it continued occasionally to cancel or amend visits during the year. The government has never permitted monitoring visits to certain areas of the country it has deemed "sensitive," nor has it ever permitted monitoring visits to be made on a random or short-notice basis, limiting the effectiveness of the technique in verifying that aid reached intended recipients on a sustained basis. Another monitoring shortcoming is that the government has not provided the WFP with a full list of the institutions (schools, orphanages, hospitals, etc.) that receive food. The WFP has not been allowed to bring in native Korean speakers for its staff; however, WFP staff has been permitted to study the Korean language.

In August the government asked the UN to end all humanitarian aid programs by the end of the year. It also asked all resident international staff of NGOs providing humanitarian assistance to leave the country by the end of the year. The regime stated that beginning in 2006 it would accept only "development" aid, to be administered by DPRK nationals. Expatriate staff would be allowed to visit only two to three times a year. The rationale given was that humanitarian assistance was no longer necessary, given the improved food situation in the country. The move to terminate humanitarian aid has raised numerous concerns, including doubts that the food emergency has truly ended and that, without WFP monitoring, donated food will get to the most vulnerable populations. At year's end the WFP ended its large-scale food distribution program but retained a skeleton staff in Pyongyang and was in discussions with the regime about a follow-on development assistance program.

The ROK provided a substantial amount of bilateral aid to the DPRK, including a donation of 500 thousand tons of rice and other food and 350 thousand tons of fertilizer. This aid was donated outside of the WFP, and its distribution was not systematically monitored, but for the third year ROK monitoring teams were allowed briefly to observe the distribution of bilateral aid at previously agreed-upon distribution points. The ROK reported conducting 20 monitoring visits in connection with its food aid programs during the year.

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

The constitution grants equal rights to all citizens. However, the government has never granted its citizens most fundamental human rights in practice, and there continued to be pervasive discrimination on the basis of social status.

Women.—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 had reached high levels of the party or the government. In addition there were indications that the number of women in the workforce declined since economic reforms were instituted. There was no evidence that this decline was the result of a government policy; rather, it was probably the consequence of widespread state factory closures. The DPRK is a party to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), and in July sent a delegation to attend the annual session of states parties.

There was no information available on domestic and general societal violence against women; women in prison camps reportedly were subject to rape and forced abortions (see section 1.c.).

Working-age women, like men, were required to work. They were thus required to leave preschool-age children in the care of elderly relatives or in state nurseries. According to the law, women with large families are permitted to work shorter hours. There continued to be reports of trafficking in women and young girls who had crossed into China (see section 5, Trafficking). During the year approximately two-thirds of the refugees who found safe haven in the ROK were women.

Children.—The state provides 11 years of free compulsory education for all children. However, in the past 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 (see section 1.f.).

Like others in society, children were the objects of intense political indoctrination; even mathematics textbooks propound party dogma. In addition foreign visitors and academic sources reported that from an early age children were subjected to several hours a week of mandatory military training and indoctrination at their schools. School children sometimes were sent to work in factories or in the fields for short periods to assist in completing special projects or in meeting production goals.

The WFP reported feeding 2.8 million children during the year. A nutrition survey carried out in 2004 by UNICEF and the WFP, in cooperation with the government, found that in the sample of 4,800 children under six, 23 percent were underweight, 37 percent were stunted (chronic malnutrition, measured by height for age) and 7 percent suffered from “wasting” (acute malnutrition, measured by weight for height). This represented a modest improvement compared with 2002, when 21 percent were underweight, 42 percent were stunted, and 9 percent were wasted. The latest survey also found that 32 percent of mothers with children under two were malnourished and 35 percent were anemic, unchanged from the 2002 survey.

In practice children did not enjoy any more civil liberties than adults. The UN Committee on the Rights of the Child has repeatedly 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, and to facilitate their full integration into society. In July in New York, the committee heard the DPRK’s report under the Convention on the Rights of the Child.

Information about societal or familial abuse of children remained unavailable. There were reports of trafficking in young girls among persons who had crossed into China (see section 5, Trafficking).

Trafficking in Persons.—There were no known laws specifically addressing the problem of trafficking in persons, and trafficking of women and young girls into and within China continued to be widely reported. Some women and girls were sold by their families or by kidnappers as wives or concubines to men in China; others fled of their own volition to escape starvation and deprivation. A network of smugglers reportedly facilitated this trafficking. According to defector reports, many victims of

trafficking, unable to speak Chinese, were held as virtual prisoners, and some were forced to work as prostitutes.

Persons with Disabilities.—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 sent out of Pyongyang into internal exile. The government passed a law in 2003 on the protection of persons with disabilities, ensuring equal access for persons with disabilities to public services; however, implementing legislation has not been passed.

Section 6. Worker Rights

a. The Right of Association.—The constitution provides for freedom of association; however, this provision has never been respected in practice. There were no known labor organizations other than those created by the government. The KWP purportedly represents the interests of all labor. There was a single labor organization, the General Federation of Trade Unions of Korea. Operating under this umbrella, unions functioned on the classic Stalinist model, with responsibility for mobilizing workers to support production goals and for providing health, education, cultural, and welfare facilities.

The country was not a member of the International Labor Organization, but it had observer status.

b. The Right to Organize and Bargain Collectively.—Workers do not have the right to organize or to bargain collectively. Factory and farm workers were organized into councils, which had an impact on management decisions. Unions do not have the right to strike.

There was one special enterprise zone (SEZ) in the Rajin-Songbon area. The same labor laws that applied in the rest of the country applied in the Rajin-Songbon SEZ, and workers in the SEZ were carefully screened and selected. The Kaesong Industrial Complex (KIC) began operating in December 2004, 8 miles north of the Demilitarized Zone with 15 South Korean companies selected for the pilot phase. While the workers for the KIC were also screened and selected, special regulations were negotiated between the two Koreas in 2002 and 2003 for the management of the area. The respective assemblies of both North and South Korea approved the Kaesong Industrial Complex Act. Under this agreement, North Korean workers in the KIC are guaranteed a monthly minimum wage.

c. Prohibition of Forced or Compulsory Labor.—In its 2000 and 2001 reports to the UN Human Rights Committee, the government claimed that its laws prohibit forced or compulsory labor. However, the government sometimes mobilized the population for construction and other voluntary labor projects, including on Sundays, the one day off a week; the year's rice planting and harvesting effort, designed by the government to help boost the country's food production, was an example of such projects. The government also frequently gathered large groups together for mass demonstrations and performances. "Reformatory labor" and "reeducation through labor" have traditionally been common punishments for political offenses. Forced and compulsory labor, such as logging and tending crops, continued to be the common fate of political prisoners.

The penal code requires that all citizens of working age must work and "strictly observe labor discipline and working hours." According to the 2004 penal code, failure to meet economic plan goals can result in two years of "labor correction."

d. Prohibition of Child Labor and Minimum Age for Employment.—According to the law, the state prohibits work by children under the age of 16 years, and the penal code criminalizes forced child labor. Still, school children may be assigned to factories or farms for short periods to help meet production goals, and to other work like snow removal on major roads.

e. Acceptable Conditions of Work.—No data was available on the minimum wage in state-owned industries. Since the 2002 economic reforms, wages have become the primary form of compensation, and factory managers have had more latitude to set wages and provide incentives. Workers were expected to use some of their increased income to pay for services that had previously been provided either free or at highly subsidized rates by the state, such as rent for housing and fees for transportation. While education and medical care technically remained free, educational materials and medicines appeared available only for purchase in markets. At the KIC, South Korean companies deposit North Korean workers' salary of \$57.50 per month into a central account in North Korea, of which \$50 went directly to the worker and \$7.50 went to the government as a social insurance fee. Unconfirmed reports indicate that the salary actually received by workers may be significantly lower.

Class background and family connections may be as important as professional competence in deciding who received particular jobs, and foreign companies that

have established joint ventures continued to report that all their employees must be hired from registers screened by the authorities. Unlike the previous penal code, the 2004 code does not address persistent tardiness.

The constitution stipulates an eight-hour workday; however, some sources reported that laborers worked longer hours, perhaps including additional time for mandatory study of the writings of Kim Il Sung and Kim Jong Il. The constitution provides all citizens with a “right to rest,” including paid leave, holidays, and access to sanitariums and rest homes funded at public expense; however, the state’s willingness and ability to provide these services was unknown. Foreign diplomats reported that workers had 15 days of paid leave plus paid national holidays. Some persons were required to take part in mass events on holidays, which sometimes required advance practice during work time. Workers were often required to “celebrate” at least some part of public holidays with their work units, and often only get to spend a whole day with their families if the holiday lasts for two days.

Many worksites were hazardous, and the rate of industrial accidents was high. The law recognizes the state’s responsibility for providing modern and hygienic working conditions. The penal code criminalizes the failure to heed “labor safety orders” pertaining to worker safety and workplace conditions only if it results in the loss of lives or other “grave loss.” In addition workers do not have an enumerated right to remove themselves from hazardous working conditions.

North Koreans also suffered serious human rights abuses and labored under harsh conditions while working abroad for North Korean firms and under arrangements between the North Korean government and foreign firms. For example, according to the Czech Republic Ministry of Labor, approximately 300 North Korean women worked in extremely harsh conditions in garment and leather factories in several locations throughout the Czech Republic. The women were kept in tightly controlled environments, and their earnings were deposited into an account controlled by the North Korean embassy. The Czech labor ministry investigated their situation and concluded that although the situation was “troubling” in several aspects, the women were working voluntarily. North Koreans sought opportunities to work abroad and most were vetted by the party for their ideological health and background.

REPUBLIC OF KOREA

The Republic of Korea (Korea) is a constitutional democracy governed by a president and a unicameral legislature. The country has a population of approximately 48 million. In December 2002 President Roh Moo-hyun was elected to a five-year term of office. Members of the National Assembly serve four-year terms. In April 2004, in a free and fair election, President Roh’s Uri Party obtained a majority 151 of 299 national assembly seats. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- societal discrimination against women
- domestic violence and rape
- child abuse
- trafficking in persons
- societal discrimination against persons with disabilities
- societal discrimination against minorities

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings. However, the National Human Rights Commission found that two demonstrators probably died as a result of police violence (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 law prohibits mistreatment of suspects, and officials generally observed this prohibition in practice.

Unlike in previous year, there were no reports of police abuse of persons in custody.

In 2004 the Ministry of Justice implemented several reforms aimed at addressing abuse in prisons. These reforms included the prohibition of facemasks, restrictions on the use of long chains, and limitations on the amount of time an inmate could be kept in solitary confinement.

The government continued to investigate incidents of possible abuse under the country's former military regimes. By year's end the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement, established to review cases in which political activists may have been tortured, had reviewed 9,050 cases since 2000 and determined that compensation was due in 540 of them.

There were a number of incidents, including assaults and suicides, related to military hazing. The National Assembly and the Ministry of National Defense were developing countermeasures to improve the working environment of soldiers.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, showing significant improvement from previous years, and the government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, rules regarding arrest and detention under the National Security Law (NSL) are vague. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea and therefore deemed dangerous to the country. The NSL permits the imprisonment for up to seven years of anyone who “with the knowledge that he might endanger the existence or security of the state or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization.” The legal standard for what constitutes “endangering the security of the State” is vague. Thus, persons could be arrested for the peaceful expression of views that the government considered pro-North Korean or antistate. Between January and August authorities arrested 16 persons for alleged NSL violations.

Because of the vagueness of the NSL and the invocation of classified security threat information regarding the Korean Peninsula, the government was relieved of the burden of proof that any particular speech or action in fact threatens the nation's security.

The UN Human Rights Committee has termed the NSL “a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights.” Proposals to annul or substantially revise the NSL were under review in the National Assembly.

Role of the Police and Security Apparatus.—The Korean National Police Agency (KNPA) is under the Ministry of Government Administration and Home Affairs. The approximately 93 thousand-member force has a national headquarters in Seoul, 5 special agencies, including the Maritime Police, 13 provincial headquarters, 220 police stations, and 3,389 branch offices. The KNPA was considered well disciplined, and corruption and impunity were not major problems.

Arrest and Detention.—The law requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after the suspect is apprehended, or within 72 hours if a court is not located in the same county. Police may detain suspects who appear voluntarily for questioning for up to six hours, but must notify the suspects' families. The police generally respected these requirements.

Authorities normally must release an arrested suspect within 20 days unless an indictment is issued. An additional 10 days of detention is allowed in exceptional circumstances. Consequently, detained suspects were a relatively small percentage of the total prison population.

The law provides for the right to representation by an attorney, including during police interrogation. There were no reports of access to legal counsel being denied. There is a bail system, but human rights lawyers said bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a previous victim, or had no fixed address.

There were no reports of political detainees.

Amnesty.—On several occasions during the year, the government grants special pardons or reinstatements of civil rights to persons. In August, the government granted a special pardon to 4.22 million persons; while most of the beneficiaries

were traffic offenders, the list included 13 politicians who had been convicted of illegal fundraising.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. Of the nine justices on the constitutional court, three are appointed by the president, three are elected by the National Assembly, and three are designated by the chief justice of the Supreme Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. The Prosecutor's Office, under the jurisdiction of the Ministry of Justice (MOJ), has shown increased independence and impartiality in recent years. However, in October the prosecutor-general resigned in protest after the justice minister ordered him not to detain an academic who made pro-North Korean remarks in possible violation of the NSL.

Local courts are presided over by judges who render verdicts in all cases. There is no trial by jury. Both defendants and prosecutors can appeal a verdict or a sentence to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the constitutional court.

Trial Procedures.—The law provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. Although the law prohibits double jeopardy, the courts have interpreted this provision to mean that a suspect cannot be indicted or punished more than once for the same crime, while the prosecution can appeal a not guilty verdict or a sentence it considers excessively lenient. A suspect may therefore in fact be tried more than once for the same crime. When a person is detained, the initial trial must be completed within six months of arrest. These rights generally were observed. Trials are open to the public, but a judge may restrict attendance if he believed spectators might disrupt the proceedings.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters were tried by the same courts. Although few convictions were overturned, appeals often resulted in reduced sentences. Death sentences were appealed automatically.

Political Prisoners.—It was difficult to estimate the number of political prisoners because it was not clear whether particular persons were arrested for exercising the rights of free speech or association, or were detained for committing acts of violence or espionage. Minganhyup, a nongovernmental organization (NGO), reported that as of September, the government had prosecuted 61 persons for their political beliefs, many of them student members of a pro-North Korea organization. As of August the government had convicted 56 conscientious objectors who failed to report for military service.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. Some human rights groups raised concerns about possible government wiretapping abuse. The Anti-Wiretap Law lays out broad 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. The Ministry of Information and Communication said that between January and June, the government conducted 550 cases of wiretapping, down 40 percent from the 917 cases during the same time period in 2004. However, during the first six months of the year, the government requested telecommunication companies and Internet firms to provide personal data for 1.38 million persons, an increase of 128 percent from the same period the previous year.

In July prosecutors indicted two National Intelligence Service (NIS) directors from the Kim Dae-jung administration for illegal wiretapping. The prosecutors concluded their investigation in December, reporting that the NIS illegally eavesdropped on leading political, financial, and media figures during the Kim Young-sam (1993–98) and Kim Dae-jung (1998–2003) administrations.

The government continued to require some released prisoners to report regularly to a probation officer under the Social Surveillance Law.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the government determines that the action endangers national security or the basic order of democracy in the country. However, this prohibition was rarely enforced, and the viewing of North Korean satellite telecasts in private homes is legal.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did

not restrict academic freedom. However, under the NSL, the government may limit the expression of ideas that authorities consider Communist or pro-North Korean. Proposals to annul or substantially revise the NSL were still under review in the National Assembly at year's end.

On January 1, the National Assembly passed a law that allows the Fair Trade Commission to impose restrictions on publishers if any one newspaper has more than 30 percent of the market or if three major newspapers have a combined market share of 60 percent or more. The law also requires press owners to report their circulation and advertising revenue to a Press Development Committee. Some newspapers and observers said that the law would open up the media market to a wider variety of viewpoints. Others denounced the law as an unwarranted interference in the freedom and autonomy of publishers and their editors.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage.

The government blocked violent and sexually explicit Web sites and required site operators to rate their site as harmful or not harmful to youth. The government also blocked North Korean Web sites. In March the Information Communication Ethics Committee ordered a major domestic Internet portal site to shut down what it considered to be overly pro-Japanese online communities. The government also blocked the sale of video games that featured North Korea in a negative way.

There were no government restrictions on academic freedom. Unlike in previous years, there were no reports of police informants posted on university campuses.

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 Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law; however, police routinely approved demonstrations.

During the year demonstrators on several occasions used steel bars, rocks, and other weapons to attack police. Violence erupted in demonstrations involving labor disputes, trade issues, US Forces Korea base consolidation, and the presence of a statue honoring US General Douglas MacArthur. The National Human Rights Commission found that two demonstrators probably died as a result of police violence, and the president apologized for the incident in a nationally publicized address. The protesters had participated in a November 15 farmers' rally during which demonstrators armed with wooden sticks and fire bombs clashed with police armed with batons and plastic shields. One demonstrator died on November 21, and the other died on December 15.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. Associations operated freely, except those deemed by the government to be seeking to overthrow the government.

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

Societal Abuses and Discrimination.—The small Jewish population was comprised almost entirely of expatriates. There were no reports of anti-Semitic acts.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Most citizens could move freely throughout the country; however, police had discretion to restrict the movement of some former prisoners. While foreign travel generally was unrestricted, the government must approve travel to North Korea. Travelers going to places other than Kaesong or Mt. Geumgang must receive a briefing from the Ministry of Unification prior to departure and demonstrate that their trip does not have a political purpose and is not undertaken to praise North Korea or criticize the government. During the year the government continued to promote the expansion of North-South government, economic, cultural, and tourism-related contacts. Unlike in previous years, there were no cases of travelers to North Korea being subjected to arrest for not obtaining government permission prior to their departure.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. In practice the government provided protection against *refoulement*, the return of persons to a country

where they feared persecution; however, the government did not routinely grant refugee status or asylum. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers and an alternative form of protection, a renewable, short-term permit, to those that met a broader definition of "refugee." Between January and August the government received 326 refugee applications (not including North Koreans), a sharp increase from previous years. Between July 1994, when the government first accepted applications, and August, the government approved 39 of 724 applications. The government worked with UNHCR to streamline its refugee processing process, which required 2-tiered meetings of 12 governmental and nongovernmental council members and normally took from 2 to 3 years. Unlike in previous years, there were no reports that asylum seekers were not well counseled on their rights or of other improper actions.

The government continued its longstanding policy of accepting refugees from North Korea, who are entitled to citizenship in the ROK. The government resettled 1,386 North Koreans during the year, resulting in a total population of 7,690 former North Koreans in the country.

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

The law provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 20 years of age or older. Elections are held by secret ballot.

The law provides for the direct election of the president to a single five-year term; the president may not stand for re-election. Representatives to the National Assembly are elected under a dual system of direct and proportional representation. Voters cast one vote for a candidate from their electoral district and a separate vote for a party; the percentage of votes for each party determines the number of that party's candidates who are elected as proportional representatives. National assembly members serve terms of four years and are not subject to a term limit.

Elections and Political Participation.—A free and fair national assembly election was held in April 2004. After April and October by-elections, the ruling Uri Party lost its majority but retained a plurality of 144 of 299 seats in the National Assembly.

In general elections, 50 percent of each party's candidates on the proportional ballot must be women while 30 percent of each party's geographical candidates must be women. As a result, in the 2004 elections 39 women were elected to the 299-seat legislature. At year's end 3 of the 19 National Assembly committees were chaired by women. In the Supreme Court, 1 of 14 justices was a woman, and in the cabinet 1 of 19 ministers was a woman.

Government Corruption and Transparency.—On taking office, President Roh encouraged prosecutors to investigate political parties and politicians for corruption. Several investigations involved his close aides.

The country has a Freedom of Information Act, which went into effect in 1998.

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

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

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

The law forbids discrimination on the basis of gender, religion, disability, age, social status, regional origin, national origin, ethnic origin, physical condition or appearance, marital status, pregnancy and child delivery, family status, race, skin color, thought or political opinion, record of any crime for which punishment has been fulfilled, sexual orientation or medical history, and the government generally respected these provisions. However, traditional attitudes limited opportunities for women, persons with disabilities, and ethnic minorities. While courts have jurisdiction to decide discrimination claims, many of these cases were instead handled by the National Human Rights Commission.

Women.—Violence against women remained a problem. Between January and August, the Ministry of Justice registered 10,227 cases of domestic violence and prosecuted 1,114 cases. The Korea Women's Hot line estimated in February that domestic violence occurred in 30 percent of households. The Special Act on the Punishment of Domestic Violence defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. Of-

fenders may also be placed on probation or ordered to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence. The government has established some shelters for battered women and has increased the number of childcare facilities, giving women in abusive situations more options. However, women's rights groups said these measures fell far short of effectively dealing with the problem.

In March the National Assembly eliminated the household registration system that had made women legally subordinate to the male family head. The reforms also allowed remarried women to change their children's family name to their new husband's name and ended the six-month waiting period to remarry that was directed only at women. The family law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce. Although the law helped abused women who chose to divorce, the stigma of divorce remained strong, and there was little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities and had difficulty remarriage, led some women to stay in abusive situations. However, according to a ministry of health and welfare report, 47.4 percent of marriages end in divorce.

Rape remained a serious problem. Between January and August, there were 6,220 reported cases of rape and 2,433 prosecutions. Many rapes were believed to have gone unreported because of the stigma associated with being raped. The activities of a number of women's groups increased awareness of the importance of reporting and prosecuting rapes, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. The penalty for rape is three years' imprisonment; if a weapon is used or two or more persons commit the rape, punishment may be a maximum of life imprisonment.

Prostitution is illegal but widespread. In 2004 the government passed sweeping antiprostitution and antitrafficking legislation that provided protection for the victims of prostitution and enhanced punishment for those engaged in prostitution. Some NGOs also expressed concern that sex tourism to China and Southeast Asia was becoming more prevalent.

The law defines sexual harassment as a form of gender discrimination. The Gender Discrimination Prevention and Relief Act covers almost all kinds of human relations—including, for example, relations between teachers and students, citizens and civil servants. Nevertheless, sexual harassment continued to be a problem. In June 2004 a poll found that 18.4 percent of working women experienced sexual harassment.

During the year the number of women in the workplace reached 43 percent, and women were making clear inroads in some areas. For example, 32 percent of the persons passing the legal services examination, through which judges and prosecutors are appointed and attorneys licensed, were women, up from 24 percent in 2004. However, relative to other developed countries, few women worked in managerial positions or earned more than a median income, and gender discrimination in the workplace remained a problem. According to the Korea Women's Development Institute, the average working woman earned 63 percent of what a man made in a comparable job. The Equal Employment Act penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination could be fined up to \$4,399(5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Nevertheless, some government agencies' preferential hiring of applicants with military service (nearly always men) perpetuated legal barriers against women, despite a constitutional court ruling that such preferential hiring was unconstitutional.

Women had full access to education, and social mores and attitudes were improving gradually. For example, the major political parties made more efforts to recruit women, and an increasing number of women occupied key party positions, including chairperson of the main opposition party.

Children.—The government demonstrated its commitment to children's rights and welfare through public education. The government provided high-quality elementary education to all children free of charge. Education is compulsory through the age of 15, and most children obtained a good secondary education. High-quality health care was widely available to children.

By August 619 cases of child abuse had been reported to the government. In June the Ministry of Health and Welfare increased requirements for child abuse reporting. In the past child abuse reporting was limited to employees of welfare institutes,

teachers, medical professionals, and social workers. The new measure includes lawyers, private institute instructors, and kindergarten teachers.

The Youth Protection Law provides for prison terms of up to three years or a fine of up to \$17,680 (20 million won) for owners of entertainment establishments who hire persons under the age of 19. The Commission on Youth Protection also expanded the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children were hired illegally as prostitutes. The Juvenile Sexual Protection Act establishes a maximum sentence of 25 years' imprisonment for the brokerage and sale of the sexual services of persons younger than 19 years of age. It also establishes prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (see section 5, Trafficking). Based on this law, the commission publicized the names of those who had committed sex offenses against minors. The National Youth Commission said in July that Korean fishermen were greatly responsible for the commercial sexual exploitation of children in Kiribati.

With a birthrate of 1.08 boys for every girl, the traditional preference for male children continued. Although the law bans fetal testing except in cases in which a woman's life is in danger, hereditary disease could be transmitted, or in cases of rape or incest, such testing and the subsequent abortion of female fetuses frequently occurred. The government continued an education campaign aimed at eradicating gender-preference abortions, which are already prohibited by law.

Trafficking in Persons.—The law prohibits trafficking in persons; nevertheless, the country was a country of origin, transit, and destination. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada and Mexico, as well as to other Western countries and Japan. Relatively small numbers of economic migrants, seeking opportunities abroad, were believed to have become victims of trafficking as well.

In 2004 the country implemented two new significant and sweeping laws against prostitution and human trafficking. The laws toughened penalties and provided for enhanced services and protections for victims of the sex trade. The government also launched a public awareness campaign, a victim support hot line, and a reward system for information leading to the arrest of traffickers. The Juvenile Sexual Protection Act imposes lengthy prison terms for persons convicted of sexual crimes against minors (see section 5, Children). The KNPA and the MOJ were principally responsible for enforcing these laws. While many credit the laws with increasing societal awareness of prostitution as a crime, some observers believe the new laws were not being enforced to their fullest potential. No laws specifically address sex tourism.

The country was a major transit point for alien smugglers, including traffickers of primarily Asian women for the sex trade and domestic servitude. Women from many countries, but primarily from China, were trafficked through the country to the United States and many other parts of the world. There were reports of the falsification of government documents by travel agencies; many cases involved the trafficking or smuggling of Chinese citizens to Western countries. In addition to trafficking by air, transit traffic occurred in the country's territorial waterways by ship.

Women from Russia, other countries of the former Soviet Union, China, the Philippines, and other Southeast Asian countries were trafficked to the country for sexual exploitation. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer or tourist visas. As of August the government had issued 4,551 entertainer visas. Once in the country, employers in some instances held victims' passports. The government has restricted issuance of certain types of entertainer visas. There was no credible evidence that officials were involved in trafficking.

The government developed a network of shelters and programs to assist victims. As of August, 449 Korean women were housed in 35 shelters and 9 foreign women were in 2 shelters. Victims were also eligible for medical, legal, vocational, and social support services. Many of these services were provided in conjunction with NGOs. The Ministry of Justice in August introduced a program to educate male offenders about the antiprostitution and antitrafficking laws. As of October, 902 men had participated.

Persons with Disabilities.—Discrimination against persons with disabilities in employment, education, or the provision of other state services is illegal. The law states, "No one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability." The government took measures to increase opportunities and access for persons with disabilities. Although many public facilities remained inadequate, most Seoul sidewalks were designed to alert the sight impaired, intersections had audible cross-signals, and nearly all subway stations were equipped with elevators, wheelchair lifts, or both.

Firms with more than 300 employees are required by law either to hire persons with disabilities or pay a fine. Nevertheless, the hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force.

During the year the Ministry of Health and Welfare increased the amount of products produced by disabled persons that must be purchased by public agencies.

Many persons with disabilities lived in group facilities or rehabilitation centers, where there have been periodic reports of physical and sexual abuse.

National/Racial/Ethnic Minorities.—The country is racially homogeneous, with no sizable populations of ethnic minorities. However, international marriages were becoming increasingly common. During the year approximately 10 percent of marriages were with foreigners, many the result of brokered marriages between Korean men and women from China, Vietnam, and the Philippines. According to government statistics published in February, there were 60,214 foreign spouses residing in Korea. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained “foreign,” thus disqualifying them legally from entering the civil service and, in practice, being hired by some major corporations. Foreign workers continued to report difficult working conditions. Some complained of excessively aggressive police crackdowns on illegal migrants. Amerasians faced no legal discrimination, and informal discrimination appeared to be on the decline.

Other Societal Abuses and Discrimination.—Age discrimination continued to be a problem. A Korean labor institute study in April of one thousand companies found that there was only a 33.7 percent chance that a company would hire someone over 50 if a comparable younger person applied for the same job.

Researchers estimated that the country has approximately eight thousand persons with HIV or AIDS. The AIDS Prevention Act, enacted in 1987, ensures the confidentiality of persons with HIV/AIDS and protects individuals from discrimination. The government supports rehabilitation programs and shelters run by private groups and subsidizes medical expenses from the initial diagnosis. The government operates a Web site with HIV/AIDS information and a telephone counseling service. Some observers claim that persons with HIV/AIDS suffer from severe societal discrimination and social isolation.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, except public officials, with the right to associate freely. Since 1999 most government employees have been able to form bargaining units and negotiate with management, but have been unable to strike.

Labor law changes authorized the formation of competing unions starting in 2002, but implementation was postponed until 2006 by mutual agreement among members of the Tripartite Commission, which was created to include representatives of government, labor, and management (see section 6.b.).

The ratio of organized labor in the entire population of wage earners was approximately 11 percent, or 1.5 million unionists from a total of 14 million workers. The country has 2 national labor federations, the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), and an estimated 1,600 labor unions. The FKTU and the KCTU were affiliated with the International Confederation of Free Trade Unions (ICFTU). Most of the FKTU's constituent unions maintained affiliations with global union federations, as did the KCTU Metalworkers Council. In protest of government policies perceived to be antilabor, the FKTU and KCTU have withdrawn from the Tripartite Commission. The FKTU and KCTU also announced that they intended to boycott an International Labor Organization (ILO) meeting scheduled to be held in the country during the year. As a result, the ILO postponed the event.

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 at government research institutes. Labor federations not formally recognized by the Labor Ministry have generally operated without government interference.

In September 2004 the ICFTU found that parts of the labor law violated freedom of association principles, notably with regard to the absence of union rights for many public servants and the intervention by the state in international trade union affairs.

b. The Right to Organize and Bargain Collectively.—The law provides for the workers' right to collective bargaining and collective action, and workers exercised these rights in practice. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. However, forced reinstatement has been used less frequently because employers have taken extra precautions when laying off union members.

Unions engaged in collective bargaining. Although government employees (except for certain blue collar public officials) are not granted the right to organize and bargain collectively, they have established public official "workplace associations," which may make recommendations but may not engage in collective bargaining.

Under the Trade Union and Labor Relations Adjustment Act, unions must submit a request for mediation to the Labor Relations Commission before a strike. In most cases, the mediation must be completed within 10 days; in the case of essential services, within 15 days. Once a dispute is referred to arbitration, industrial action is prohibited. Management can initiate criminal proceedings against an illegal strike. Arrest warrants can be issued against union leaders, and striking workers can be removed by police from the premises and prosecuted, along with union leaders, and sentenced under the penal code for "obstruction to business." Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

On March 18, the Ulsan Local Union and 58 subcontractors of SK Petrochemicals began an illegal strike. On April 8, during a violent demonstration in front of Ulsan City Hall, police arrested 825 unionists. Both police and unionists suffered injuries. All were subsequently released.

Strikes are prohibited for most government officials and for those who produce mainly defense goods. A total of 228 strikes occurred between January and August, with 105,577 participating workers. During the same period in 2004, 148,561 persons participated in 371 strikes. By law unions in enterprises determined to be of "essential public interest"—including railways, utilities, public health, the Bank of Korea, and telecommunications—can be ordered to submit to government-ordered arbitration. The government took this step to end an airline pilots strike that threatened serious economic disruption during the busy summer vacation season.

There is no independent system of labor courts. Semijudicial agencies such as the Central and Local Labor Relation Commissions mediate or arbitrate labor disputes based on the Trade Union and Labor Relation Adjustment Act. Each commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent the "public interest." The Labor Relations Commission can decide on remedial measures in cases involving unfair labor practices and can mediate or arbitrate labor disputes in sectors deemed essential to public welfare.

The government originally designated enterprises in the two export processing zones (EPZs) as public interest enterprises. Workers in these enterprises gradually were given the rights enjoyed by workers in other sectors of the economy; however, foreign companies are exempt from many of these labor standards. Foreign-invested enterprises located in free economic zones are exempt from articles 54, 57, and 71 of the Labor Standards Act, which mandate monthly leave, paid holidays, and menstruation leave for women; article 31 of the Honorable Treatment and Support of Persons of Distinguished Services to the State Act, which gives preferential treatment to patriots, veterans, and their families; article 24 of the Employment Promotion and Vocational Rehabilitation of Disabled Persons Act, which obligates companies with more than 300 persons to recruit persons with disabilities for at least 2 percent of its workforce; article 12 of the Employment Promotion for the Aged Act, which encourages companies to reserve 3 percent of their workforce for workers over 55 years of age; and articles 4 and 12 of the Act on the Protection of the Business Sphere of Small and Medium Enterprises and Promotion of Their Cooperation, which restrict large companies from participating in certain business categories. Labor organizations are permitted in EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred. The constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor standards law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (approximately age 15), few special employment certificates

were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers can require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the Labor Ministry. These regulations were enforced through regular inspections, and child labor was not considered a problem.

e. Acceptable Conditions of Work.—The minimum wage is reviewed annually. As of September the minimum wage was \$2.92 (3,100 won) per hour, \$23.38 (24,800 won) per day. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. According to the Ministry of Health and Welfare, 1.5 million persons (3 percent of the population) lived below the poverty level. Another 3.2 million persons were classified as living in “potential extreme poverty.”

As of July 2004, the 5-day workweek system was adopted for employees of large conglomerates, publicly owned companies, banks, and insurance companies with 1 thousand registered workers or more, reducing working hours to 40 hours a week. Companies with more than 300 employees adopted the shortened workweek in July. Labor laws mandate a 24-hour rest period each week. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 44 hours during certain weeks without paying overtime, so long as average weekly hours for any given 2-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not be required to work more than 12 hours per working day. Unions claimed that the government did not enforce adequately the maximum workweek provisions at small companies. The amended labor standards law also provides for a higher wage for overtime. However, the overtime premium was scheduled to be reduced from 150 percent of the base wage to 125 percent concurrent with the reduction in weekly working hours.

As of August there were 40,718 foreigners, mostly from China, Bangladesh, Mongolia, the Philippines, Thailand, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, working legally in the country. They often faced difficult working conditions and sometimes complained of unduly aggressive police crackdowns. The government continued its crackdown on illegal foreign labor.

The government continued to implement its new work permit system designed to increase protections for foreign workers while easing the labor shortage in manufacturing businesses. Under the new system, permit holders may work in certain industries only and have limited job mobility but generally enjoy the same rights and privileges, including the right to organize, enjoyed by domestic workers. In March the government introduced a requirement that the workers must pass a language test demonstrating some proficiency in the Korean language. By August, 14,800 workers had entered the country through the new system. The Industrial Trainee System, an often-criticized system through which foreign workers may work for two years following one year of training, was still in place.

Foreign workers working as language teachers continued to complain that the language institutes for which they worked frequently violated employment contracts.

Contract and other “nonregular” workers accounted for a substantial portion of the workforce. According to the government, there were approximately 5.48 million nonregular workers, approximately 36 percent of the workforce. Labor unions and other groups believed that the percentage might have been much higher. In general nonregular workers performed work similar to regular workers but received approximately 60 percent of the wages. Further, most were ineligible for national health and unemployment insurance and other benefits. In November the ICFTU secretary general met with the prime minister to urge the government to stop the exploitation of irregular workers.

The Korea Occupational Safety and Health Agency is responsible for implementing industrial accident prevention activities. The government set health and safety standards, but the accident rate was high by international standards. In 2004 there were 2,825 fatalities related to industrial accidents. The government introduced a plan to publicize and impose sanctions on work places that had a high rate of accidents. In July the Ministry of Labor said that construction companies with high accident rates would be restricted from bidding for government projects. According to the Korea Occupational Safety and Health Act, an employer may not dismiss or otherwise disadvantage an employee who interrupts work and takes shelter because of an urgent hazard that could lead to an industrial accident.

LAOS

The Lao People's Democratic Republic is an authoritarian, Communist, one-party state ruled by the Lao People's Revolutionary Party (LPRP). The country has an estimated population of 5.9 million. Although the 1991 constitution outlines a system composed of executive, legislative, and judicial branches, in practice the LPRP continued to control governance and the choice of leaders at all levels through its constitutionally designated "leading role." The most recent national assembly election was held in February 2002. In March 2002 the National Assembly reelected the president and vice president and ratified the president's selection of a prime minister and cabinet. The LPRP generally maintained effective control of the security forces, but elements of the security forces on occasion acted outside the LPRP's authority.

The government's human rights record remained poor, and it continued to commit serious abuses. The following human rights problems were reported:

- denial of the right of citizens to change their government
- abuse of detainees, especially those suspected of insurgent or antigovernment activity
- civilian casualties resulting from conflicts between security forces and insurgents
- prisoner abuse and harsh prison conditions
- arbitrary arrest, detention, and surveillance
- lengthy pretrial detention and incommunicado detention
- a corrupt judiciary subject to external influence
- infringement on privacy rights
- restrictions on freedom of speech, the press, assembly, and association
- restrictions on freedom of religion
- restrictions on freedom of movement
- societal discrimination against women and minorities
- trafficking in women and children
- restriction of some worker rights

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings. In December Aloun Voraphom, a Protestant pastor in Bolikhamsai Province, was killed in Pak Kading District following a Christmas church service. Police believed that Aloun had been robbed and then killed; however, at year's end no suspects had been arrested. Although there was nothing to implicate the authorities in Aloun's killing, some members of the religious community, aware that he had previously been arrested and served more than a year in prison for his religious activities, believed that police or government authorities may have been involved in his death.

Clashes between insurgent and military forces resulted in an unknown number of deaths of civilians, insurgents, and military forces. During the year insurgents reported increased military pressure from Lao People's Army (LPA) forces against their encampments in Bolikhamsai, Xieng Khouang, Luang Prabang, and Vientiane provinces as well as the Saisomboun Special Zone. According to insurgent reports, these attacks resulted in dozens of deaths and injuries of men, women, and children living in the encampments; however, the veracity of this information could not be established.

There were no new developments regarding the government's investigation of the killing of five ethnic Hmong children, allegedly by members of the LPA, in the Saisomboun Special Zone in May 2004. The government formally denied any involvement of security forces in the death of the teenagers and characterized the incident as a fabrication.

There were no developments in the cases of persons allegedly killed by police, including the 2004 case of an ethnic Hmong man, Khoua Lee Her, who reportedly died while incarcerated in Houaphanh Province, and the 2003 case of a former policeman in Attapeu Province who had converted to Christianity.

In January suspected ethnic Hmong seeking to create a separate Hmong state ambushed a police-military convoy in Houaphanh Province, killing five policemen and soldiers as well as five civilians.

During the year there was a small explosion at a technical college in Vientiane. There was no information regarding who was responsible for the bomb. There also were a small number of reports of planned bombings by exile antigovernment groups.

b. Disappearance.—There were no reports of politically motivated disappearances during the year. There were no developments in the case of Cher Wa Yang, an ethnic Hmong schoolteacher who disappeared in January 2004 from the Saisomboun Special Zone.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits the beating or torture of an arrested person. In practice members of the police and security forces sometimes abused prisoners, especially those suspected of associations with the insurgency; however, there were anecdotal reports that abuse has decreased in recent years. In the past detainees sometimes were subjected to beatings and long-term solitary confinement in completely darkened rooms, and in many cases they were detained in leg chains or wooden stocks for long periods. Former inmates reported that degrading treatment, the chaining and manacling of prisoners, and solitary confinement in small unlit rooms were standard punishments in larger prisons, while smaller provincial or district prisons employed manacles and chains to prevent prisoners from escaping.

Prison and Detention Center Conditions.—Prison conditions varied widely but in general were harsh and on occasion life threatening. Prisoners in larger, state-operated facilities in Vientiane generally fared better than those in provincial prisons. Over the last several years the Office of the Prosecutor General (OPG) had some success in bringing about improved conditions in these larger facilities, including better treatment by guards. In all facilities food rations were minimal, and most prisoners relied on their families for subsistence. Most larger facilities allowed prisoners to grow supplemental food in small vegetable gardens. Prison wardens set prison visitation policies. Consequently, in some facilities families could make frequent visits, but in others visits were severely restricted. Credible reports indicated that ethnic minority prisoners and some foreign prisoners were treated particularly harshly. Former prisoners reported that incommunicado detention was used as an interrogation device and against perceived problem prisoners; however, there have been fewer reports of its use in recent years.

Although most prisons had some form of clinic, usually with a doctor or nurse on staff, medical facilities were extremely poor, and in practice 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 a police escort.

Prisons held both male and female prisoners, although they were placed in separate cells.

In some prisons juveniles were housed with adult prisoners. International organizations opposed the government's plan to construct a separate facility to serve juvenile detainees, arguing that juveniles would best be kept in segregated sections of adult prisons located close to their homes and families. Most juveniles were in detention for narcotics offenses or petty crimes. Rather than send juveniles to prisons, authorities used drug treatment facilities as holding centers for juvenile offenders. While conditions in treatment facilities were generally better than those in prisons, conditions were nevertheless Spartan and lengths of detention indefinite.

The government has provided limited access to some detention facilities to UN and nongovernmental organization (NGO) personnel monitoring the status of juveniles in the prison system, and it has given representatives of foreign governments limited access to provincial prisons. However, the government did not permit independent monitoring of prison conditions. The International Committee of the Red Cross (ICRC) continued its longstanding efforts to establish an official presence in the country to carry out its mandate of monitoring prison conditions, but at year's end the government had not granted the ICRC's request.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, in practice the government did not respect these provisions, and arbitrary arrest and detention persisted.

Role of the Police and Security Apparatus.—The Ministry of Public Security (MoPS) maintains internal security but shares the function of state control with the Ministry of Defense's security forces and with party and popular fronts (broad-based organizations controlled by the LPRP). The Ministry of Foreign Affairs, with MoPS support, is responsible for oversight of foreigners. The MoPS includes local police, traffic police, immigration police, security police (including border police), and other armed police units. Communication police are responsible for monitoring telephone and electronic communications. The armed forces are responsible for external secu-

city but also have domestic security responsibilities that include counterterrorism and counterinsurgency activities as well as control of an extensive system of village militias.

Police corruption was a problem. Many police officers used their authority to extract bribes from citizens. Government sanctions against corrupt officials reportedly were employed only rarely to punish official wrongdoers. There was no formal mechanism for investigating police abuse. In theory the government's National Audit Committee has responsibility for rooting out corruption in all government ministries, including the Ministry of Public Security, but in practice the office's investigative activities were minimal. Lower-level officials were on occasion arrested and punished for corruption. For example, during the year a policeman and a prosecutor were arrested in Bokeo Province for their alleged complicity in drug trafficking.

Police are trained at the National Police Academy, but the extent to which the academy's curriculum discusses corruption was unknown. At the instruction of the LPRP, the government-controlled press only rarely reported cases of official corruption.

Arrest and Detention.—Both police and the armed forces had powers of arrest, although normally only police carried out these powers. There were reports that military forces occasionally arrested or detained persons suspected of insurgent activities. Police reportedly sometimes used arrest as a means of intimidation or to extract bribes. Police exercised wide latitude in making arrests, relying on exceptions to the requirement for arrest warrants for persons in the act of committing a crime or for "urgent" cases. To search a property, police must obtain a written search warrant from the public prosecutor or the court, except "in an emergency," in which case police may search without a warrant but must inform the prosecutor within 24 hours after the search is done.

There is a one-year statutory limit for detention without trial. The length of detention without a pretrial hearing or formal charges by law also is limited to one year. The OPG reportedly made efforts to ensure that all prisoners were brought to trial within the one-year limit, but these limits sometimes were ignored. The OPG must authorize police to hold a suspect pending investigation. Authorization is given in three-month increments, and under law a suspect must be released after a maximum of one year if police do not have sufficient evidence to bring charges. There is a bail system, but its implementation was arbitrary and in practice often amounted to a bribe to prison officials for a prisoner's release. Access to family members and a lawyer was not assured. Incommunicado detention was a problem; however, it was used less frequently than in the past (see section 1.c.). A statute of limitations applies to most crimes. In practice alleged violations of criminal laws have led to lengthy pretrial detentions without charge and minimal due process protection of those detained. Authorities sometimes continued to detain prisoners after they had completed their sentences, particularly in cases where prisoners were unable to pay court fines.

During the year Lao authorities arrested approximately 35 Christians for their efforts to practice their religion, including importing religious material, constructing a church without authorization, and refusing to give up their religious beliefs when ordered by local officials. In March authorities in Phine District, Savannakhet Province, detained 24 ethnic Brou Christians and held them at the district police headquarters for several days until most members of the group agreed to cease their religious activities. However, two of the men refused and were detained until police brought charges against them. In June or July the men were tried and convicted on charges of "illegal weapons trafficking." In September five ethnic Khmu Protestants were arrested at the Lao-Thai Friendship Bridge for attempting to import Bibles. They were released after several days' detention. In October police in Bokeo Province arrested six Protestants who had constructed a small church structure and held church services without authorization. The leader of the six, a lay pastor named Somsack, became ill while imprisoned. He was released but died shortly afterward in hospital. The five other detainees were released in late December. In recent years most religious detainees were released shortly after their arrest, but the detentions often had a negative effect on religious activity of local Christian communities. At year's end there were no untried religious detainees.

According to reports, police continued to arrest without charges persons suspected of involvement with the insurgency. In June security forces arrested four foreign citizens who were on hand to witness the surrender of a group of insurgent families in Xieng Khouang Province as they returned to Vientiane. Police released three of the four after several days' detention, and the fourth person was released a week later. No charges were filed, but police claimed the four had "distorted the truth and created misunderstandings" regarding the event.

There were no reports that police administratively overruled court decisions by detaining exonerated individuals. Reportedly, local police at times continued to detain persons who had been ordered released by higher authorities. There were no known instances of police being reprimanded or punished for such behavior. The OPG has made efforts to encourage compliance with the law regarding detention of suspects but acknowledged that police widely continued to ignore these provisions.

Based on information provided by former prisoners, a small but unknown number of persons, particularly those suspected of insurgent activities, were detained for allegedly violating criminal laws concerning national security.

e. Denial of Fair Public Trial.—The law provides for the independence of the judiciary and the OPG; however, senior government and party officials influenced the courts, although to a lesser degree than in the past. Impunity was a problem, as was corruption. Reportedly, some judges could be bribed. The National Assembly Standing Committee, whose members are elected by the assembly, appoints judges for life terms. The National Assembly may remove judges from office for “impropriety.” According to government sources, since 1991 only one judge at the district level has been removed for improper behavior.

The people’s courts have four levels: district courts, municipal and provincial courts, the court of appeals, and the Supreme People’s Court. In 2004 the Supreme Court established a commercial court, family court, and juvenile court. During the year these courts began functioning at the provincial, appellate, and supreme court levels. Decisions of the lower courts are subject to review by the Supreme Court, but military court decisions are not. Both defendants and prosecutors in civilian courts have the right to appeal an adverse verdict. There are instances in which civilians may be tried in the military courts, but this was rare.

Trial Procedures.—The law provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other person. The law requires that authorities inform persons of their rights. The law states that defendants may have anyone assist them in preparing a written case and accompany them at their trial; however, only the defendant may present oral arguments at a criminal trial. The Lao Bar Association, with a membership of nearly 50 attorneys, is nominally independent but receives some direction from the Ministry of Justice. Its members are private attorneys that court litigants may select for trials. For several reasons, including a lack of funds, shortage of attorneys, and general perception that attorneys cannot affect court decisions, most defendants did not have attorneys or trained representatives. Court judges, not juries, decide guilt or innocence. Trials that involve some criminal laws relating to national security, state secrets, children under the age of 16, or certain types of family law are closed. Under the law defendants enjoy a presumption of innocence. However, in practice judges usually decided a defendant’s guilt or innocence in advance, basing their decisions on the result of police or prosecutor’s office investigation reports. Reliance on these reports created a presumption that the defendant was guilty. Most trials were little more than pro forma examinations of the accused, with a verdict having been reached beforehand. Most criminal trials ended in convictions.

Most of the country’s 450 judges had only basic legal training, and many provincial and district courts had few or no reference materials available to which judges could refer for guidance. The National Assembly’s Legal Affairs Committee occasionally reviewed supreme court decisions for “accuracy” and returned cases to the court or the OPG for review when it believed decisions were reached improperly.

In 2003 police in Xieng Khouang Province arrested two foreign journalists, their foreign interpreter, and their three ethnic Hmong porters on charges of having conspired with ethnic Hmong villagers in the killing of a local militia villager. The three Hmong were given long prison sentences. One later escaped, but the other two remained in custody at year’s end.

Political Prisoners.—In addition to the unknown number of short- and long-term political detainees (see section 1.d.), there were five known political prisoners. A former government official arrested in 1975, Colonel Sing Chanthakoumane, was serving a life sentence after a 1990 trial that was not conducted according to international standards. Sing reportedly was very ill, but the government did not respond to numerous requests to release him on humanitarian grounds. In March a second former government official, Major Pangthong Chokbengboun, sentenced to life imprisonment at the same time as Colonel Sing, died in detention. Reportedly Major Pangthong died as a result of serious illnesses, including diabetes, that camp guards refused to allow to be treated. At least 2 persons arrested in 1999 for attempting to organize a prodemocracy demonstration in Vientiane continued to serve 10-year sentences for antigovernment activities. The status of two others remained

unclear at year's end: some sources claimed they had been released, while others maintained they were still in jail.

Other political prisoners may have been arrested, tried, and convicted under laws relating to national security that prevent public court trials; however, there was no reliable independent method to ascertain accurately their total number.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The government limited citizens' privacy rights through a vast surveillance network. Security laws allow the government to monitor individuals' private communications (including e-mail and cell phones) and movements.

The law prohibits unlawful searches and seizures; however, police at times disregarded constitutional requirements to safeguard citizens' privacy, especially in rural areas. By law police must obtain search authorization from a prosecutor or court, but in practice police did not always obtain prior approval. The law generally protects privacy, including that of mail, telephone, and electronic correspondence, but the government apparently violated these legal protections at times.

MoPS monitored citizens' activities; in addition an informal militia in urban and rural areas, operating under the aegis of the military, had responsibility for maintaining public order and reporting "undesirable elements" to police. The militia usually were more concerned with petty crime and instances of moral turpitude than with political activism, although in remote rural areas where the insurgency was active, the militia also played a role in providing security against insurgents and robbers. Members of the LPRP's many front organizations, including the Lao Women's Union, the Youth Union, and the Lao Front for National Construction (LFNC), served as watchdogs over the citizenry at all levels of society. MoPS also maintained a network of secret police whose job was to monitor the citizenry to prevent acts threatening the government.

The government monitored the e-mails of private citizens but to an unknown extent. All Internet service providers were licensed by the government and were required to report quarterly to the Internet Committee of the Prime Minister's Office regarding their activities.

The government continued its program to relocate highland slash-and-burn farmers, most of whom belong to ethnic minority groups, to lowland areas, in keeping with its plan to end opium production by the end of the year and slash-and-burn agriculture by 2010. In some areas district and provincial officials used persuasion to convince villagers to move to relocation areas. In other areas villagers relocated spontaneously to be closer to roads, markets, and government services. Although the government's 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 to their new homes and new way of life. Moreover, in some areas farmland allocated to relocated villagers was of poor quality and unsuited for intensive rice farming. The result was that some relocated villagers experienced increased poverty, hunger, malnourishment, susceptibility to disease, and increased mortality rates. The government relied on assistance from NGOs, bilateral donors, and international organizations to cover the needs of those recently resettled, but such assistance was not available in all areas.

In January authorities in Ban Kokpho Village, Bolikhamsai Province, forced 104 ethnic Khmu Christians to leave the province. According to some witnesses, the villagers were expelled for their religious beliefs; however, local authorities claimed the villagers had settled in the area illegally and had elected to return to their original homes. The villagers were removed in military vehicles to Vientiane City, where their plight came to the attention of central government representatives, who forced Bolikhamsai officials to allow them to return to their village.

The government allowed citizens to marry foreigners only with prior approval. Premarital cohabitation was illegal. Although the government routinely granted permission to marry, the process was lengthy and burdensome and offered officials the opportunity to solicit bribes. Marriages to foreigners without government approval could be annulled, with both parties subject to arrest or fines.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government severely restricted political speech and writing in practice. The government also prohibited most criticism that it deemed harmful to its reputation. The law forbids slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the state. Citizens who lodged legitimate complaints with government departments generally did not suffer reprisals, but criticism of a more general nature or targeting the leadership could lead to censure or arrest.

The state owned and controlled most domestic print and electronic media. Local news in all media reflected government policy. Television talk shows and opinion articles referred only to differences in administrative approaches. Although domestic television and radio broadcasts were closely controlled, the government made no effort to interfere with television and radio broadcasts from abroad. In practice many citizens routinely watched Thai television or listened to Thai radio, including news broadcasts. Citizens had 24-hour access to CNN and the BBC as well as other international stations accessible via satellite and cable television. The government required registration of receiving satellite dishes and a one-time licensing fee for their use, largely as a revenue-generating scheme, but otherwise made no effort to restrict their use. In addition a Chinese-owned company provided cable television service to subscribers in Vientiane. This government-registered cable service offered Thai and international news and entertainment programs without restriction from authorities. The government permitted the publication of several privately owned periodicals of a nonpolitical nature, including periodicals specializing in business, society, and trade topics. A few Asian and Western newspapers and magazines were available through private outlets that had government permission to sell them.

Foreign journalists must apply for special visas and were restricted in their activities. The authorities did not allow journalists free access to information sources, but journalists often were allowed to travel without an official escort. When escorts were required, journalists had to pay a daily fee for their services. As chair of the Association of Southeast Asian Nations (ASEAN), the government established special streamlined procedures for foreign journalists covering ASEAN-related events, such as the summit in November 2004 and the regional forum in July. These procedures required journalists to register with the Ministry of Foreign Affairs if they wished to report stories other than the ASEAN meetings.

Authorities prohibited the dissemination of materials deemed indecent, subversive of national culture, or politically sensitive. Any person found guilty of importing a publication deemed offensive to the "national culture" faced a fine or imprisonment for up to one year. A 2002 decree on religious practice permits the publication of religious material with permission from the LFNC. In practice, although several religious groups sought such permission, at year's end no Christian or Baha'i groups had received authorization to publish religious materials (see section 2.c.).

Films and music recordings produced in government studios must be submitted for official censorship; however, uncensored foreign films and music were easily available in video and compact disc format. The Ministry of Information and Culture repeatedly attempted to impose restrictions aimed at limiting the influence of Thai culture in Lao music and entertainment. These restrictions were widely ignored and appeared to have little effect.

The government controlled all domestic Internet servers and occasionally blocked access to Internet sites that were deemed pornographic or were critical of government institutions and policies. The government also sporadically monitored e-mail (see section 1.f.). Highly restrictive regulations regarding Internet use by citizens significantly curtailed freedom of expression. "Disturbing the peace and happiness of the community" and "reporting misleading news" are criminal acts. The Prime Minister's Office requires all Internet service providers to submit quarterly reports and link their gateways to facilitate monitoring, but the government's ability to enforce such regulations was limited. Fearful of monitoring by the authorities, many citizens used the Internet services of a growing number of Internet cafes rather than personal computers for private correspondence.

The law provides for academic freedom; however, the government restricted it, although over the past several years it has relaxed restrictions in certain areas. Curriculum in schools, including private schools and colleges, was tightly controlled by the Ministry of Education to ensure that no subjects are taught that might raise questions about the political system. The government relaxed these restrictions somewhat in the case of private colleges, allowing teachers greater latitude in their courses of instruction. Both citizen and noncitizen academic professionals conducting research in the country may be subject to restrictions on travel, access to information, and publication. The government exercised some control over the ability of state-employed academic professionals to travel for research or obtain study grants, but it actively sought such opportunities worldwide and approved virtually all such proposals.

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 an organization for the purpose of demonstrations, protest marches, or other acts that cause "turmoil or social instability." Such acts are punishable by a prison term from

one to five years. Defendants tried for crimes against the state could face sentences of up to 20 years or possible execution.

Freedom of Association.—The law provides citizens the right to organize and join associations, but the government restricted this right in practice. The government registered and controlled all associations and prohibited associations that criticized the government. Political groups other than popular front organizations approved by the LPRP were forbidden. Although the government restricted many types of formal professional and social associations, informal nonpolitical groups met without hindrance. The government has allowed the creation of some associations of a business nature, such as allowing hotel owners and freight forwarders to create their own business associations. The government also began permitting the establishment of nonprofit organizations designed to promote science and agriculture. The Prime Minister's Office oversees the small but growing body of organizations that have registered to conduct activities in these areas.

c. Freedom of Religion.—The law provides for freedom of religion; however, the authorities, particularly at the local level, interfered with this right.

Two members of the Lao Evangelical Church, Nyoht and Thongchanh, sentenced in 1999 for treason and sedition to 12 years and 15 years, respectively, remained in prison at year's end.

Although the state is secular, the LPRP and the government monitored Theravada Buddhism, which was followed by more than 40 percent of the population and was the faith of nearly all of the ethnic Lao population. The law does not recognize a national religion, but the government's support for and oversight of temples and other facilities and its promotion of Buddhist practices gave Buddhism an elevated status among the country's religions.

The constitution prohibits "all acts of creating division of religion or creating division among the people." The LPRP and the government used this to justify restrictions on religious practice by all religious groups, including practices of the Buddhist majority and of animists. Although official pronouncements acknowledged the positive benefits of religion, they also emphasized its potential to divide, distract, or destabilize. The constitution notes that the state "mobilizes and encourages" Buddhist monks and novices as well as priests of other religions to participate in activities "beneficial to the nation and the people."

Authorities continued to be suspicious of non-Buddhist religious communities, including some Christian groups, in part because these faiths did not share Theravada Buddhism's high degree of direction and incorporation into the government structure. In the past some authorities criticized Christianity in particular as a Western or imperialist "import." Local authorities, apparently in some cases with encouragement from government or LPRP officials, singled out Protestant groups as a target of abuse. Protestant churches' rapid growth since the early 1990s, contact with religious groups abroad, aggressive proselytizing on the part of some members, and independence of central government control contributed to government and Communist Party suspicion of the churches' activities.

The 2002 decree on religion permits minority religious groups to engage in a number of activities previously considered illegal, such as proselytizing and printing religious material; however, it requires religious groups or individuals to obtain permission in advance for these activities, in most cases from the LFNC. Although the intent of the decree is to clarify the rights and responsibilities of religious groups, many minority religious leaders complained that it was too restrictive in practice. The requirement that religious groups obtain permission, sometimes from several different offices, for a broad range of activities greatly limited the freedom of these groups.

The LFNC has recognized two Protestant groups: the Lao Evangelical Church (LEC), which is the umbrella Protestant church, and the Seventh-day Adventist Church. Nominally, all Protestant congregations in the country belonged to one of these two organizations, although in practice some congregations operated independently.

In most parts of the country, members of long-established congregations had few problems in practicing their faith, although long-time congregations in some parts of Savannakhet and Luang Prabang provinces continued to face restrictions from local authorities. Most incidents of harassment of Christian congregations took place in areas where Christianity had only recently spread. The authorities sometimes advised new congregations to join other religious groups with similar historical roots, despite clear differences between the groups' beliefs. In some areas, such as Luang Prabang and Xieng Khouang provinces, independent congregations were ordered to return to the LEC or face sanctions, including arrests of their leaders. In other

areas, however, authorities allowed congregations not affiliated with the LEC or Seventh-day Adventists to continue their worship unhindered.

The government's tolerance of religion varied by region. The LFNC often sought to intervene with local governments in cases where minority religious practitioners, particularly Christians, had been harassed or mistreated; however, incidents of religious intolerance by local officials continued in some areas. Although officials in a few urban areas—notably Vientiane City, Savannakhet, and Pakse—were relatively tolerant of Christian religious practice, government authorities in many regions restricted the practice of properly registered religious groups. During the year officials in Savannakhet Province's Muang Phine District arrested and detained religious believers without charges, apparently as a means of forcing them to change their religious beliefs (see section 1.d.). Authorities in other areas used threats of arrest as a means of intimidating local religious communities. Local officials in some parts of the country also threatened to withhold government identification cards and household registers and deny educational benefits to those who did not give up their religious beliefs.

The Roman Catholic Church was unable to operate effectively in the northern part of the country and had only intermittent contact with the bishop of Luang Prabang, who lived in Vientiane. The small Catholic communities in Luang Prabang, Sayaboury, and Bokeo provinces sporadically held services in members' homes, but there were no priests in the area, and pastoral visits from Vientiane were infrequent. However, the government granted permission for a Catholic community in Sayaboury Province to construct a new church. In December the bishop of Vientiane announced the scheduled ordination of the country's first new priest in 30 years. However, authorities did not allow the ordination to proceed, claiming the Church had not obtained the necessary authorization from provincial authorities. Government officials stated the ordination had only been "postponed," but at year's end it had not taken place.

During the year local authorities arrested or detained approximately 35 Christians in Savannakhet and Bokeo provinces and in Vientiane City. The five Christians arrested at the Friendship Bridge in September were released within days, as were most of those arrested in Savannakhet Province. However, two men arrested in Savannakhet were tried and convicted of weapons trafficking charges. Three of those arrested in Bokeo Province in October remained under detention, without being charged, at the end of the year (see section 1.c.). Most of those detained were released within a few days, but two men were brought to trial and eventually convicted of weapons trafficking (see section 1.c.). Members of the two men's religious community regarded their arrest and conviction to be motivated by local officials' desire to force the men to renounce their faith.

Followers of the Baha'i Faith were able to practice their religion without hindrance in Vientiane City, but in Savannakhet and Khammouane provinces small Baha'i groups continued to face restrictions from local authorities. The small Muslim community in Vientiane, made up almost exclusively of foreign nationals, was able to practice its religion without hindrance.

Animists generally experienced no interference from the government in their religious practices, which varied extensively among the approximately 70 identified ethnic groups and tribes in the country. However, the government actively discouraged animist practices that it regarded as outdated, unhealthful, or illegal, such as the practice in some tribes of infanticide of infants born with birth defects or of keeping the bodies of deceased relatives in homes.

Officials in Savannakhet continued to refuse requests by the Christian congregation in the village of Khamsan for the return of their church building, seized by authorities several years earlier. In October officials in Bokeo Province burned a bamboo church building built by local Protestants and arrested six leaders of the church. The church community had requested permission from village officials to construct a church; when permission was not forthcoming, the leaders of the congregation proceeded to build the church without permission. Both the church burning and the arrests were apparently in retaliation for this action. In several areas authorities continued to deny requests by local congregations to construct permanent church buildings but in other areas permitted the construction or renovation of churches. Authorities in some parts of the country used intimidation or threats of expulsion to force Christians to renounce their religious faith, particularly in parts of Savannakhet, Bolikhamsai, and Luang Prabang provinces (see section 1.f.).

Officials in some areas reportedly were suspicious of persons who converted to Christianity, but during the year there were no reports of the harassment or arrest of recent converts.

The government strictly prohibited foreigners from proselytizing, although it permitted foreign NGOs with religious affiliations to work in the country. Foreign per-

sons who distribute religious material may be arrested or deported. Although the 2002 decree permits proselytizing by religious practitioners provided they obtain permission for such activities from the LFNC, the LFNC did not grant such permission, and persons found evangelizing risked harassment or arrest.

The government permits the printing, import, and distribution of Buddhist religious material, but it made no such concessions to the printing or import of religious material and literature by non-Buddhist faiths. The 2002 decree authorizes the printing of religious material, provided permission is obtained from the LFNC, but the LFNC did not grant permission to Christian congregations. The government required and usually granted permission for formal links with coreligionists in other countries; however, in practice the distinction between formal and informal links was unclear, and relations with coreligionists generally were established without difficulty.

Societal Abuses and Discrimination.—For the most part, the various religious communities coexisted amicably. There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

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

d. Freedom of Movement Within the Country, Foreign Travel, Migration, and Repatriation.—The law provides for these rights, but in practice the government restricted some of them. Citizens who traveled across provincial borders are not required to report to authorities; however, in designated security zones, roadblocks and identity card checks of travelers were conducted occasionally. Citizens who sought to travel to contiguous areas of neighboring countries could do so with travel permits that generally were easily obtained from district offices. Those wishing to travel farther abroad were required to apply for passports and exit visas. The government usually issued these documents for a fee, but officials at the local level denied permission to apply for passports and exit visas to some persons seeking to emigrate. Authorities restricted access by foreigners to certain areas, such as the Saisomboun Special Zone, an area administered by military forces, or remote districts in Xieng Khouang and Bolikhamsai provinces, where antigovernment insurgents continued to operate.

The government did not use forced exile; however, a small group of persons, who fled the country during the 1975 change in government and were tried in absentia for antigovernment activities, did not have the right of return.

Protection of Refugees.—The law provides for asylum and the protection of stateless persons, but the country is not a signatory to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol. In practice the government did not provide protection against *refoulement*, the return of persons to a country where they feared persecution, and did not routinely grant refugee or asylum status. However, the government has shown some flexibility in dealing pragmatically with individual asylum cases.

In the years following their return, former refugees were subject to greater scrutiny by the authorities than were other citizens. However, these returnees have largely reintegrated and no longer receive unusual attention from officials. Many who fled after the 1975 change of government have returned to visit relatives, some have stayed and gained foreign resident status, and some have reclaimed citizenship successfully.

The Office of the UN High Commissioner for Refugees (UNHCR) has requested permission to reestablish a presence in the country to monitor the reintegration of former refugees who returned under UNHCR's resettlement program. However, the government has refused the request, stating that the UNHCR's mandate has expired and all former refugees have been successfully reintegrated.

In November Thai authorities in Petchaboon Province arrested a group of 29 ethnic Hmong, most of them teenage girls, who had fled to Thailand and were living in Petchaboon Province. Subsequent reports indicated that most of these Hmong were sent to Laos by Thai immigration authorities in early December. However, Lao authorities refused to acknowledge the presence of this group. At year's end the location and fate of this group were unknown, with some sources reporting that they were in jail in Vientiane and others that they were detained in Bolikhamsai Province.

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

Citizens do not have the right to change their government. Although the constitution outlines a system composed of executive, legislative, and judicial branches, the

LPRP controlled governance and the leadership at all levels through its constitutionally designated “leading role.”

Elections and Political Participation.—The law provides for a representative national assembly, elected every five years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage. However, it legitimizes only a single party, the LPRP; all other political parties are outlawed. Election committees, appointed by the National Assembly, must approve all candidates for local and national elections. Candidates need not be LPRP members, but in practice almost all were.

The National Assembly chooses a Standing Committee, generally based on the previous Standing Committee’s recommendation. Upon the committee’s recommendation, the National Assembly elects or removes the president and vice president. The committee has supervision of 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, elects the prime minister and other ministers of the government. The 109-member National Assembly, elected in February 2002 under a system of universal suffrage, approved the LPRP’s selection of the president at its inaugural session in March 2002, and in the same session it ratified the president’s selection of a new prime minister and cabinet. The National Assembly may consider and amend draft legislation, but only permanent subcommittees of the assembly may propose new laws. The law gives the right to submit draft legislation to the Standing Committee and the ruling executive structure.

There were 22 women in the 109-member National Assembly and 3 women in the 53-member LPRP Central Committee were women, 1 of whom was also a member of the 7-member Standing Committee in the National Assembly. There were no women in the politburo or the Council of Ministers.

There were 9 Lao Soung (highland dwelling tribes) and 19 Lao Theung (mid-slope dwelling tribes) in the National Assembly. Most members of the assembly were ethnic Lao, who also dominated the upper echelons of the LPRP and the government. Three cabinet ministers were members of ethnic minority groups.

Government Corruption and Transparency.—There was a widespread public perception that many officials within the executive and judicial branches of the government were corrupt. Wages of all government officials were extremely low, and many officials, such as police members, had broad powers that they could easily abuse. During the year the National Assembly passed an anticorruption law with provisions that government officials declare their assets. The government also transferred a small number of high-ranking officials, especially at the province level, who were found to be corrupt. However, the LPRP’s measures to suppress all information that would lead the population to conclude the Party was flawed ensured that there was no public censure of corrupt officials who were also party members.

There are no laws providing for public access to government information, and in general the government closely guarded the release of any information pertaining to its internal activities, deeming such secrecy necessary for “national security.”

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

There were no domestic nongovernmental human rights organizations, and the government does not have a formal procedure for registration. Any organization wishing to investigate and publicly criticize the government’s human rights policies would face serious obstacles, if it were permitted to operate at all.

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 two foreign governments and continued to receive training in UN human rights conventions from several international donors.

The government maintained contacts with the ICRC, and government officials and military officers have received ICRC training on human rights law and the Geneva Conventions. The government continued to translate international human rights and humanitarian law conventions with ICRC support. Since the closing of the UNHCR office in 2001, the government has not permitted UNHCR personnel to conduct monitoring visits to the country.

A human rights unit in the Ministry of Foreign Affairs’ Department of International Treaties and Legal Affairs has responsibility for investigating allegations of human rights violations. The Foreign Ministry on occasion responded to inquiries from the UN regarding its human rights situation.

The government permitted limited access by international organizations and NGOs to provide food assistance to former insurgents who had accepted government resettlement offers.

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

The constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. The government at times took action when well-documented and obvious cases of discrimination came to the attention of high-level officials, although the legal mechanism whereby a citizen may bring charges of discrimination against an individual or organization was neither well developed nor widely understood among the general population.

Women.—There were reports that domestic violence against women occurred, although it did not appear to be widespread. Spousal abuse is illegal. Rape reportedly was rare. In cases of rape that were tried in court, defendants generally were convicted with penalties ranging from three years' imprisonment to execution. Spousal rape is not illegal.

Trafficking in women and girls for prostitution was a problem (see section 5, Trafficking). Prostitution is illegal, with penalties ranging from three months to one year in prison.

Sexual harassment was rarely reported, but the actual extent was difficult to assess. Although sexual harassment is not illegal, "indecent sexual behavior" toward another person is illegal and punishable by six months' to three years' imprisonment.

The law provides for equal rights for women, and the Lao Women's Union operated nationally to promote the position of women in society. The family code prohibits legal discrimination in marriage and inheritance. Discrimination against women was not generalized; however, varying degrees of traditional, culturally based discrimination persisted, with greater discrimination practiced by some hill tribes. Many women occupied responsible positions in the civil service and private business, and in urban areas their incomes were often higher than those of men.

In recent years the government increased support for development programs designed to improve the position of women in society, including in the political system. In late 2004 the National Assembly passed a new Law on Women, with antitrafficking provisions as well as provisions protecting women and children from domestic violence. The law also establishes penalties for crimes against women that are significantly more severe than those contained in the criminal code. The law defines trafficking and violence against women and children as criminal actions and provides for the protection of victims internally and by international agencies. The law closely follows provisions of the UN Convention on the Elimination of Discrimination Against Women and the Convention on the Rights of the Child.

Children.—Although the government has made children's education and health care a priority in its economic planning, funding for children's basic health and educational needs was inadequate, and the country had a very high rate of infant and child mortality. Education is free and compulsory through the fifth grade; however, high fees for books and supplies and a general shortage of teachers in rural areas prevented many children from attending school. According to government statistics, 80 percent of primary school-age children, 50 percent of junior high school-age children, and approximately 25 percent of high school-age children were enrolled in school; however, the UN Development Program estimated that almost 40 percent of children did not attend school at all and only 10 percent entered secondary school. There was a significant difference in the treatment of boys and girls in the educational system: female literacy was 48 percent versus 70 percent for males; however, men and women attended the national university in approximately equal numbers.

The law prohibits violence against children, and violators were subject to stiff punishments. Reports of the physical abuse of children were rare.

Trafficking in girls for prostitution and forced labor was a problem (see section 5, Trafficking). Other forms of child labor generally were confined to family farms and enterprises (see section 6.d.).

Trafficking in Persons.—The law prohibits abduction and trade in persons as well as detaining persons against their will, procuring persons for commercial sex, and prostitution; however, trafficking in persons, particularly women and children, was a problem. In late 2004 the National Assembly passed a law on women that includes provisions protecting women and children from trafficking and domestic violence and imposes stiff penalties on traffickers (see section 5, Women).

The country was primarily a country of origin for trafficking in persons and, to a much lesser extent, a country of transit. The primary destination country was

Thailand. There was almost no effective border control. There was little reliable data available on the scope and severity of the problem until recently, when studies indicated that the scale of economic emigration, mostly by young persons between the ages of 15 and 30, was far greater than previously supposed. Approximately 7 percent of the total sample population in 3 southern provinces migrated, either seasonally or permanently, and approximately 55 percent were female. Thai authorities estimated that at least 180 thousand undocumented Lao worked in Thailand. An unknown number of these persons were actually trafficked in some sense of the term. The studies suggested that it was not the most impoverished who were likely to emigrate but rather better-educated peasants with some knowledge of life in Thailand. According to one study, a very small number of female citizens were trafficked to China to become brides for Chinese men.

The majority of trafficking victims have been lowland Lao, although small numbers of highland minority women have also been victimized by traffickers. Minority groups were particularly vulnerable because they do not have the cultural familiarity or linguistic proximity to Thai that Lao-speaking workers can use to protect themselves from exploitative situations. A much smaller number of trafficked foreign nationals, especially Burmese and Vietnamese, transited through the country.

Many labor recruiters in the country were local persons with cross-border experience and were known to the trafficking victims. For the most part, they had no connection to organized crime, commercial sexual exploitation, or the practice of involuntary servitude, but their services usually ended once their charges reached Thailand, where more organized trafficking operations operated.

There were few reports of official involvement in trafficking; however, anecdotal evidence suggested that local officials knew of trafficking activities, and some may have profited from them.

To date the government has prosecuted only a handful of traffickers, according to available information. All were prosecuted under other criminal statutes, prior to the implementation of antitrafficking provisions of the 2004 Law on Women. The government has established an antitrafficking police unit to investigate human trafficking cases and cooperated closely with police in Thailand to investigate specific trafficking cases involving Thai traffickers. Police occasionally arrested both citizens and foreigners for having sexual relations outside of marriage, which is prohibited under the law. Sexual relations with foreigners are forbidden under what the government refers to as a "special law."

The government has become actively involved in countering the worst forms of trafficking and the exploitation of underage persons, chiefly through cooperation with international NGOs working on trafficking problems. The government signed a Memorandum of Understanding with Thailand to increase cross-border cooperation on trafficking, and it also was a member of the Coordinated Mekong Ministerial Initiative Against Trafficking process.

The Ministry of Labor and Social Welfare (MLSW) has a unit devoted to children with special needs, including protection of trafficking victims and prevention of trafficking. The MLSW also maintains a small-scale repatriation assistance center for returned victims of trafficking, but the unit's effectiveness was limited by a small budget, inadequate international assistance, and a lack of trained personnel. The MLSW opened a second center for trafficking victims, funded by The Asia Foundation, the Japanese government, and the UN Children's Fund (UNICEF). The MLSW and the Lao Women's Union conducted pilot studies on antitrafficking information campaigns and began to pursue more active interventions in conjunction with NGOs. Financial constraints limited the contributions the government could make, but it offered the services of ministerial personnel and venues to NGOs doing antitrafficking work.

The Lao Women's Union and the Youth Union, both party-sanctioned organizations, offered educational programs designed to educate girls and young women regarding the schemes of recruiters for brothels and sweatshops in neighboring countries and elsewhere. These organizations were most effective in disseminating information at the grassroots level.

In the past some trafficking victims were punished for improper documentation or for crossing the border illegally. In September 2004 MoPS prohibited the practice of fining returning trafficking victims for illegal border crossing, and the Law on Women also prohibits the practice. With support from UNICEF, the National Commission for Mothers and Children continued an active program of support for victims.

Persons with Disabilities.—The constitution provides citizens protection against discrimination but does not specify that these protections apply to persons with disabilities. Regulations promulgated by the MLSW and the Lao National Commission for the Disabled protect such persons against discrimination; however, the regula-

tions lack the force of law. The law does not mandate accessibility to buildings or government services for persons with disabilities, but the MLSW has established regulations regarding building access and some sidewalk ramps in Vientiane.

National/Racial/Ethnic Minorities.—The law provides for equal rights for all minority citizens, and there is no legal discrimination against them; however, societal discrimination persisted. Moreover, critics have charged that the government's resettlement program for ending slash-and-burn agriculture and opium production has 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 their traditional livelihoods and community structures. The program has led to an active debate among international observers about whether the benefits of resettlement promoted by the government—access to markets, schools, and medical care for resettled persons—outweigh the negative impact on traditional cultural practices.

Less than half the population is ethnic Lao, also called "lowland Lao." Most of the remainder, approximately 60 percent, is a mixture of at least 47 distinct upland hill tribes whose members, if born in the country, are citizens. There were also ethnic Vietnamese and Chinese minorities and a small community of South Asian origin, particularly in urbanized areas. The law provides a means for foreigners to acquire citizenship, and each year some foreigners, mostly Vietnamese and Chinese, do so. The government encouraged the preservation of minority cultures and traditions; however, due to their remote location and inaccessibility, minority tribes had little voice in government decisions affecting their lands and the allocation of natural resources.

The Hmong are one of the largest and most prominent highland minority groups. There were a number of Hmong officials in the senior ranks of the government and LPRP, including at least five members of the LPRP Central Committee. However, societal discrimination continued against the Hmong (as well as other ethnic minorities), and some Hmong believe their ethnic group cannot coexist with the ethnic Lao population. This belief has fanned separatist or irredentist beliefs among some Hmong. In recent years the government focused limited assistance projects in Hmong areas to address regional and ethnic disparities in income. The government also provided for Hmong and Khmu language radio broadcasts.

The increased number of attacks by Hmong insurgents against civilian and military targets, coupled with the outbreak of a localized uprising in Houaphanh Province in 2003 and again in January, intensified ethnic tensions and aroused the government leadership's suspicion of Hmong irredentist desires. The heightened security problems also resulted in increased efforts by security forces to eliminate scattered pockets of insurgents living in remote jungle areas (see section 1.a.).

For several years the government has had a vaguely defined policy of giving resettlement assistance and "amnesty" to insurgents who surrender to authorities. At least partially in response to charges that it was trying to kill all insurgent elements, the government used family members of insurgents still living in the forest and former insurgents to approach these groups to urge them to surrender. Throughout the late 1990s and early 2000s, small groups accepted this offer and received small amounts of resettlement assistance from the government, especially in Vientiane, Bolikhamsai, and Xieng Khouang provinces and in the Saisomboun Special Zone. In some areas, such as in Bolikhamsai, this amnesty program included job training, land, and equipment for farming. However, in some cases this assistance was less than had been promised. Moreover, because of their past activities, amnestied insurgents continued to be the focus of government suspicion and scrutiny. The government generally refused offers from the international community to assist these surrendered insurgents directly, but it allowed some aid from the UN and other international agencies to reach them as part of larger assistance programs (see section 2.d.).

In June a group of approximately 170 persons, mostly women and children, associated with the insurgency surrendered to authorities in Xieng Khouang Province. Prior to the group's surrender, other insurgent bands also indicated their intention to turn themselves in to authorities. However, the arrest of four foreigners who traveled to Xieng Khouang to witness the surrender of this first group apparently had a chilling effect on other groups' intentions to surrender, and the anticipated mass surrenders of insurgents did not materialize. Nevertheless, there were reports of scattered surrenders of smaller groups, usually consisting of one or two families, subsequent to this event.

The government promised food, medicine, and resettlement assistance to insurgents who surrendered (see section 1.a.). The government initially refused international organizations permission to visit the 170 persons who surrendered in June or provide them with food and assistance, but after several months it allowed lim-

ited internationally donated food aid to reach them. The government also permitted international organizations to provide assistance to former insurgent families who surrendered in early 2004 and were resettled in Xieng Khouang Province's Muang Mok District.

The constitution states that foreigners and stateless persons are protected by "provisions of the laws," but in practice they did not enjoy the rights provided in the constitution.

Other Societal Abuses and Discrimination.—Within lowland Lao society, there was wide and growing tolerance of homosexual practice, although societal discrimination persisted.

There was no official discrimination against persons with HIV/AIDS, but social discrimination existed. The government actively promoted tolerance of those with HIV/AIDS, and during the year it conducted awareness campaigns to educate the population and promote understanding toward such persons.

Section 6. Worker Rights

a. The Right of Association.—Under the law labor unions may be formed in private enterprises as long as they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. However, most of the FLTU's approximately 99 thousand members worked in the public sector.

The government employed the majority of salaried workers, although this situation was changing as the government privatized state enterprises and otherwise reduced the number of its employees. Subsistence farmers made up an estimated 85 percent of the work force.

b. The Right to Organize and Bargain Collectively.—There is no right to organize and bargain collectively. The labor code stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the MLSW. According to NGOs and embassies based in Vientiane, the law generally was not enforced by the MLSW, especially in dealings with joint ventures in the private sector. Labor disputes reportedly were infrequent. According to labor activists the FLTU needs government permission to enter factories and must provide advanced notice of such visits; the FLTU is in effect powerless to protect workers who filed complaints. The government sets wages and salaries for government employees, while management sets wages and salaries for private business employees.

Strikes are not prohibited by law, but the government's ban on subversive activities or destabilizing demonstrations (see section 2.b.) made strikes unlikely, and none were reported during the year.

The labor code stipulates that employers may not fire employees for conducting trade union activities, lodging complaints against employers about labor law implementation, or cooperating with officials on labor law implementation and labor disputes, and there were no reports of such cases. Workplace committees were one mechanism used for resolving complaints, but there was no information on how effective these committees were in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced labor except in time of war or national disaster, during which time the state may conscript laborers. The code also prohibits forced or compulsory labor by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Under the labor code children under age 15 may not be recruited for employment, except to work for their families, provided the work is not dangerous or difficult. Many children helped their families on farms or in shops, but child labor was rare in industrial enterprises. Some garment factories reportedly employed a very small number of underage girls. The Ministries of Public Security and Justice are responsible for enforcing these provisions, but enforcement was ineffective due to a lack of inspectors and other resources.

e. Acceptable Conditions of Work.—The daily minimum wage was approximately \$0.40 (4 thousand kip), which was insufficient to provide a decent standard of living for a worker and family. Most civil servants received inadequate pay. 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 1 day of rest per week.

The law provides for safe working conditions and higher compensation for dangerous work. Employers are responsible for compensating a worker injured or killed

on the job, a requirement generally fulfilled by employers in the formal economic sector. The law also mandates extensive employer responsibility for those disabled while at work, and it was enforced adequately. Although workplace inspections reportedly have increased over the past several years, the MLSW lacked the personnel and budgetary resources to enforce the labor code effectively. The labor code has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

There were a number of illegal immigrants in the country, particularly from Vietnam and China, and they were vulnerable to exploitation by employers. Some illegal immigrant Vietnamese children sold goods on the streets of Vientiane, although the government made some effort to stop this practice.

MALAYSIA

Malaysia is a federal constitutional monarchy with a population of approximately 25.6 million. It has a parliamentary system of government headed by a prime minister selected through periodic multiparty elections. The National Front, a coalition of political parties dominated by the United Malays National Organization (UMNO), has held power since 1957. The most recent national elections, in March 2004, were conducted in a generally transparent manner, but the opposition complained of the ruling coalition's exploitation of the powers of incumbency. The civilian authorities generally maintained effective control of the security forces.

The country's human rights performance improved during the year; nevertheless, problems remained. The following human rights problems were reported:

- abridgement of citizens' right to change their government
- incomplete investigation of detainee deaths and prisoner abuse
- overcrowded prisons
- detention of persons without trial or adequate access to legal representation
- lengthy confinement of immigrants in detention camps in poor and overcrowded conditions
- corporal punishment (caning) of illegal migrants and other prisoners
- restrictions on freedom of the press
- restrictions on freedom of assembly and association
- increased constraints on the ability of Muslims to change their religion
- violence against women
- treatment of trafficking victims as illegal migrants
- ethnic discrimination
- minimal labor law protection for household workers

There was a major trend toward greater public and government oversight of the police. The government partially addressed prison overcrowding by building new prisons. While freedom of expression remained subject to significant constraints, the media increased criticism of government policies and officials, exposure of government corruption, and coverage of contentious debates among elected officials. The government granted the Office of the United Nations High Commissioner for Refugees (UNHCR) unfettered access to detainees of possible interest to the UNHCR as well as to facilities at immigrant detention centers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, local nongovernmental organizations (NGOs) reported that police killed nine persons while apprehending them, up from seven such killings in 2004. Local NGOs also reported that eight persons died in police custody during the year, up from two such deaths in 2004.

The criminal procedure code (CPC) empowers magistrates and public prosecutors to investigate deaths of persons in police custody and to charge those responsible under the penal code. However, by the end of 2004, inquests had been initiated for only 6 of the 80 custodial death cases recorded since 2000. In August the police deputy inspector general stated that investigations into 30 of the deaths had been completed during the year and that the remaining 50 cases were being investigated. At

year's end no prosecutions were initiated as a result of the investigations, and no investigation results had been released.

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. Unlike in 2004, there were no reports of torture by police. According to the government, every report of abuse of prisoners is investigated; however, the government routinely did not release information on the results of internal police investigations, and whether those responsible for abuses were punished was not always known.

In January 2004, 31 persons released from detention under the Internal Security Act (ISA) claimed that police subjected them to physical and mental abuse during the initial 60 days of their incarceration.

In November several female Chinese nationals alleged police mistreatment after they were wrongly accused of possessing falsified Chinese passports. They claimed that police stole their money while in detention and forced at least one of them to strip naked in front of a policewoman while a male officer watched. Also in November a member of parliament publicized a surreptitiously filmed video of a detained Malaysian woman forced to strip naked, hold her ears, and do squats in front of a policewoman. Police authorities later confirmed that such squats were standard police procedure to find detainees' hidden contraband. Many NGOs denounced this treatment as degrading. The prime minister established an independent commission to conduct a public investigation of the incident and recommend changes to police processing of detainees. The commission's investigation continued at year's end.

In May 2004 the international NGO Human Rights Watch (HRW) stated that some prisoners were subjected to sexually humiliating questioning and were made to stand semi-naked for long periods. The government denied these allegations.

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 Immigration Act prescribes up to six strokes of the cane for both illegal immigrants and their employers. In August 2004 Deputy Prime Minister Najib Razak stated that all arrested illegal immigrants would be prosecuted and punished before being deported. In August the minister of home affairs reiterated the government's position on caning of illegal immigrants, stating that all adult males under 50 years of age in this group faced caning prior to deportation.

Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. Some state Shari'a (Islamic) laws, which bind only Muslims, also prescribe caning (see section 1.e.). The caning, carried out with a half-inch-thick wooden cane, commonly causes welts and at times scarring. Males older than 50 and women are exempted from caning. Male children 10 years of age and older may be given up to 10 strokes of a “light cane” (see section 5).

Prison and Detention Center Conditions.—Prison overcrowding remained a serious problem. To alleviate overcrowding, the government opened three new prisons during 2004 and 2005. Government statistics indicated that overcrowding in prisons declined to 21 percent during the first 6 months of the year, compared with 46 percent during the same period in 2004. However, the government also declared that 6 prisons near major cities still experienced overcrowding above 50 percent. A commissioner from Suhakam, the Human Rights Commission of Malaysia, disputed the government's aggregate statistics, stating in May that the country had more than 45 thousand prisoners in a prison system with an intended capacity of 30 thousand.

Children have the right to remain with their imprisoned mothers until the age of three years if the mother's incarceration is scheduled to end within three months, and they may stay beyond that age with approval of the director general of prisons.

NGOs and international organizations involved with migrant workers and refugees made credible allegations of inadequate food and medical care, poor sanitation, and abuse by guards in the 15 government detention camps for illegal immigrants. Immigrant detainees were not medically screened prior to placement in the camps. An NGO with access to the camps claimed that overcrowding and deficient sanitation sometimes facilitated the spread of disease. During the year local NGOs were allowed into the camps with mobile medical clinics.

The government does not have an agreement with the International Committee of the Red Cross permitting visits to prisoners. NGOs and the media generally were not permitted to monitor prison conditions. However, in June 2004 the government invited the media to inspect Kamunting prison in response to allegations that ISA detainees were abused. During the year Suhakam officials visited various prisons and immigration detention camps at different times.

In March the government granted the UNHCR “blanket access at any time” to any of the country’s immigration detention camps. During the remaining months of the year, UNHCR staff members conducted hundreds of visits at various prisons and immigration detention facilities located throughout the country.

d. Arbitrary Arrest or Detention.—The law allows investigative detention, designed to prevent a criminal suspect from fleeing or destroying evidence while police conduct an investigation. Several laws also permit preventive detention, either 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, accused citizens’ access to timely legal representation and a fair public trial.

On August 30, the attorney general banned the use of police-obtained confessions in the prosecution of criminal cases unless the public prosecutor explicitly allowed the confession. He claimed that the new directive should significantly reduce accusations of police abuse in obtaining confessions and force the police to become more proactive and thorough in their criminal investigations. He also stated that his directive was in line with police commission recommendations. A deputy public prosecutor claimed that the directive would enable speedier trials, since judges would no longer need to rule on the admissibility of confessions.

Role of the Police and Security Apparatus.—Modeled on the British system, the Royal Malaysia Police is under the command of the inspector general of police (IGP), who reports to the minister of internal security. For the past several years, the prime minister has also served as the minister of internal security. The IGP is responsible for organizing and administering the police force. Police functions generally are divided into five areas: enforcement of law and order, maintenance of national peace and security, prevention and detection of crimes, arrest and prosecution of offenders, and gathering of security intelligence. The police force consisted of approximately 93 thousand officers.

On April 29, a police commission formed in February 2004 to suggest ways to improve the police published a report with 125 recommendations for legal and procedural reform. It proposed that the CPC be amended to require a detailed report from the police to a magistrate within a week of a custodial death, followed by an autopsy within 24 hours and an independent inquest within a month.

The commission noted a rising incidence of police corruption and stated that it was endemic due to “the generally poor quality of senior supervising officers and poorly enforced supervisory system.” The commission reported that disciplinary actions were initiated against 1,216 police personnel for corruption and other offenses during 2004, compared with 1,138 in 2003. Police offenses noted in the report included accepting bribes, theft, and rape; punishments included suspension, dismissal, and demotion. The report cited the strict monitoring effort aimed at improving the public image of the police force as the reason for the increase in the number of personnel sanctioned. The commission stated, “the war against corruption must be accorded the highest priority” and recommended enhanced internal anticorruption procedures, regular job rotations and tenure limitations, and education and training about the debilitating impact of corruption on the police force and society. The government disclosed that disciplinary actions were taken against 299 police personnel during the first 7 months of the year.

Following publication of the commission report, the prime minister assumed the chairmanship of a task force established to examine various elements of the commission report and recommend specific government actions to address the problems highlighted in the report. Recommendations based on the task force’s analysis had not been completed or publicized by year’s end.

During the latter half of the year, the government focused its initial reform efforts on improving the salaries, quarters, and general living conditions of police officers. In September, for example, the Public Works Department presented police leaders with designs for 27 thousand units of new living quarters.

In July 2004 the IGP directed the commander of the police training center to include human rights awareness training in its courses. Such human rights education continued during the year as part of the training program for new recruits.

Arrest and Detention.—The law permits police to arrest individuals for some offenses without a warrant and hold suspects for 24 hours without charge. A magistrate may extend this initial detention period for up to two weeks. Although police generally observed these provisions, the police commission reported that police sometimes released suspects and then quickly rearrested them and held them in investigative custody. 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. Judicial decisions generally upheld this practice. The commission stated that an “arrest first, inves-

tigate later” mentality pervaded some elements of the police force, and it recommended that detention procedures be reviewed to prevent abuse.

Four laws permit the government to detain suspects without normal judicial review or the filing of formal charges: the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance, the Dangerous Drugs (Special Preventive Measures) Act, and the Restricted Residence Act.

The ISA empowers police to arrest without 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 this initial 60-day detention period in special police holding centers, suspects have not always been given access to counsel. Upon the recommendation of an advisory board, the internal security minister may authorize further detention for up to two years, with an unlimited number of two-year periods to follow. Some of those released before the end of their detention period are subject to “imposed restricted conditions.” These conditions limit freedom of speech, association, and travel inside and outside the country. Since 1960 more than 10,500 persons have been arrested under the ISA, of whom more than 4,100 were detained beyond the initial 60-day detention period and 2 thousand were subjected to restriction orders.

Even when there are no formal charges, the ISA requires that the authorities inform detainees of the accusations against them and permit them to appeal to an advisory board for review every six months. However, advisory board decisions and recommendations are not binding on the internal security minister, are not public, and often are not shown to the detainee. In past years local human rights NGOs claimed that police at times intimidated and harassed family members of ISA detainees to prevent them from taking legal action against the police.

The 1988 amendments to the ISA circumscribed judicial review of ISA detentions. The Bar Council has asserted that ISA detentions should be subject to full judicial review; however, the courts do not concur with this interpretation and limit their review to procedural issues. Detainees freed by judicial order nearly always were immediately detained again. Following several successful procedural challenges to ISA detentions, in 2003 the Federal Court ruled that the courts should not intervene in matters of national security and public order.

In July the deputy minister of internal security stated that there were 112 persons in detention under the ISA, of whom 82 had been detained for more than 2 years. Three ISA detainees were subsequently released. The 109 remaining ISA detainees at year’s end included 71 suspected of involvement with terrorist groups, 22 held for forging currency, and 16 held for falsification of documents or other offenses. The group included 21 foreigners and 2 women. According to Suaram, a local human rights NGO, none were formally charged with a criminal offense. Among those detained were members of the opposition Islamic Party (PAS), including Nik Adli, son of the PAS spiritual leader.

There were no reports of political detainees.

Opposition leaders and human rights organizations continued to call on the government to repeal the ISA and other legislation that deprived persons of the right to counsel and trial, but the government stated that the ongoing threat of terrorist activity in the country underscored the continued need for the ISA.

Under the Emergency Ordinance, the internal security 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.” In September local NGOs called for abolition of the ordinance, citing a 2004 Suhakam study that found more than one thousand detainees held under the measure at the Simpang Renggam detention facility. They stated that the ordinance was being used to detain alleged criminals when police lacked sufficient evidence to support a traditional prosecution. For example, in October a high court judge acquitted eight men of murder charges, citing insufficient evidence of their link to the crime. The men were immediately rearrested under the Emergency Ordinance. The police commission recommended repeal of the ordinance, stating “it has outlived its purpose and in some instances has facilitated the abuse of some fundamental liberties.”

Provisions of the Dangerous Drugs Act give the government specific power to detain suspected drug traffickers without trial for up to 39 days before the internal security minister must issue a detention order. Once an order is issued, the detainee is entitled to a court hearing, which may order the detainee’s release. Suspects may be held without charge for successive two-year intervals with periodic review by an advisory board, whose opinion is binding on the minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. Police frequently detained suspected narcotics traffickers under this act after the traffickers were acquitted of formal charges. According to the National

Anti-Drug Agency, the government detained 2,295 persons under the act during the first 11 months, compared with 1,897 persons during the same period in 2004.

The 1933 Restricted Residence Act allows the minister of internal security to place individuals under restricted residence away from their homes. These persons may not leave the residential district assigned to them by the government, and they must present themselves to police on a daily basis. As under the ISA, the term of detention may be renewed every two years. The minister is authorized to issue the restricted residence orders without any judicial or administrative hearings. The government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted. In September 2004 the deputy minister of internal security told the press that 140 persons had been placed on restriction during the year. The police commission recommended repeal of the act, stating that "restricting residence is not practical and action can in any case be taken under other laws."

Immigration laws were used to detain illegal immigrants, who were often held for several months before deportation due to delays in processing. Illegal immigrants were kept in detention camps that were separate from prisons. No codified legal distinction is made between illegal workers, refugees, and trafficking victims (see sections 1.c. and 2.d.).

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years.

The CPC allows the detention of a person whose testimony as a material witness is necessary in a criminal case, if that person is considered likely to flee.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. However, constitutional provisions, legislation restricting judicial review, and other factors limited judicial independence and strengthened executive influence over the judiciary.

The government limited judicial independence significantly through a 1988 constitutional amendment that provided judicial powers would be conferred by parliament rather than being vested directly in the courts. The amendment also conferred certain judicial powers on the attorney general, including the authority to instruct the courts on which cases to hear, the power to choose venues, and the right to discontinue cases. The attorney general has control and direction of all criminal prosecutions under the CPC and has assumed responsibility for judicial assignments and transfers. Since 1988 senior judges have been appointed based on the recommendation of the prime minister.

Members of the bar, NGO representatives, and other observers expressed serious concern about the general decline of judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers.

Minor civil suits are heard by sessions courts. High courts have original jurisdiction over all criminal cases involving serious crimes. Juvenile courts try offenders below age 18. The special court tries cases involving the king and the sultans. The court of appeal has appellate jurisdiction over high court and sessions court decisions. The Federal Court, the country's highest court, reviews court of appeal decisions.

Trial Procedures.—The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage. Defendants have the right to counsel, bail is usually available, and strict rules of evidence apply in court. Defendants may make statements for the record to an investigative agency prior to trial. Limited pretrial discovery in criminal cases impeded defendants' ability to defend themselves. Defendants are presumed innocent and may appeal court decisions to higher courts. The 1964 Judiciary Court Act 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 the act imposes too many restrictions on appeals.

The Essential (Security Cases) Regulations restrict the right to a fair trial by lowering the standard for accepting self-incriminating statements by defendants as evidence in firearm and certain national security cases. The regulations also allow authorities to hold the accused for an unspecified time before making formal charges.

Even when the Essential Regulations were not invoked, police sometimes used other tactics to limit the legal protections of defendants. For example, during a trial police may summon and interrogate witnesses who have previously given testimony that was not helpful to the prosecution. Human rights advocates accused police of using this tactic to intimidate witnesses. Police also have used raids and document seizures to harass defendants.

Contempt of court charges also restricted the ability of defendants and their attorneys to defend themselves; however, the use of such charges appeared to be decreasing.

Certain provisions of the Anticorruption Act impinge on the presumption of a public office holder's innocence. A 1997 amendment to the act requires that accused persons prove that they acquired monetary and other assets legally. Failure to satisfy the court's demand for a satisfactory explanation can result in imprisonment of up to 20 years and a fine. In practice few such cases have been brought.

Shari'a laws are administered by state authorities through Islamic courts and bind all Muslims, most of whom are ethnic Malays. These laws and the degree of their enforcement vary from state to state. In 2002 the government established a committee to recommend ways to harmonize Shari'a throughout the country; however, any recommendations must be adopted by individual state legislatures. Efforts to harmonize state Shari'a with federal laws have also proven difficult. Shari'a courts do not give equal weight to the testimony of women. Many NGOs also complained that women did not receive fair treatment from Shari'a courts, especially in matters of divorce and child custody (see sections 2.c. and 5).

In July approximately 70 members of the Sky Kingdom religious group were arrested in the state of Terengganu and charged with violating a state *fatwa* (Islamic edict) that banned support of "deviant" religious teachings. In August a judge postponed a hearing in the case after no Shari'a lawyer agreed to represent the group. The Sky Kingdom members remained free on bail, pending their hearing.

Indigenous peoples in Sarawak and Sabah have a system of customary law to resolve matters such as land disputes between tribes. Additionally, *penghulu* (village head) courts may adjudicate minor civil matters, but these were rarely used.

The military has a separate system of courts.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; 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 (see section 1.d.). Police also may confiscate evidence under these provisions. Police used this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

The Anticorruption Act empowers a deputy public prosecutor to authorize the interception of any messages sent or received by a suspect through any means of communication, once a written application has been received from a senior police official involved in an official investigation. Information obtained in this way is admissible as evidence in a corruption trial.

The law permits the Internal Security Ministry to place criminal suspects under restricted residence in a remote district away from their homes for two years (see section 1.d.).

The government bans membership in unregistered political parties and organizations (see section 2.b.).

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions (see section 2.c.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, some important legal limitations exist. In practice the government restricted freedom of expression, and journalists practiced self-censorship. According to the government, restrictions were imposed to protect national security, public order, and friendly relations with other countries.

The law provides that freedom of speech may be restricted by legislation "in the interest of security (or) public order." For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. In practice the Sedition Act, the Official Secrets Act, criminal defamation laws, and other laws were used to restrict or intimidate dissenting political 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, and during the March 2004 national elections both the election commission chairman and the prime minister warned candidates not to violate the amended law. No one was charged under the provision.

Under the penal code, criminal defamation is punishable by a maximum of two years in jail, a fine, or both. The Centre for Independent Journalism, a local NGO, claimed that the threat of imprisonment and large monetary judgments for criminal defamation reinforced self-censorship. In September, immediately following a complaint filed by state-owned oil company Petronas, police initiated an investigation

of *Malaysiakini*, the country's largest independent Internet news organization. Petronas accused *Malaysiakini* of criminal defamation for publishing a former Petronas executive's allegations of financial malfeasance within the company. A police investigation of *Malaysiakini* was underway at year's end.

Print journalism was dominated by eight daily newspapers—two each in English and Malay and four in Chinese. Parties in the ruling coalition owned or controlled a majority of shares in each of the English and Malay dailies and in two of the Chinese dailies. Politically well-connected tycoons owned the other two Chinese-language newspapers. Self-censorship and biased reporting in the print media, while common, were not uniform; the English-, Malay-, and Chinese-language press sometimes provided balanced reporting on sensitive issues. The mainstream press increasingly printed editorials and interviews with opposition leaders that included criticism of government policy. Observers believed this indicated the government had relaxed its interpretation and enforcement of press restrictions.

The Printing Presses and Publications Act limits press freedom. Under the act, domestic and foreign publications must apply annually to the government for a permit. The act makes publication of "malicious news" a punishable offense, empowers the government to ban or restrict publications, and prohibits court challenges to suspension or revocation of publication permits. According to the government, these provisions ensured that "distorted news" was not disseminated to the public. Government power over annual license renewal and other policies created an atmosphere that inhibited independent or investigative journalism and resulted in extensive self-censorship. Government officials continued to argue that the act helped to preserve harmony and promote peaceful coexistence in a multiracial country. In November the deputy internal security minister stated that during the first nine months of the year, the Home Affairs Ministry had inspected more than a million foreign publications to assess whether their content threatened national security, public order, or morality. During that time the ministry blocked 8,812 (mostly English-language) titles and confiscated more than 431 thousand copies of books, newspapers, magazines, and comic books.

In August, in response to public health concerns about heavy haze blanketing large sections of the country, the government for the first time began to publicize daily air pollution index readings for the entire country. Publication of such information was previously banned because the government viewed it as prejudicial to the country's image.

At year's end the appeal of human rights monitor Irene Fernandez was pending. In 2003 she was sentenced to 12 months' imprisonment for malicious publication of false material regarding abuse and torture of migrant workers at detention camps.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to organization members. In the past the PAS newspaper *Harakah* was the target of several ruling party-sponsored libel suits. *Harakah* was the only major Malay- or English-language print media forum for opposition views, and its circulation rivaled that of mainstream newspapers. Under government stricture, *Harakah* has been limited to publishing twice monthly instead of twice a week.

Most major newspapers had online editions, which generally fell outside government regulations since they are not required to have publication permits. However, in July police raided the home of the editor of *Malaysia Today*, an independent Internet news provider, and seized two computers after *Malaysia Today* published corruption allegations against royal family members in the state of Negri Sembilan.

Printers, who also must have their permits renewed annually, often were reluctant to print publications that were critical of the government.

Radio and television stations were restricted more tightly than the print media and were almost uniformly supportive of the government's news coverage and commentary. News of the opposition was tightly restricted and reported in a biased fashion. In the period before the March 2004 elections, opposition representatives said they were unable to have their views heard and represented on the country's television and radio stations. Following a government-approved acquisition in October, a large domestic media company became the sole owner of the country's four privately held free-to-air television stations.

Broadcasting licenses permit only Malay-language news from 8:00 to 9:00 p.m., except on a ministry of information channel. In 2004 one of the new stations appealed the terms of its license agreement and began broadcasting the 8:00 p.m. news in English. The appeal was denied, and the English broadcasts ceased. Internet television faced no such restrictions. PAS continued daily Internet television broadcasts that began in 2001.

The government censored books and films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censored programming in line with government guidelines. Some foreign newspapers and magazines were banned, and, infrequently, foreign magazines or newspapers were censored, most often for sexual content. However, the Internet provided a means to bypass such restrictions. The government maintained a “blacklist” of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or radio broadcasts. The government continued to try to block the production, distribution, and sales of unauthorized video compact discs and digital video discs, especially those with pornographic or sensitive political content.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. In the past the government stated that it did not intend to impose controls on Internet use but noted that it would punish the “misuse” of information technology under the CMA. During the year the government did not use licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

The CMA also 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. In September, in an attempt to avert possible police action against them, two bloggers lodged police reports against an anonymous writer who posted racist remarks on their blogs.

The government generally restricted remarks or publications that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at mosques in the states controlled by the governing coalition. Some state governments banned certain Muslim clergymen from delivering sermons. The Religious Affairs Department continued to conduct background checks on all clergymen. The government also cracked down on the distribution and sale of the opposition party’s video compact discs and audiocassettes. In June the government confiscated an edition of the weekly Chinese-language newspaper *Epoch Times* that was produced in Indonesia and contained comments supportive of the China-based Falun Gong movement. The government banned two later editions of the newspaper, and its importer quickly ceased its distribution. The government provided no official rationale for its actions.

The government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and the government 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 this was intended to restrain political activity among civil servants, academics, and students. According to news reports, two lecturers at Universiti Utara Malaysia were fired during the year for failing to sign the loyalty pledge.

Although academics sometimes were publicly critical of the government, there was clear self-censorship among public university academics whose career advancement and funding depended on the government. Private institution academics practiced self-censorship as well, fearing that the government might revoke the licenses of their institutions. The law also imposes limitations on student associations and student and faculty political activity (see section 2.b.).

In August Universiti Kebangsaan Malaysia, a public university, terminated the employment contract of a senior professor who had publicly spoken out against the political, social, and economic policies of the governing coalition.

The government has long stated that students should be apolitical and used that assertion as a basis for denying parties access to student forums. According to student leaders, students who signed antigovernment petitions sometimes were expelled or fined. The government enforced this policy selectively and did not refrain from spreading government views on political issues among students and teachers.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of peaceful assembly; however, in practice the government placed significant restrictions on this right. This right may be limited in the interest of security and public order, and the Police Act requires police permits for all public assemblies except for workers on picket lines. Police define 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 have influenced the grant or denial of some permits. Police granted permits routinely to government and ruling coalition supporters but used a more restrictive policy with government critics and human rights activists. In August local news media reported that police in Kuala Terengganu used tear

gas and water cannons to break up a gathering of approximately two thousand PAS supporters. The gathering, which police deemed an illegal assembly, was led by PAS state and local party leaders. Several police officers were injured and seven persons were detained.

In September, following a meeting between the IGP and PAS leaders, the IGP directed police to decide within five days whether to approve an application for public assembly. The previous timeframe was 14 days.

In March police arrested six members of the opposition Democratic Action Party (DAP) at a party-sponsored demonstration in Kuala Lumpur's Merdeka Square. Approximately 70 persons attended the event, which commemorated the 40th anniversary of the government's decision to suspend direct elections of local government officials. Before their arrest, DAP party leaders urged the government to restore local government elections. After their release from jail, they claimed they had obtained verbal approval for their public assembly from the city's deputy police chief.

In June police detained 68 protesters outside the Burmese embassy in Kuala Lumpur. The ethnic Burmese demonstrators, who were protesting the detention in Burma of democracy leader Aung San Suu Kyi, were arrested for assembling without a police permit and failure to obey a police dispersal order. Their cases were pending at year's end.

The police commission recommended that sections of the Police Act restricting public assembly be amended. The commission stated that the recent addition to this act of restrictive assembly provisions "spells the end of the freedom of assembly, speech, and association provided by the constitution."

Freedom of Association.—The constitution provides for the right of association; however, the government placed significant restrictions on this right, and certain statutes limit it. Under the Societies Act, only registered organizations of seven or more persons may function as societies. The government sometimes refused to register organizations or imposed conditions when allowing a society to register. The government prohibited the Communist Party and affiliated organizations from registering and has blocked the registration of the Socialist Party of Malaysia since 1999 (see section 1.f.). The government also has the power to revoke the registration of an existing society for violations of the act, a power that it enforced selectively against political opposition groups.

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity. Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the government argued that the act still was necessary. After repeated requests during prior years, several of the country's 17 public universities agreed to allow Suhakam to monitor campus elections of student representatives in September. This followed previous allegations of scare tactics, discriminatory candidate approval procedures, and irregularities in polling practices. The campus elections proceeded without major incident, in part due to election boycotts by candidates at five major universities. According to Suaram, several universities took disciplinary action against a total of 10 students who had called for free and fair campus elections.

c. Freedom of Religion.—The law provides for freedom of religion; however, the government placed some restrictions on this right. Sunni Islam is the official religion, and the practice of Islamic beliefs other than Sunni Islam was significantly restricted. Non-Muslims, which included large Buddhist, Christian, Hindu, and Sikh communities, were free to practice their religious beliefs with few restrictions. The government provided financial support to an Islamic religious establishment and also provided more limited funds to non-Islamic religious communities. State authorities imposed Islamic religious laws administered through Islamic courts on all ethnic Malays (and other Muslims) in some matters but generally did not interfere with the religious practices of the non-Muslim community.

Prime Minister Abdullah has emphasized religious tolerance towards all faiths. During the year the government promoted *Islam Hadhari*, which emphasized tolerance towards other religions and a moderate, progressive interpretation of Islam.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits.

Various religious groups were not recognized as such by the government, and they sometimes registered themselves under the Companies Act to operate legally. In June nine Falun Gong members were fined for committing technical violations of

the Companies Act, such as failure to provide minutes of the organization's meetings within the required timeframe.

In practice Muslims are not permitted to convert to another religion. In several recent rulings, secular courts have ceded jurisdiction to Islamic courts in matters involving conversion to or from Islam. In September the court of appeal denied the request of a Muslim who had converted to Christianity to change the religion designated on her national identity card. The court ruled that a Shari'a court must first approve a request by a Muslim citizen to convert to another religion. In practice Shari'a courts routinely denied such requests.

In December a high court ruled that it lacked jurisdiction over Shari'a court decisions on matters that concern Islamic law. The case involved the disposition of the remains of a Hindu man who allegedly converted to Islam before his death. The man's Hindu wife struggled with Islamic authorities over which religion should control his burial. As a non-Muslim, the wife had no standing in the Shari'a court to appeal its decision, and Islamic religious authorities buried the man under Muslim rites.

In February the government rejected efforts led by the Bar Council and NGOs to establish a statutory interfaith commission. Proponents sought to foster cooperation among the country's faiths and bolster freedom of religion. The prime minister stated that he preferred "interfaith dialogues" to improve cooperation among the respective followers of the country's religions.

In August the Selangor State Religious Department announced its decision to withhold support for visa applications by foreign Muslim *imams* and religious teachers. Local media reported that the decision was largely targeted at the ethnic Indian Muslim community in an effort to increase the number of "homegrown" *imams*. Ethnic Indian religious leaders expressed concern that some mosques and religious schools might need to be closed.

The government generally respected non-Muslims' right of worship; however, state governments have authority over the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. Approvals for building permits sometimes were granted very slowly. In 2003 the minister of housing and local government announced that building permit approvals would no longer be required for construction of places of worship; however, minority religious groups reported that state governments sometimes blocked construction using restrictive zoning and construction codes. In September a Catholic church opened near Kuala Lumpur after more than 10 years of legal delays. Church officials publicly accused the state of intentionally delaying construction of the church by demanding relocation of proposed building sites and revoking previously approved building plans and designs.

Proselytizing of Muslims by members of other religions is strictly prohibited, although proselytizing of non-Muslims faced no obstacles. In April two foreign citizens were arrested and detained for allegedly distributing Christian religious pamphlets to Muslims. After 10 days in police custody, they were dismissed without charge.

The government discouraged but did not ban distribution in peninsular Malaysia of Malay-language translations of the Bible, Christian tapes, and other printed materials. The distribution of Malay-language Christian materials faced few restrictions in the eastern states of Sabah and Sarawak.

While representatives of non-Muslims do not sit on the immigration committee that approves visa requests from members of the clergy, the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism is asked for its recommendation.

The government continued to monitor the activities of the Shi'a minority, and state religious authorities reserved the right to detain members of what they considered Islamic "deviant sects," i.e., groups that do not follow the official Sunni teachings, under the ISA. According to the government, no individuals were detained under the ISA for religious reasons during the year.

The government is concerned that "deviationist" teachings could cause divisions among Muslims. The government's Islamic Development Department has established written guidelines concerning what constitutes a "deviationist" behavior or belief. State religious authorities, in making their determinations on these matters, have generally followed the federal guidelines. Members of groups deemed "deviationist" may be arrested and detained, with the consent of the Islamic court, in order to be "rehabilitated" and returned to the "true path of Islam." In June the religious affairs minister told parliament that 22 "deviant" religious groups with an estimated 2,820 followers had been detected in the country. The minister stated that the members of these groups were subject to prosecution, detention under the ISA, or rehabilitation. In August the government's Islamic Development Department published a list of 56 religious teachings or schools that were deemed to be "deviationist."

In July 2004 the Federal Court dismissed an appeal by four followers of Ayah Pin, leader of a religious group in Terengganu State known as the Sky Kingdom. The appeal from the four former Muslims sought a statutory declaration that Sky Kingdom followers have the right to practice the religion of their choice. The Federal Court held that their attempt to renounce Islam did not free them from the jurisdiction of the state Shari'a court. In July 70 Sky Kingdom members were arrested at the sect's main compound in Terengganu. In August all nonresidential buildings on the compound were destroyed on the instruction of state officials, who asserted that nonfarming structures had been built on property zoned exclusively for agricultural use. The 50 remaining individuals living on the compound were ordered to vacate their residences. No Shari'a law-qualified lawyers agreed to defend the Sky Kingdom followers, forcing postponement of their August hearings. The Sky Kingdom's leader and one of his four wives remained at large and were sought by religious authorities for supporting "deviant" religious practices.

The government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of particular religions, especially Islam. The government also restricted the content of sermons at mosques. In recent years both the government and the opposition Islamic party PAS have attempted to use mosques in the states they control to deliver politically oriented messages. Several states have attempted to ban opponent-affiliated *imams* from speaking at mosques. Some states also have announced measures including vigorous enforcement of existing restrictions on the content of sermons and replacement of mosque leaders and governing committees.

For Muslim children, religious education according to a government-approved curriculum is compulsory. Muslim civil servants are required to attend Islamic religious classes taught by government-approved teachers.

In family and religious matters, all Muslims are subject to Shari'a. According to some women's rights activists, women were subject to discriminatory interpretations of Shari'a and inconsistent application of the law from state to state. In Kelantan local authorities enforced wearing of headscarves by Muslim women and imposed fines for violators. Since the defeat of the opposition Islamic party PAS in Terengganu in the March 2004 elections, state and local officials have significantly reduced enforcement of dress codes for women. In November the minister of higher education stated that non-Muslim women who attend the International Islamic University of Malaysia in Kuala Lumpur must wear headscarves when attending lectures and during graduation ceremonies.

Efforts by the PAS-led government of Kelantan to implement Shari'a criminal law (see section 5), which would impose Islamic penalties for theft, robbery, illicit sex, drinking alcohol, and the renunciation of Islam, have been challenged in Federal Court, and the cases were pending at year's end.

In January federal religious police raided a nightclub in Kuala Lumpur, detaining approximately 100 young Muslims for drinking and frequenting an establishment where liquor was sold. Non-Muslims were free to remain in the club. The religious affairs minister stated that 28 such raids had been conducted in Kuala Lumpur between 2002 and January.

The government has a legislatively based, comprehensive system of hiring that favored ethnic Malays and members of a few other groups, known collectively as *bumiputras*, or "sons of the soil," most of whom are Muslim (see section 5).

Societal Abuses and Discrimination.—Relations among religious groups were generally amicable. No reliable estimate of the country's Jewish population was available, and there was no locally based Jewish community or synagogue in the country. There were no reports of anti-Semitic acts.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice, although there were restrictions in some circumstances. 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. In past years NGOs claimed that some citizens were blacklisted and not permitted to travel outside of the country because they might "tarnish the reputation" of the country, but there was no indication that this practice occurred during the year.

The government regulated the internal movement of provisionally released ISA detainees. The government also used the Restricted Residence Act to limit movements of those suspected of some criminal activities (see section 1.d.).

Citizens must apply for government permission to travel to Israel.

The constitution provides that no citizen may be banished or excluded from the country. However, according to the terms of a 1989 peace agreement, Chin Peng, the aged former leader of the communist insurgency in the country, continued to live in exile in Thailand and has been denied permission to return.

Protection of Refugees.—The country is not a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. It sometimes granted temporary refuge to asylum seekers. In August, 131 Thai citizens illegally entered the country, ostensibly to escape clashes between security forces and villagers in southern Thailand. The government decided not to return the group involuntarily and granted the UNHCR access to them. One asylum seeker wanted by the Thai government for criminal offenses was returned to Thailand.

The UNHCR listed 33,499 persons as refugees at year's end, of whom 56 percent were Indonesians from Aceh Province and 41 percent were Burmese nationals. The UNHCR received 14,595 new applications for refugee status during the year, down from 20,663 applications in 2004.

At year's end the UNHCR stated that 10,839 persons had active asylum cases pending in the country, of which 76 percent were Burmese nationals. The UNHCR assisted in the resettlement of 672 persons to third countries during the year.

According to the UNHCR, 2,469 persons arrested during the year were identified by the UNHCR as asylum seekers, recognized refugees, or individuals granted "temporary protection." The UNHCR facilitated the release of 1,277 of these individuals from police lockups and immigration detention camps. In August the deputy head of prosecution in the Attorney General's Office issued a directive to drop all charges against persons detained solely for immigration violations if they had been granted UNHCR refugee or asylum-seeker status prior to their arrest. The government released 248 such detainees between August and December, compared with 17 during all of 2004.

The government continued to deport some asylum seekers and refugees but allowed certain asylum seekers and persons of concern to remain, pending resettlement to other countries.

The government generally did not distinguish between asylum seekers and illegal immigrants, detaining them in the same camps. Detention facilities were overcrowded and lacked medical facilities. Local human rights NGOs alleged that detainees were sometimes abused by prison officials and received inadequate food.

The immigration law provides for six months in prison and up to six strokes of the cane for immigration violations. In practice, due to delays in processing travel documents, many illegal immigrants were detained in camps for more than a year (see section 1.d.).

During the year the Prisons Department took over management of the immigrant detention centers from the Immigration Department. NGOs viewed this as a positive step, as the Prisons Department has more institutional expertise in running such facilities.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections; however, while votes generally were recorded accurately, there were irregularities that affected the fairness of elections.

Elections and Political Participation.—Opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since independence in 1957) because of significant restrictions on campaigning, freedom of assembly, freedom of association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in state and national elections. In the most recent national elections, held in March 2004, opposition parties captured 19 of 219 parliamentary seats and 52 of 505 state assembly seats.

The lack of equal access to the media was one of the most serious problems encountered by the opposition in the March 2004 national elections (see section 2.a.). Opposition leaders also claimed that the election commission was perceived to be under government control and did not carry out its duties impartially. There were numerous opposition complaints of irregularities by election officials during the March 2004 campaign; however, most observers concluded that they did not substantially alter the results. Allegations were lodged of voter rolls being inflated by illegally registered "phantom" voters, who reportedly included voters from other districts brought in to vote in tightly contested districts; of nonregistered voters using fictitious names or the names of dead voters still listed on the voter rolls; and of

noncitizens illegally registered to vote. In addition ballots were marked with a serial number that could be matched against a voter's name.

The constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters; however, in practice the numbers varied significantly. The constitution also states that greater weight should be given to rural constituencies. In 2003, following nationwide redistricting, 25 new parliamentary seats were added, primarily in states in which the ruling coalition was strong. The opposition complained that the two states it controlled prior to the March 2004 elections did not get any new seats and that the redistricting was undertaken to weaken the opposition. Observers agreed that the redistricting favored government candidates for parliamentary seats but believed it had less influence on elections for state seats.

The Malay-based UMNO party dominated the ruling National Front coalition. Since 1969 the National Front coalition has maintained at least a two-thirds majority in parliament, which enabled the government to amend the constitution at will.

Over the years power increasingly has been concentrated in the prime minister, and parliament's function as a deliberative body has deteriorated. Legislation proposed by the government rarely was amended or rejected, while legislation proposed by the opposition was not given serious consideration. Parliamentary procedures allow the Speaker to suspend members of parliament, establish restrictions on tabling questions, edit written copies of members' speeches before delivery, and severely restrict members' opportunities to question and debate government policies. Nonetheless, government officials often faced sharp questioning in parliament, and this was reported in the press in greater detail than in the past. Unlike in 2004, no member of parliament was suspended by the Speaker.

After the 1969 race riots, the government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Under the Local Government Act, elections of public officials were confined to state assemblies and the federal parliament. Some politicians and NGO activists advocated the reintroduction of local government elections. Even some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the government.

Women faced no legal limits on participation in government and politics, and the government proposed a plan of action for the advancement of women to redress gender inequalities. In August 2004 the prime minister announced that 30 percent of decision-making posts in government would be allocated to women. At the end of the year, 3 of 33 cabinet ministers were women. Women held 20 of 193 seats in the lower house and 14 of the 61 senate seats filled at year's end.

Ethnic minorities were well represented in cabinet-level positions in government as well as in senior civil service positions. The political dominance of the Malay majority meant, in practice, that ethnic Malays held the most powerful senior leadership positions. Nonetheless, non-Malays filled 10 of the 33 ministerial posts and 20 of 38 deputy minister positions.

Government Corruption and Transparency.—There was an extensively held perception of widespread corruption and cronyism within the governing coalition and in government institutions. After taking office, Prime Minister Abdullah publicly denounced corruption, canceled a high-profile project tainted by cronyism, strengthened the Anti-Corruption Agency, proposed the creation of a civil service ethics training institute, and pushed government institutions to be more responsive to the public. The ethics training institute was subsequently established in April 2004. According to the prime minister, 183 civil servants were charged with corruption during the first 9 months of the year, compared with 242 during all of 2004.

In June a UMNO vice president who was also a cabinet minister was suspended from the party for six years for buying votes. In August a former senior UMNO politician was sentenced to 2 years in jail and fined approximately \$10 thousand (35 thousand ringgit) for bribery. Following this court ruling, the NGO Transparency International praised the government's progress in reducing corruption within UMNO. In February 2004 the former managing director of a government-owned steel company and the then federal minister for land and cooperative development were arrested in separate cases on corruption-related charges. Their cases were pending at year's end. In November 2004 UMNO suspended 16 members for possible vote buying in party elections.

There was no law designed to facilitate citizens' requests for government statistics or other information collected and compiled by the government. Individual members of parliament are allowed to request and obtain such information on an ad hoc basis, some of which is then made available to the public.

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

A number of domestic and international NGOs, including the Bar Council and other public interest groups, devoted considerable attention to human rights. The government generally tolerated their activities but often did not respond to their inquiries or press statements. However, under Prime Minister Abdullah there generally has been a more cooperative atmosphere toward human rights NGOs.

The government generally did not encourage international human rights organizations to form domestic branches; however, it usually did not restrict access by representatives of those organizations. The 16 members of the police commission included an official of the opposition political party PAS, the president of the national chapter of Transparency International, the president of the Bar Council, and the executive secretary of Women's Aid Organization, a local NGO.

Suhakam has come to be seen by many analysts as a credible monitor of the human rights situation in the country and a check on police activities that previously lacked oversight. 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 matter of a court case. In its most recent annual human rights report, published during the year, Suhakam focused on the rights of women and children, land rights for native tribes, and provision of adequate housing. In addition the report criticized prison conditions, deaths in police custody, detentions without trial, and some of the government-imposed restrictions on freedom of assembly. The report recommended that marital rape be made illegal, opposed caning, and highlighted the need to implement a national plan of action to counter trafficking in persons.

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.

Analysts acknowledged Suhakam as one of the few institutions in society with any ability to challenge, however tentatively, executive control. Suhakam commissioners repeatedly have noted that a major unresolved challenge was the slow government response to their reports on major topics that touched on fundamental liberties.

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

The constitution provides for equal protection under the law and prohibits discrimination against citizens based on sex, religion, race, descent, or place of birth. However, the constitution also provides for the "special position" of ethnic Malays and the indigenous peoples of the eastern states of Sabah and Sarawak (collectively, *bumiputras*), and discrimination based on this provision persisted. Government policies and legislation gave preferences to *bumiputras* in housing, home ownership, awarding of government contracts, educational scholarships, and other areas.

Women.—Violence against women remained a problem. Reports of rape and spousal abuse drew considerable government, NGO, and press attention. According to the police commission, there were 3,101 cases of domestic violence reported in 2004, up from 2,555 cases in 2003.

The Domestic Violence Act of 1994 addresses violence against women in the home; however, women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger by requiring separate reports of abuse to be filed with both the Social Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that, because the act is a part of the penal code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse. In August the minister of women, family, and community development stated that while the act provided adequate protection for women from a purely legal standpoint, police enforcement had been too lax.

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 as part of a nationwide effort to help victims of sexual crimes and abuse. Police responses and sensitivity to complaints of domestic violence continued to improve, but women's rights activists claimed that police needed additional training in handling domestic abuse and rape cases.

The police commission reported that police abuses of women's rights were largely the result of a lack of adherence to existing laws and the police code of conduct. The commission recommended hiring and training permanent police personnel to

work solely on sexual crimes and child abuse cases, rather than continuing to use temporary personnel on assignment from other types of police work. In response to the commission's recommendation and the increasing number of domestic violence cases, police in Kuala Lumpur assigned several female officers to work exclusively on domestic violence cases and provide basic counseling to victims.

Some Shari'a experts have urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. However, provisions in state Shari'a laws generally prohibit wives from disobeying the "lawful orders" of their husbands and present an obstacle to women pursuing claims against their husbands in Shari'a courts. Muslim women were able to file complaints in civil courts.

Spousal rape is not a crime. Theoretically, a man who raped his wife could face charges of assault, although reportedly no man has been convicted under such circumstances. In August 2004 Suhakam and local NGOs called on the government to amend the penal code to include spousal rape as an offense.

Reports of rape were common in the press and among women's rights groups and NGOs. According to the police commission, 1,760 women were raped during 2004, compared with 1,479 in 2003. 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 in providing counseling for rape victims. However, cultural attitudes and a perceived lack of sympathy from the largely male police force resulted in many victims not reporting rapes. According to the Ministry of Women, Family, and Community Development and a leading women's NGO, only 10 percent of rape cases were reported to police. In 2003 the penal code was amended to increase the punishment for rape to include imprisonment for a term of from 5 to 30 years, caning, and a fine. While some rapists received heavy punishments, including caning, women's groups noted that other rapists received inadequate punishments.

Prostitution is illegal and was prosecuted. Statistics were available only for foreigners arrested on immigration charges with suspected involvement in prostitution. During the first 9 months, police arrested 4,678 such persons, compared with 5,783 arrested during all of 2004. Chinese nationals accounted for the largest percentage of such arrests (more than 40 percent). Police were accused of profiling female Chinese nationals as potential prostitutes, following several highly publicized arrests (see section 1.c.).

The country was a source, transit, and destination country for trafficking in women for purposes of prostitution (see section 5, Trafficking).

A government code of conduct provides a detailed definition of sexual harassment and attempts to raise public awareness of the problem, but women's groups advocated passage of a law on sexual harassment in lieu of the voluntary code. 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. Since the code's 1999 introduction, the number of reported incidents of sexual harassment has risen. In September the government published comprehensive sexual harassment guidelines for the country's almost one million civil servants. The guidelines define the various forms of sexual harassment and provide guidance to victims and supervisors in dealing with individual cases of such harassment. In August 2004 the Human Resources Ministry declared that the Employment Act would be amended to include a provision requiring all companies to appoint an officer from among senior management to handle sexual harassment in the workplace. However, no action had been taken by year's end.

Polygyny is allowed and practiced to a limited degree. Islamic inheritance law generally favors male offspring and relatives. There was a small but steadily increasing number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent.

Women's rights advocates asserted that women faced discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of such laws among the various states. In addition the country had no female Shari'a court judges. In December, over strongly voiced objections from several members of parliament within the governing coalition as well as NGOs including Suhakam, parliament passed a series of amendments to the 1984 Islamic Family Law Act. The new law standardizes Shari'a-based legal provisions in all states governing polygamy, divorce, and inheritance among Muslims. The law enhances the ability of Muslim men to divorce, take multiple wives, claim a share of an existing wife's property upon taking a further wife, and curtail a wife's ability to dispose of her property.

Non-Muslim women are subject to civil (secular) law. The Guardianship of Women and Infants Act gives mothers equal parental rights. Four states extend the provi-

sions of the bill to Muslim mothers, and women's groups urged the other states to do the same.

The government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. In February, for the first time, a woman was appointed chief judge of Malaya, the country's third-highest judicial position. In the scientific and medical fields, women made up more than half of all university graduates and comprised more than 50 percent of university students. According to the national union of bank employees, 65 percent of members were women, but only 1 out of 8 principal banking officials was a woman. Women comprised approximately 10 percent of board members at publicly traded companies during each year from 2000 to 2004, and they accounted for 13.5 percent of senior corporate executives at the end of 2004, compared with 12.3 percent in 2003.

Children.—The government has demonstrated a commitment to children's rights and welfare and allocated approximately 25 percent of the national budget to education. The government provides free education for children through age 15. Although primary education is compulsory, there is no enforcement mechanism governing school attendance. Attendance at primary school was 96 percent, while secondary school attendance was 82 percent. A variety of programs provided low cost health care for most children.

The 2001 Child Act prescribes severe punishments for child trafficking, abuse, molestation, neglect, and abandonment. It also mandates the formation of children's courts; during the year these courts were established in each court district. The act allows that a maximum of 10 strokes with a "light cane" be applied to male children between ages 10 to 18.

The government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. The law provides for from 6 to 20 years' imprisonment and caning for individuals convicted of incest. The police commission stated that there were 334 cases of incest reported in 2004, up from 254 cases in 2003. Approximately 65 percent of those cases involved children under 15. In September 2004 the local press reported that in a survey of 133 convicted sex predators, 23 percent of the victims of sexual offenses were daughters of the offender. Under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others recommended that the Evidence Act be amended to accept the testimony of children and that courts implement special procedures to hear the testimony of children.

Statutory rape occurred and was prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with *khalwat*, or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations), even if she is under the age of 18 and her partner is an adult. Thus Shari'a courts sometimes punished the victims of statutory rape. Moreover, Shari'a courts sometimes were more lenient with males charged with *khalwat*. However, in many cases Muslim men were charged and punished for statutory rape under secular law. The police commission stated that 66 percent of all rapes reported in 2004 involved children under 15 years old.

Child prostitution existed, but child prostitutes often were treated as delinquents rather than victims (see section 5, Trafficking).

Child labor occurred in certain areas of the country (see section 6.d.).

Sabah State had a problem of street children. Estimated to number anywhere from a few score to a few hundred, they were born in the country to illegal immigrant parents who had been deported. These children lacked citizenship and access to government-provided support.

Trafficking in Persons.—There is no law that specifically and comprehensively criminalizes trafficking in persons. However, the Child Act prohibits all forms of trafficking of children under 18, and the penal code comprehensively addresses trafficking for the purpose of prostitution. The government also uses other laws, such as the Immigration Act, the Restricted Residence Act, and the ISA, to prosecute traffickers.

The country was a source, transit, and destination country for women and girls trafficked for the purpose of sexual exploitation. Women and girls from Thailand and the Philippines were trafficked through the country to destinations such as Australia, Canada, Japan, Korea, and the United States. Young women primarily from Indonesia, China, and Thailand, with smaller numbers from the Philippines and other countries, were trafficked into the country for sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses.

In addition some foreign women and girls employed as household servants were held in conditions that amounted to forced labor (see section 6.e.).

According to police, the Bar Council, and Suhakam, many foreigners found to be involved in prostitution were possible trafficking victims. Foreign embassies, NGOs, and government authorities reported that at least 300 to 400 trafficking victims were rescued and repatriated. There were allegations of corruption among law enforcement personnel, since some trafficking victims were known to pass through two or more ports of entry without travel documents.

A small number of Malaysian women and girls were trafficked for sexual purposes, mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, female citizens who were victims of trafficking were usually ethnic Chinese, although ethnic Malay, ethnic Chinese, and ethnic Indian women worked as prostitutes domestically. Police and NGOs believed that criminal syndicates were behind most of the trafficking. Information from the Ministry of Foreign Affairs and NGOs indicated that fewer than 100 Malaysian women were trafficked to other countries during the year, and that the number has declined in recent years.

Foreign trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. During the year there were reports of foreign women escaping from apartments where they were held and forced to serve as unwilling prostitutes. According to news reports, these women said that they were lured to the country by promises of legitimate employment but forced into prostitution upon their arrival in the country. In September authorities rescued eight trafficked Indonesian women forced to work as prostitutes in conditions intended to make them pregnant. According to a senior police official, their babies were sold soon after birth by the traffickers.

The penal code includes extensive provisions that prohibit buying or selling any person, using deceitful means to bring anyone into or out of the country, and wrongfully restraining (defined to include using threats, withholding clothing, or holding a person's passport) any person with the intention to use that person for prostitution. Punishment for these offenses includes a maximum 15-year prison term, caning, and a fine, to be determined at the discretion of the sentencing judge. In 2004 police prosecuted 38 cases under laws that criminalize procuring and brothel operations, respectively; 17 individuals were convicted. During the first 9 months of the year, 28 such cases were prosecuted, but only 2 persons were convicted. During the same period, police arrested 48 individuals under the Restricted Residence Act for allegedly arranging prostitution activities.

On April 7, 40 police officers raided 3 brothels in the state of Johor and rescued 53 trafficking victims. The police raids were done in cooperation with an international NGO and government caseworkers. On October 14, police raided a brothel in Johor and freed 10 trafficking victims. Police arrested the same trafficker apprehended during the April 7 raid.

In January Suhakam published a report that characterized existing trafficking laws as "piecemeal" and called for passage of a comprehensive antitrafficking act. The report also proposed government-funded education programs for border control officials, law enforcement personnel, labor inspectors, and the judiciary.

The government assisted some underage prostitutes and rescued some trafficked women and girls during the year. The Malaysian Chinese Association (MCA), the largest ethnic Chinese political party in the ruling National Front coalition, reported that the number of trafficking victims who sought MCA assistance declined to 39, compared with 56 in 2004. In April diplomatic officials from two neighboring countries stated that cooperation with Malaysian police had improved over prior years in countertrafficking operations and victim assistance.

Police had no comprehensive policy to protect trafficking victims. Police often arrested or deported possible victims for immigration offenses. Police and members of the Bar Council's legal aid bureau advised that this was the fastest way to expedite victims' return to their home countries. Trafficking victims who exhibited signs of physical abuse could be sent to a women's shelter instead of being detained by the police; however, permission from the police to allow victims to reside in a shelter was sometimes difficult to obtain. The Ministry of Women, Family, and Community Development stated that amendments to the Immigration Act, or an entirely new antitrafficking law, would be necessary to permit the government to treat trafficked women as victims rather than as illegal immigrants. The ministry said that, lacking such legislation, it could not legally establish a shelter for trafficked women.

A number of foreign embassies arranged temporary shelter for their respective trafficking victims and assisted in their repatriation.

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, or in the provision of other state services. A public sector regulation reserves 1 percent of all public sector jobs for persons with disabilities. In 2003 the prime minister ordered that all buildings be made “disabled-friendly.” However, few public facilities were adapted, and the government has not mandated accessibility to transportation for persons with disabilities. New government buildings were generally outfitted with a full range of facilities for persons with disabilities. The budget for the fiscal year included additional tax benefits for persons with disabilities and their spouses.

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. Suhakam has recommended legislation to address discriminatory practices and barriers facing persons with disabilities, and it organized dialogues among persons with disabilities, government departments, and NGOs to promote awareness of the rights of persons with disabilities.

Special education schools existed but were not sufficient to meet the needs of the population with disabilities. The government undertook many 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 reduced by 50 percent the excise duty on locally made cars and motorcycles adapted for persons with disabilities.

National/Racial/Ethnic Minorities.—The law and government policy provide for extensive preferential programs designed to boost the economic position of *bumiputras*. Such programs limited opportunities for *nonbumiputras* in higher education, government employment, business permits and licenses, and ownership of land. According to the government, these programs were necessary to ensure ethnic harmony and political stability. Ethnic Indian citizens, who did not receive such privileges, remained among the country’s poorest groups.

In June the government suspended an ethnic Indian deputy minister for three months after he implied racial bias by the government in its decision to withdraw recognition of medical degrees from a university in Ukraine. The university had attracted many ethnic Indian students, who had received government permission to study at the school.

Indigenous People.—Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states) 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*, vest considerable authority in the minister for rural development to protect, control, and otherwise decide issues concerning this group. As a result, indigenous people in peninsular Malaysia had very little ability to participate in decisions that affected them.

The Orang Asli, who numbered approximately 149,500, were the poorest group in the country. According to government statistics, approximately 77 percent of Orang Asli households were categorized as living below the poverty level. A government-sponsored national advisory council monitored the development of Orang Asli, but only 5 of its 17 members were Orang Asli. In addition, only one Orang Asli held a management position in the government’s Department of Orang Asli Affairs. In 2004 the government allocated \$26.3 million (100 million ringgit) for development projects for the Orang Asli. These focused on improving health, preschool education, infrastructure, and economic activities.

The dropout rate among Orang Asli students remained high. Government statistics indicated that 25,354 Orang Asli pupils were registered at the primary school level, while only 7,559 students were registered in secondary schools.

Under the Aboriginal People’s Act, the Orang Asli were permitted to live on designated land as tenants-at-will, but they did not possess land rights. Observers reported that over the years the total area of land reserved for Orang Asli had decreased, and some land previously set aside as Orang Asli reserve had been re-zoned for development.

The uncertainty surrounding Orang Asli land ownership made them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli and other indigenous groups in the Borneo states.

In 2002 the high court found that an Orang Asli group, the Temuans, were the rightful owners of land used for the construction of the Kuala Lumpur International

Airport and ordered the Selangor state government to give compensation. The federal government, the Selangor state government, and the country's highway authority appealed the decision. On September 19, the court of appeal upheld the high court ruling, which conferred upon the Orang Asli legal recognition of their native ancestral land titles under common law. At year's end the government had taken no action to appeal.

Indigenous people in Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they consider to be theirs under native customary rights.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. In past years this led to indigenous people being deprived of their traditional lands with little or no legal recourse.

Other Societal Abuses and Discrimination.—Although there are no laws that prohibit homosexuality, laws against sodomy and “carnal intercourse against the order of nature” exist and were enforced. Religious and cultural taboos against homosexuality were widespread. The government's response to HIV/AIDS was generally non-discriminatory, although stigmatization of AIDS sufferers was common.

Section 6. Worker Rights

a. The Right of Association.—By law most workers have the right to engage in trade union activity, but as of September only 9 percent of the labor force was represented by the 617 trade unions. Those restricted from joining a union include public sector workers categorized as “confidential” and “managerial and executive,” as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In theory foreign workers can join a trade union; however, the Immigration Department placed conditions on foreign workers' permits that effectively barred them from joining a trade union (see section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or participation in lawful trade union activities. However, contrary to International Labor Organization (ILO) guidelines, 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 director general of trade unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of an existing trade union based on provisions outlined in the act. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association.

Trade unions from different industries may join in national congresses, but such congresses must register separately as societies under the Societies Act (see section 2.b.).

Malaysian Trade Union Congress (MTUC) officials continued to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act requires that an employer respond to a union's request for recognition within 21 days of application, it was not uncommon for such applications to be refused and unions to go unrecognized for 1 to 4 years. In the first 9 months there were 54 applications for trade union recognition under the Industrial Relations Act, compared with 101 applications in 2004. According to the Ministry of Human Resources, there were 10 court challenges in 2004 by private companies regarding decisions authorizing the formation of unions.

Government policy inhibited the formation of national unions in the electronics sector, the country's largest industry. The government believed that enterprise-level unions were more appropriate for this sector. According to MTUC officials, 150 thousand electronics workers were unable to organize, and only 8 in-house unions were formed in the electronics industry.

In December 2004 the court of appeal upheld a high court decision that a name change by an in-house union in an electronics company to mirror the company's new name was illegal and not permissible. MTUC officials stated that the ruling placed enterprise unions in a vulnerable situation, since companies could change their names and effectively block the in-house unions from continuing to function.

Unions maintained independence from both the government and political parties, but individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in parliament. Trade unions were free to associate with national labor congresses, which exercised many of the responsibilities of national labor unions, although they cannot bargain on behalf of local unions.

There are two national labor organizations. The MTUC is a society of trade unions in both the private and government sectors and is registered under the Soci-

eties Act. As such, the MTUC does not have collective bargaining or industrial action rights but provides technical support for affiliated members. The other national organization is the Congress of Unions of Employees in the Public and Civil Service, a federation of public employee unions registered under the Trade Unions Act.

Although the law grants public servants the right to organize at the level of ministries and departments, the government did not respond to ILO requests for specific information on the numbers and categories of civil servant employees covered or details regarding the collective bargaining agreements reached. There were three national joint councils representing management and professional civil servants, technical employees, and nontechnical workers.

Trade unions were permitted to affiliate with international trade union organizations, such as global union federations and the International Confederation of Free Trade Unions, subject to the approval of the director general of trade unions.

b. The Right to Organize and Bargain Collectively.—Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. The government placed limits on collective bargaining agreements in companies designated as having “pioneer status.” The ILO continued to object to legal restrictions on collective bargaining in “pioneer” industries.

Charges of discrimination may be filed with the Ministry of Human Resources or the industrial court. Critics alleged that the industrial court was slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources failed. To address the problem of backlogged cases, the number of industrial court chairpersons was increased from 21 to 28. In addition, beginning in September 2004 the court introduced voluntary mediation as a means for faster case settlements, with 66 cases settled through such mediation from September 2004 through February. The industrial court does not enforce its own awards, and unions complained that employers often ignored the court’s judgments with impunity.

The government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with ILO standards. The minister of human resources can suspend for up to six months any trade union deemed to be used for purposes prejudicial to or incompatible with security or public order. The government has taken no such action during the past several years.

Although strikes are legal, the right to strike is severely restricted. The law contains a list of “essential services” in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions. MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to Ministry of Human Resources statistics, there were 10 minor strikes during the first 9 months of the year. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action may be taken. The ministry’s Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the minister has the power to refer the dispute to the industrial court. Strikes or lockouts are prohibited while the dispute is before the industrial court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. However, some trade unions questioned the effectiveness of the provisions.

Companies in free trade zones (FTZs) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies were organized, especially in the textile and electrical products sectors.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, and the government generally enforced this prohibition. Certain laws allow imprisonment with compulsory labor as punishment for persons who express views opposed to the established order or who participate in strikes. However, these laws were not applied and appear to be constitutionally prohibited.

Some of the estimated 260 thousand foreign women employed as household workers were subjected to physical abuse and forced to work under harsh conditions. The Workmen’s Compensation Act and the Employment Act provide a minimum standard of protection to workers. However, in several important respects they do not apply to household employees (see section 6.e.).

The government prohibits forced and compulsory labor by children, and there were no reports that such practices occurred in the formal sector, although some child household employees worked in conditions amounting to forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children younger than age 14 but permits some exceptions,

such as light work in a family enterprise, work in public entertainment, work performed for the government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than six hours per day, more than six days per week, or at night.

Child labor occurred in certain areas of the country. There was no reliable estimate of the number of child workers. Most child laborers worked informally in the agricultural sector, helping their parents in the field. However, only adult members of the family received a wage. In urban areas, child labor could be found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers have largely replaced child labor and that child labor provisions were vigorously enforced.

Mechanisms for monitoring workplace conditions were inadequate, and the resolution of most abuse cases frequently was left to private, for-profit labor agencies that were themselves often guilty of abuses. Bilateral labor agreements with Indonesia do not provide adequate protections for household workers.

e. Acceptable Conditions of Work.—There was no minimum wage provision governing all workers, as the government preferred to allow market forces to determine wages. Prevailing market wages generally provided a decent standard of living for citizens, although not for all migrant workers. Wage councils, which were established by a 1947 act to provide a recommended minimum wage in those sectors in which the market wage was determined insufficient, had little impact on wages in any sector. According to MTUC officials, the wage councils had not met for more than 14 years, and their recommended wages have long been obsolete.

Plantation workers generally received production-related payments or daily wages. Under a 2003 agreement, plantation workers received a minimum wage of \$92 (350 ringgit) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to nearly \$184 (700 ringgit).

Under the Employment Act, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources is responsible for enforcing these standards, but a shortage of inspectors precluded strict enforcement.

Significant numbers of contract workers, including numerous illegal migrants, worked on plantations and in other sectors. According to statistics from the National Union of Plantation Workers (NUPW), foreign workers made up 50 percent of the plantation work force; however, the true number may have been higher, since illegal immigrants were not counted. Working conditions for these laborers compared poorly with those of direct-hire plantation workers, many of whom belonged to the NUPW.

Work-related accidents were especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during 2004 occurred on plantations.

Foreign workers in the construction and other sectors, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. During 2004, in addition to expanding programs to regularize the status of immigrant workers, the government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the law.

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 1 rest day per week, an 8-hour work day, and a 48-hour work week.

Employers sometimes failed to honor the terms of employment and abused their household servants. The terms of the contract for Indonesian household workers were vague and open to abuse. The typical contract provided for a monthly salary of \$100 (380 ringgit) but did not specify the number of working hours per day. NGOs reported that many Indonesian household workers were required to work 14 to 18 hours a day, 7 days a week. The contract for Filipina household workers included more comprehensive protections, but both groups suffered from a lack of education concerning their legal rights.

In May 2004 the government signed a Memorandum of Understanding (MOU) with Indonesia with regard to migrant workers; however, the MOU excluded household workers.

Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, and physically assaulted them. However, local NGOs advised that workers have the right to take legal action against abusive employers. According to NGOs, the courts generally have sided with employees and ruled that employers must pay all back salary and compensate plaintiffs for injuries.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, Nepal, Vietnam, and other countries constituted approximately 20 percent of the work force. Illegal foreign workers have no legal protection under the law and have no legal recourse in cases of abuse.

The Occupational Safety and Health Act covers all sectors of the economy except the maritime sector and the military. The act established 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 that violate the act are subject to substantial fines or imprisonment for up to five years, although MTUC complained that some employers flouted the rules with impunity. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

MARSHALL ISLANDS

The Republic of the Marshall Islands is a constitutional democracy with a population of approximately 56 thousand. The constitution provides for executive, legislative, and judicial branches. The legislature consists of a 33-member parliament (Nitijela) and a council of chiefs (Iroij), which serves a largely consultative function dealing with custom and traditional practice. In November 2003 voters elected the Nitijela in free and fair elections. The president is elected by majority Nitijela vote and appoints his cabinet from its membership. In January 2004 the Nitijela elected President Kessai Note to a second four-year term. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in a few areas. The following human rights problems were reported:

- poor prison conditions
- government corruption
- violence against women and child abuse

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards. As of December all of the 45 male prisoners were housed in a single facility attached to police headquarters, consisting of 3 interconnected rooms and 4 small cells. On-duty police officers also served as guards, separated from the jail area by a closed door. Lighting, ventilation, and sanitation were inadequate, and there was no program in place to ensure regular access to outside activity. Security was poor. In January six prisoners, including a convicted murderer, escaped by breaking through a storeroom door; however, all were recaptured by the next day.

Some male juveniles were held together with adults; as juvenile crimes increased in number and seriousness over the past several years, the courts tried more male juveniles as adults and ordered them held with the general prison population. Pre-trial detainees were not separated from the general prison population. There were no prison facilities for female prisoners, including juveniles; they were held under house arrest.

The government permitted annual prison visits by independent human rights observers.

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

Role of the Police and Security Apparatus.—There are local police forces and a national police force under the Ministry of Justice. Police officers do not carry firearms and generally used the minimum force necessary to detain a suspect. Although there were some instances of police corruption, including the disappearance of evidence in a drug case, it was not widespread. The Ministry of Justice appointed a former police officer to the position of chief of investigations in the attorney general's office to handle allegations of police abuse and corruption.

Arrest and Detention.—The courts issue warrants, which are required for arrests. 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.

Families had access to detainees, and detainees have the right to lawyers of their choice. There is a functioning system of bail, and the government provides a lawyer if the defendant is indigent.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary consists of a Supreme Court with appellate jurisdiction, a High Court with general jurisdiction in civil and criminal matters and appellate jurisdiction over subordinate courts at the district and community levels, and a Traditional Rights Court with jurisdiction in cases involving customary law and traditional practice. The cabinet appoints judges.

Few citizens were trained in the law, and the judicial system relied heavily on noncitizen public prosecutors and defense attorneys. Most lower court judges were citizens; the higher courts relied on noncitizen judges, in part to prevent conflicts of interest in the small, highly interrelated society. The chief justice of the High Court is a foreign national appointed for a 10-year term.

During the year the High Court chief justice, with foreign assistance, continued work on development of a judicial training program and improvements in trial procedures.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants can choose either a bench trial or a four-member jury trial. In recent years defendants increasingly opted for jury trials, which had a higher rate of acquittals. 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.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

During the year the government granted permission for the nongovernmental organization (NGO) Women United Together in the Marshall Islands (WUTMI) to broadcast its outreach programs on the government-owned radio station. Previously the government had denied such permission.

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

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

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

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

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

The law does not prohibit forced exile; however, the government did not employ this practice.

Protection of Refugees.—Although not a signatory, the government adhered to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and it cooperated with the Office of the UN High Commissioner for Refugees in assisting refugees and asylum seekers. The government has not established a system for providing protection to refugees; however, it has granted asylum in the past.

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.—Executive power is centralized in the president and his cabinet. Citizens 18 years of age and older elect the Nitijela and mayors by secret ballot every 4 years. Elections for the 33-member Nitijela were held in November 2003; President Kessai Note's United Democratic Party won a majority of the seats, and the Nitijela reelected him in January 2004.

There were no serious allegations of electoral fraud. However, the complex electoral system, which grants voters the option of voting where they have land rights instead of where they reside, requires almost every polling place to provide for voters from many other districts. A significant number of absentee ballots also were cast in the 2003 elections. As a result several close elections generated formal complaints against election officials for alleged mishandling of ballots and other problems, including some allegations of favoritism. The courts upheld the decisions of the electoral commission in all cases except one still pending on appeal before the Supreme Court at year's end. Complainants protested the courts' reluctance to overturn the commission; the attorney general's office noted that disinterested, foreign-national judges heard several of the appeals. In August the government appointed a new electoral commissioner.

There are no restrictions on the formation of political parties, although many candidates prefer to run independently or loosely aligned with informal coalitions. The law prohibits political activity by foreigners.

There are no legal impediments to women's participation in government and politics; however, traditional attitudes of male dominance, women's cultural responsibilities, traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. There was 1 woman in the Nitijela and 4 women in the 12-seat House of Iroij. There were no female judges, but the chief public defender was a woman. Society is matrilineal, and traditional leadership and land ownership powers generally are derived from one's mother's lineage. The traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands; nonetheless, many observers believed women continued to be a significant social force.

There were several hundred non-ethnic Marshallese who were citizens. Only one, who served as an ambassador at large, was a member of the national government.

Government Corruption and Transparency.—According to the general audit report of 2003, performed by an independent accounting firm, government corruption was a problem, including instances of misuse of public funds and irregularities in the collection of certain taxes. The attorney general's office is responsible for investigating cases of alleged corruption, but only a few cases have been prosecuted. In 2003 the auditor general and the finance minister were replaced and the Finance Ministry reorganized in an effort to increase accountability.

The law does not provide specifically for public access to government information, and the government routinely denied such access. Although there is no specific statutory basis for denying such information, the government has taken the position that the burden for overcoming a denial of access rests with the public, and a court filing showing the reason the information is required is often necessary.

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

Human rights groups generally operated without government restriction, but few local groups have been formed. The government was not always responsive to NGOs' concerns. The women's NGO WUTMI worked on women's, children's, and family issues and played a significant role in social issues.

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

The law prohibits discrimination on the basis of sex, race, color, language, religion, political or other opinion, national or social origin, place of birth, and family status or descent, and the government generally observed these provisions.

Women.—Spousal abuse was common. Domestic violence was not condoned, and most assaults occurred while the assailant was under the influence of alcohol. According to a 2003 WUTMI survey, more than 80 percent of women had been affected by spousal abuse. Violence against women outside the family 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, but many cases apparently went unreported. Rape and assault are criminal offenses, but women involved in domestic violence were reluctant to prosecute spouses in the court system. Most observers believe that few sexual offenses are prosecuted because cultural constraints may discourage victims from reporting such crimes to the police. Women's groups under the WUTMI umbrella continued to publicize women's issues and promote a greater awareness of women's rights.

Prostitution is illegal but continued to occur, particularly on the Majuro and Kwajalein atolls. Organized prostitution on Majuro, run primarily by foreigners, increased significantly during the year and no longer catered only to the crews of foreign fishing vessels. There were no specific reports of violence against prostitutes, although the government assumed that it existed.

There is no law against sex tourism, but none has been reported.

Sexual harassment is not prohibited by law but was not considered a widespread or serious problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance in the traditional system. Many educated women held prominent positions, particularly in government. However, while female workers were very prevalent in the private sector, many were in low-paying jobs with little prospect for advancement.

Children.—The government showed commitment to children's welfare through its programs of health care and free education, but these have not been adequate to meet the needs of the country's sharply increasing population.

Education was compulsory and universal, and the national government did not charge school fees. However, individual schools were permitted to charge registration fees to help support their programs, and some schools did so. Despite government shortcomings in enforcing the existing compulsory education law, in August 2004 the Nitijela passed a law that expanded compulsory education from 6- to 14-year-olds to 4- to 18-year-olds. The plan was to enroll 5-year-olds in kindergarten as a first step; however, the government lacked the resources to implement the increased mandate. There was no difference between the attendance rates of boys and girls.

It was estimated that up to 20 percent of elementary school-age children did not attend school on a regular basis. In many cases this was because they lived too far away from a school or their families could not afford the monthly registration fee (which varied by school but averaged approximately \$10) or incidental expenses. Despite the 2004 law extending compulsory education through age 18, there were not enough high schools to accommodate all high-school-age children. Admission to high school continued to be by competitive examination; not all children qualified to attend. The government's enrollment report indicated that only two-thirds of those completing eighth grade attended high school. Approximately 50 percent of high school students—or one-third of those who started elementary school—eventually graduated.

There were five public high schools in the country: two in Majuro and one each on Jaluit, Kwajalein, and Wotje. In addition there were a dozen private high schools, which were open to all who were able to pay the private school tuition. The government provided subsidized essential medical services for all citizens, including children.

In May the Nitijela enacted legislation specifying age 16 as the minimum age of consent for sexual activity. Convictions for violation of the law are punishable by up to 25 years in prison, depending on the degree of the offense. Child abuse and neglect are criminal offenses; however, public awareness of children's rights remained low. 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. However, there were few reports and few prosecutions. Child abuse and neglect were considered to be on the increase. In February a foreigner was convicted of attempted rape and attempted incest against his

minor daughter, a citizen of the country, and was sentenced to 8 to 15 years' imprisonment. The case was appealed to the Supreme Court, which scheduled a hearing for spring 2006.

Trafficking in Persons.—The law does not prohibit specifically trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There was no apparent discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services; however, there were no building codes and no legislation mandating access for persons with disabilities.

There were approximately 50 persons who could be medically defined as psychotic. When these individuals demonstrated dangerous behavior, they were imprisoned with the general prison population and visited by a doctor. On occasions when prison officials protested disruptions caused by this practice, other arrangements, such as house arrest, were made.

There were no reports of discrimination against persons with mental disabilities.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of free association in general, and the government interpreted this right as allowing the existence of labor unions, although none have been formed to date. With few major employers, there were few opportunities for workers to unionize, and the country has no history or culture of organized labor.

b. The Right to Organize and Bargain Collectively.—There is no legislation concerning collective bargaining or trade union organization. However, there were no legal impediments to either. Wages in the cash economy were determined by market factors in accordance with the minimum wage and other laws.

The law does not provide for the right to strike, and the government has not addressed this issue.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits involuntary servitude, and there were no reports of its practice among citizens. Officials suspected that some forced or compulsory labor existed among the illegal alien population; however, they did not uncover any specific cases during the year.

The law does not specifically prohibit forced and compulsory labor by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—There is no law or regulation setting a minimum age for employment of children. Children typically were not employed in the wage economy, but some assisted their families in fishing, agriculture, and other small-scale domestic enterprises.

e. Acceptable Conditions of Work.—The law establishes a minimum wage of \$2.00 per hour for both government and private sector employees. (The US dollar is the national currency.) The national minimum wage did not provide a decent standard of living for a worker and family. However, in the subsistence economy extended families were expected to help less fortunate members, and there were often several wage earners to support each family. The Ministry of Resources and Development adequately enforced the minimum wage regulations. Foreign employees and Marshallese trainees of private employers who had invested in or established a business in the country were exempt from minimum wage requirements. This exemption did not affect a significant segment of the workforce.

There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday most businesses were closed, and persons generally refrained from working.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards in accordance with International Labor Organization conventions. The office periodically convenes board meetings that are open to the public. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions. The law protects foreign workers in the same manner as citizens.

FEDERATED STATES OF MICRONESIA

The Federated States of Micronesia is a constitutional republic composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. Its population was approximately 107 thousand. There are three branches of government: an executive branch led by a president who also serves as head of state; a unicameral legislature elected from the four constituent states that elects the president from among its members for a four-year term; and an independent judiciary. There were no political parties. Congress chose Joseph J. Urusemal as president in May 2003. The most recent elections for Congress, held in March, generally were considered free and fair. Individual states enjoy significant autonomy, and traditional leaders retain considerable influence in some states. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, there were problems in some areas. Government efforts to address societal problems such as family violence were constrained by traditional society. The following human rights problems were reported:

- judicial delays
- government corruption
- discrimination against women
- domestic violence and child neglect

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed torture; however, there were occasional reports of physical abuse by police.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, during the year Pohnpei and Chuuk States' underfunded corrections divisions failed to provide nutritionally adequate meals to prisoners.

Each of the four state jails included a separate cell for female prisoners. Since women rarely were detained, these cells typically were used to separate disruptive male prisoners from the general prison population. There were no designated juvenile detention facilities; however, juvenile crime was rare, and the states typically have decided against incarceration of juveniles. Pretrial detainees usually were held together with convicted prisoners. All four states used jail cells to house persons with mental illnesses but no criminal background (see section 5).

The question of prison visits by human rights observers did not arise 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.—Each state has a department of public safety composed of police, corrections, fire, and emergency response functions. The directors of public safety are state cabinet-level positions. There is a small national police force under the Department of Justice. Some municipalities also have small police forces. In March voters in Chuuk State elected a new governor, who acted to reform the state's politicized, oversized, and underqualified force. There were reports of police favoritism toward relatives and occasional reports of physical abuse by the police. Many citizens preferred to rely on customary and traditional remedies to resolve criminal and civil matters.

Arrest and Detention.—Warrants are required for arrests, and detainees were promptly advised of the charges against them. Detainees must be brought before a judge for a hearing within 24 hours of arrest, and this requirement was generally observed in practice. Most arrested persons were released on bail, which usually was set at low levels except in cases involving flight risk. Detainees had prompt access to family members and lawyers. All defendants have the right to counsel; however, the public defender's office was underfunded, and not all defendants received adequate legal assistance in practice.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The president, with the advice and consent of the legislature, appoints the three justices of the Supreme Court. Each state also has a supreme court, and some municipalities have community courts. Some states have additional courts to deal with land disputes. The formal legal system coexists with traditional, mediation-based mechanisms for resolving disputes and dealing with offenders at the local level.

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 may have 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. Despite these provisions cultural resistance to litigation and incarceration as methods of maintaining public order allowed some persons to act with impunity. Serious cases of sexual and other assault and even murder have not gone to trial, and suspects routinely were released indefinitely. Bail, even for major crimes, usually was set at low levels (see section 1.d.).

Delays in some judicial appointments and underfunding of the court system hampered the judiciary's ability to function efficiently. Shortages or unavailability of court personnel and services occasionally hampered the right to a speedy trial.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet.

The number of independent media outlets was small. There was a biweekly national newspaper, the *Kaselehlie Press*. Yap also had a privately published newspaper, the *Yap Networker*, and Kosrae's *Sinlaku Sun Times/Alliance* continued to appear irregularly. On Pohnpei a new newspaper, *Da Rohng*, began publishing detailed articles on controversial subjects. Newspapers have published politically sensitive stories.

Each of the four state governments controlled a radio station that broadcast primarily in the local language. The government AM stations on Yap and Chuuk were off the air throughout the year, the former due to typhoon-related damage and the latter due to technical problems. Religious groups operated private radio stations. The populations of Pohnpei, Chuuk, Yap, and Kosrae increasingly had access to live international satellite broadcasts, but tape-delayed broadcasts of programming by the major US networks ended due to licensing problems.

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

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

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

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of movement within the country. It does not address foreign travel, emigration, or repatriation, but in practice none of these were restricted.

The law does not explicitly prohibit forced exile; however, statutes that prescribe punishments for crimes do not provide for the imposition of exile, and the government did not employ it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. However, in November Congress introduced comprehensive legislation to establish a system for providing protection to refugees in accordance with the 1951 convention and 1967 protocol. The legislation was pending at year's end. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government

cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

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

Elections and Political Participation.—The 14-member Congress is elected by popular vote from each state. The Congress then chooses the president and vice president from among its four at-large senators by majority vote. Elections for Congress were held in March. Two incumbent senators, one of whom had introduced an unsuccessful bill that would have granted amnesty to government officials who had misused government funds, were defeated.

The elections were generally free and fair; however, there were serious discrepancies and evidence of fraud in two ballot boxes in Chuuk State. A court-ordered revote was held in one case, resulting in the incumbent's defeat. In the second case the director of elections determined that exclusion of the suspect ballot box's results would not affect the outcome in that electoral district. During the year no further action was taken regarding charges filed against an election worker in Chuuk State for allegedly withholding a ballot from a voter in the March 2003 elections.

State governors, state legislators, and municipal governments are elected by direct popular vote. There are no restrictions on the formation of political groups; however, there have been no significant efforts to form political parties, and none exist. Political support generally was sought from family and allied clan groupings, as well as religious groups.

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, and women held the federal cabinet-level positions of attorney general and public defender.

There was one woman in the 23-seat Pohnpei State legislature and no women in the other state legislatures or in the national legislature.

Government Corruption and Transparency.—Government corruption was a problem, particularly in Chuuk State. Following the 2004 convictions of the then speaker of Congress, one other member of Congress, and two former members on charges relating to misuse of government funds, the Attorney General's Office investigated and indicted other Chuuk politicians for corrupt practices, although one indicted member of Congress retained his seat in the March elections.

There is no national law providing for public access to government information. Under rules in effect during the year, 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. The Pohnpei State legislature's proceedings were televised, and Yap's were broadcast on FM radio. Information from other branches of government also was accessible; however, retrieval sometimes was complicated and delayed by the loss or mishandling of records and by the concern of lower level administrative personnel with verifying that release of the particular information requested was permissible. There were no reported cases of government denial of access to media; however, there were only a small number of media outlets, and their reporting resources were limited.

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

Although there were no official restrictions, no local groups concerned themselves exclusively with human rights. There were groups that addressed problems concerning the rights of women and children, and the government cooperated with these groups.

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

The law provides explicit protection against discrimination based on race, sex, language, or religion, but the government's enforcement of these constitutional provisions often was weak.

Women.—Reports of spousal abuse, often severe, continued during the year. Although assault is a crime, there are no specific laws against domestic abuse, and there were no governmental or private facilities to shelter and support women in abusive situations. Effective prosecution of offenses was rare. In many cases victims decide against initiating legal charges because of family pressure, fear of further assault, or belief that the police will not involve themselves actively in what is seen as a private family problem. Rape is a crime; however, few cases were reported or

prosecuted. According to police and women's groups, there were a number of reports of physical and sexual assaults against women outside the family context. Such assaults were perpetrated against both citizens and foreigners. In this traditional society, unmarried women sometimes were considered to have invited such violence by living or traveling alone.

Within the traditional extended family unit, violence, abuse, and neglect directed against spouses or children were deemed offenses against the family, not just the individuals, and were addressed by a complex system of familial sanctions. However, traditional methods of coping with family discord have been breaking down with increasing urbanization, monetization of the economy, and greater emphasis on the nuclear family. No government agency, including the police, has succeeded in replacing the extended family system or in addressing the problem of family violence directly.

Prostitution is illegal and was not a major problem. The law does not prohibit sex tourism specifically, but it was not a problem. The law does not prohibit sexual harassment, which appeared to be pervasive, although seldom reported.

Women have equal rights under the law, including the right to own property, and there were no institutional barriers to education or employment. Women received equal pay for equal work. There continued to be extensive societal discrimination against women, although women were active and increasingly successful in private business. There was an active national women's advisory council that lobbied the government. Additionally several small NGOs were interested in women's issues, particularly those associated with family violence and abuse. The Women's Interest Section of the Department of Health, Education and Social Affairs worked to protect and promote women's rights.

Children.—The government was committed to children's welfare through its programs of health care and education; however, these programs were inadequate to meet the needs of the population, particularly in an environment in which the extended family was breaking down. Health officials and religious leaders ran peer support and family care groups to address factors that could contribute to youth suicides.

A compulsory education law requires all children to begin school at age six, but not all did so. A shortage of qualified teachers and lack of textbooks hampered progress. Education was free, and there was no difference between the education of boys and girls. Education levels differed among the states, but on average 75 percent of children finished eighth grade, 55 percent finished ninth grade, and 35 percent finished high school. Children may leave school when they reach the age of 14 or after completing the eighth grade, whichever comes first.

The government administered an immunization program throughout the country and provided some vitamin supplements.

There were some anecdotal reports of child abuse and neglect but no reliable statistics were available.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country. In 2003 Congress passed legislation to regulate foreign labor recruiters as part of a strategy to control abusive recruitment practices, but the government still had not promulgated implementing regulations by year's end.

Persons with Disabilities.—The law prohibits discrimination in public service employment against persons with disabilities. Children with physical or mental disabilities, including learning disabilities, were provided with special education, including instruction at home if necessary; however, such classes were dependent on foreign funding. There were no reports of discrimination against persons with disabilities in employment; however, they usually did not seek employment outside the home.

Neither laws nor regulations mandate accessibility to public buildings or services for persons with disabilities. Some private businesses provided special parking spaces and wheelchair ramps.

Some persons with mental illnesses, but no criminal background, were housed in jails rather than cared for in hospitals. However, during the year the authorities began to provide separate rooms in jails for persons suffering from mental illness.

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 continued to affect

contemporary life, with individuals from low-status villages still likely to defer to those with higher status. Persons from low-status backgrounds tended to be less assertive in advocating for their communities' needs with the government. As a result low-status communities sometimes continued to be underserved.

The constitution prohibits noncitizens from purchasing land, and a 2002 law limits the occupations that noncitizens may fill. The national Congress grants citizenship to non-Micronesians only in rare cases. There is no permanent residency status. However, for the most part noncitizens shared fully in the social and cultural life of the country.

Section 6. Worker Rights

a. The Right of Association.—Under the law citizens have the right to form or join associations, and national government employees by law may form associations to “present their views” to the government without coercion, discrimination, or reprisals. For a variety of reasons, including the fact that most private-sector employment was in small-scale, family-owned businesses and citizens were not accustomed to collective bargaining, there were neither associations nor trade unions. Although foreign workers have the right to form unions, they have not done so.

b. The Right to Organize and Bargain Collectively.—No law deals specifically with trade unions or with the right to collective bargaining, and there were no reports of collective bargaining agreements during the year. Individual employers, the largest of which were the national and state governments, set wages. There is no specific right to strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. This prohibition does not mention specifically forced and compulsory labor by children, but there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law does not establish a minimum age for employment of children. In practice there was no employment of children for wages; however, children often assisted their families in subsistence farming and in family-owned shops.

e. Acceptable Conditions of Work.—The four state governments have established minimum wage rates for government workers. Pohnpei had a minimum hourly wage rate of \$2.00 for government and \$1.35 for private-sector workers. The other three states have established minimum hourly rates only for government workers: \$1.25 for Chuuk, \$1.49 for Kosrae, and \$0.80 for Yap. The minimum hourly wage for employment with the national government was \$2.64. (The US dollar is the national currency.) These minimum wage structures and the wages customarily paid to skilled workers were sufficient to provide a decent standard of living for a worker and family. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective.

There are no laws regulating hours of work (although a 40-hour workweek was standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe workplace. The Department of Health has no enforcement capability, and working conditions varied in practice.

There is no law for either the public or private sector that permits workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Foreign workers were not subjected to abuse or deported without cause. They have the right to a hearing if facing deportation.

Yap State permitted foreign laborers to work in garment manufacturing enterprises. With the end of the international textile quota regime early in the year, these factories closed. Foreign workers at one factory were not immediately repatriated and complained that they had not been paid for several months.

Working conditions on board some Taiwan- and People's Republic of China-owned fishing vessels operating in the country's waters were very poor. Crewmen reported a high incidence of injuries, beatings by officers, and nonpayment of salary.

MONGOLIA

Mongolia, with a population of approximately 2.8 million, continued its transition from a highly centralized, Communist-led state to a full-fledged, multiparty, parliamentary democracy; however, these gains have not yet been consolidated. The 1992 Constitution established a hybrid presidential-parliamentary system of govern-

ment. The demarcation of powers between the president and the prime minister has been the subject of several constitutional amendments and court challenges. A new president was elected in May, and observers noted minor irregularities in the election. Members of the national parliament are elected directly by voters for a four-year term. A 76-member parliament was chosen in June 2004, in elections that were marred by violations and irregularities. Parliament (the State Great Hural), with the agreement of the president, selects the prime minister, who is nominated by the majority party. There is no requirement that the prime minister be an elected member of parliament. A coalition government was formed in October 2004 after parliamentary elections gave no party a majority. The coalition government remained largely intact and stable during the year. The civilian authorities generally maintained effective control of the security forces.

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

- police abuse of prisoners and detainees, including at least one suspicious death due to violence in a pretrial detention center
- poor conditions at prisons and pretrial detention
- centers
- arbitrary arrests, lengthy detention, and corruption
- within the judicial system
- possible government intimidation of the media,
- resulting in self-censorship by the press
- domestic violence against women
- child abuse and child labor
- several reported cases of international trafficking of persons, and some domestic cases of child prostitution

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—In June a 36 year-old man died eight days after being released from the Ulaanbaatar pre-trial detention facility. The family alleged he was beaten by police during his three day detention; police said that he was beaten by fellow inmates. The case is under investigation by the State Investigation Department and the National Human Rights Commission.

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 reports of such actions have diminished; however, police (especially in rural areas) occasionally beat prisoners and detainees, and the use of unnecessary force in the arrest process was common. In June at the invitation of the government, the UN Special Rapporteur on Torture conducted a fact-finding visit. At the end of his visit, he publicly expressed concern about the persistence of incidents of torture, particularly in police stations and pretrial detention facilities. The Special Rapporteur noted favorably recent efforts by authorities to combat the problem, but said the lack of an adequate legal framework to investigate and punish torture creates a climate of impunity. In 2004 the prison administration completed the installation of television monitoring systems in all 22 prisons, which contributed to a significant decline in prison guard abuse of prisoners and detainees. While the prison administration stated that there were no cases of abuse during the year, there was at least one suspicious death which was under investigation (see section 1.a.).

Prison and Detention Center Conditions.—In general, conditions in pretrial detention and prison facilities were poor by international standards. Insufficient food, heat, and medical care threatened the health and life of inmates. Overcrowding continued to be a problem. The number of prisoners in the central detention facility in Ulaanbaatar, which had declined to 461 inmates in 2004, increased to 866, the level of previous years. Prison staff members, including guards, social workers, and medical staff, received human rights training. The Ministry of Justice and Home Affairs (MOJHA) Department for the Enforcement of Court Decisions monitored conditions in prisons and detention facilities, but new laws and procedures were not publicized widely.

Many inmates entered prison infected with tuberculosis or contracted it in prison. The government's tuberculosis hospital provided treatment for a large number of prisoners and generally isolated infected persons from the general prison popu-

lation. As a result, the number of inmates who died from the disease has declined significantly over the years.

Outside of Ulaanbaatar, juveniles between the ages of 14 and 18 who were charged with crimes were sometimes kept in the same detention centers as adult prisoners.

Improvements in detention and prison conditions outside the capital were minimal. However, families had better access to inmates, alleviating some of the difficulty in obtaining food and clothing. At least two domestic and six foreign NGOs worked to improve conditions in prisons and detention centers by providing clothing, food, books, English-language instruction, and vocational training in computers and trades.

The government permitted prison visits by human rights monitors, foreign diplomats, and journalists. Amnesty International, the UN Development Program's (UNDP) human rights monitor, diplomatic representatives, local journalists, and other observers visited detention centers and prisons. However, the government declined a request by the UN Special Rapporteur on Torture to visit two pretrial detention facilities.

d. Arbitrary Arrest or Detention.—The law provides that no person shall be searched, arrested, detained, or deprived of liberty except by law; however, arbitrary arrest and detention remained problems. General public awareness of basic rights and judicial procedures, including rights with regard to arrest and detention procedures, was limited, especially in the countryside.

Role of the Police and Security Apparatus.—Security forces are under the jurisdiction of the Ministry of Defense (MOD), MOJHA, and the General Intelligence Agency (GIA). Military forces under the MOD are responsible for external security, but civil defense is also subordinate to the MOD, giving the MOD a role in internal security. National police operate under the MOJHA, and during peacetime, the national border security guard force is also under MOJHA control. The GIA, formerly the State Security Agency, is responsible for both internal security and foreign intelligence collection and operations. The GIA's civilian head has ministerial status and reports directly to the prime minister. There was general agreement that corruption in law enforcement agencies was endemic, although the government did take some limited steps against the problem. While there were some efforts by the government to improve training and professionalism of the police, progress was slow. Laws and mechanisms to investigate police abuses were also inadequate. The UN Special Rapporteur on Torture said in June that police who abused detainees operated in a climate of impunity (see section 1.c.).

Arrest and Detention.—Police may arrest persons suspected of a crime and hold them for up to 72 hours before a decision is made to prosecute or release them. Under the criminal code, a court order must be requested to continue holding a suspect after 24 hours. If a court order is not granted within 72 hours, the suspect must be released. A detainee has the right to a defense attorney during this period and during all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the government must appoint an attorney. However, in practice, many detainees were not made aware of this right and did not assert it. There was a shortage of state attorneys, and the low quality of attorney training and the bureaucratic obstacles faced by attorneys and defendants were chronic problems. Detainees may be released on bail with approval of a prosecutor. The maximum pretrial detention with a court order is 24 months; an additional 6 months are allowed for particularly serious crimes such as murder. According to an administrative regulation, if a person is wrongly charged with a crime, the government must restore the person's rights and reputation and provide compensation; however, this regulation was rarely followed in practice.

In August 2003 GIA and police officers forcibly abducted a Mongolian citizen from France and returned him to Ulaanbaatar for questioning in connection with the 1998 killing of former Minister of Infrastructure Sanjaasuren Zorig. The officers acted without the knowledge, consent, or cooperation of the French Government or law enforcement authorities, or with the knowledge, consent, or cooperation of authorities in Belgium and Germany, through which they transited. The government subsequently stated that the person was returned pursuant to a court order to serve the remaining time on a fraud conviction. The court order appeared to have been issued after the abduction took place. At year's end the person was in prison serving the remainder of an 11-year sentence for fraud.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, corruption and outside influence were problems.

The judiciary consists of district, provincial, and separate constitutional and supreme courts. The 11-member Supreme Court is the court of final appeal, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. District courts primarily hear routine criminal and civil cases, while more serious cases, such as murder, rape, and grand larceny, are sent to the provincial courts. Provincial courts also serve as the appeals court for lower court decisions. The Constitutional Court, which is separate from criminal courts, has sole jurisdiction over constitutional questions. The General Council of Courts, an administrative body within the MOJHA, nominates candidates for vacancies on the courts; the president has the power to approve or refuse such nominations. The council also is charged with protecting the rights of judges and providing for the independence of the judiciary. The military judicial system was abolished in 1993; since then, all military cases have been handled in civilian courts.

Trial Procedures.—According to law, all accused persons have the right to due process, legal defense, and a public trial. Closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases as provided by law. The law provides that defendants are innocent until proven guilty; however, in practice this provision was rarely observed. Defendants may question witnesses and appeal decisions.

Political Prisoners.—Prison procedures allow parole for those who have served half of their sentences, and in August these procedures led to the release of L. Sanjaasuren. In November 2004 Sanjaasuren was sentenced to 18 months imprisonment for revealing state secrets during his defense of a Mongolian citizen abducted by authorities from France (see section 1.d.). Amnesty International had classified Sanjaasuren as a prisoner of conscience. There were no other reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. However, the head of the GIA, with the knowledge and consent of the prime minister, was allowed to direct the monitoring and recording of telephone conversations. The extent of such monitoring was unknown. Police wiretaps must be approved by the prosecutor's office and authorized for two weeks at a time.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. However, government interference with licensing and indirect intimidation of the press, particularly in broadcast media, remained a concern.

A variety of newspapers and other publications represented both major political party and independent viewpoints. Due to transportation difficulties, unreliable postal service, and fluctuations in the amount of newsprint available, not all publications were available in rural areas. The media law bans censorship of public information and any legislation that would limit the freedom to publish and broadcast. The government monitored all media for compliance with antiviolenence, antipornography, anti-alcohol, and tax laws. While there was no direct government censorship, the press alleged indirect censorship in the form of government and political party harassment, such as frequent libel lawsuits and tax audits. The law places the burden of proof on the defendant in libel and slander cases. In past years, some officials used criminal libel suits to harass political opponents and journalists who expressed or published views critical of the government. However, no such incidents occurred during the year. Journalists may also be subjected to threats and physical intimidation. In December a television journalist was assaulted by unknown assailants; the journalist linked the incident to his investigation of corruption allegations in a government agency. In late November, the General Intelligence Agency (GIA) sent official letters to two independent television stations asserting that news coverage of recent demonstrations had allegedly incited additional criminal acts, and the broadcasts were therefore illegal. The letters, which did not provide specifics on which broadcasts were illegal, demanded that the stations stop such coverage or suffer legal action. The GIA subsequently retracted the letters and apologized to the two stations. As a result, some media practiced self-censorship. However, other independent media outlets at times were strongly critical of the government.

While the print media was relatively open and free of political interference, the same was not true for broadcast media. Both a lack of transparency during the tender process, as well as a truly independent licensing authority, has inhibited fair competition for broadcast frequency licenses and benefited those with political con-

nections. In 2004 three new licenses for nationwide broadcasting were issued in a nontransparent process to television stations with political connections to the Mongolian People's Revolutionary Party (MPRP). In September, in an equally non-transparent process, four new licenses were awarded to individuals and companies with connections to the Democratic Party. At the provincial level local government control of the licensing process has similarly inhibited the development of independent television stations.

Mongol TV remained the major source of television programming in the country, although three additional VHF stations and several cable television providers were beginning to make inroads and to provide alternatives.

In January the coalition government passed legislation that finally allowed movement to implement a 1999 law banning state ownership of mass media. Under the new law, Mongol Radio and TV shifted to "public" status, overseen by a national council. The national council has the power to determine whether programs meet the new law, approve functional and ethical rules, determine the structure of public radio and television, appoint the general director, and approve rules to select other senior officials. The national council has 15 members, 4 of whom are nominated by the president, 7 by the parliament, and 4 by the prime minister on behalf of the government. The parliament approves all of the nominees. Parliament did not approve the nominees for the council until October, and the shift to public status had not been fully implemented by the end of the year. Under the new law, the main financial sources for the stations were license fees, state subsidies, and sponsorship.

Due to local government control over the licensing process, local entities reported difficulties in acquiring licenses for local radio stations. However, one independent radio station was broadcast widely and there were increasing numbers of small local FM stations. In Ulaanbaatar the Voice of America and the British Broadcasting Company were broadcast in English only.

Access to the Internet was available, and the government did not interfere with its use.

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. However, a 2004 National Human Rights Commission study found that 21 of 165 applications filed between 1998 and 2003 by groups requesting permission to stage demonstrations in the capital were denied, often without citing any rationale or sometimes providing questionable reasons for denial. In February and March police clashed several times with a civil society group that attempted to stage unauthorized demonstrations in Ulaanbaatar's central Sukhbaatar Square. In November the law was amended to permit demonstrations in the square. The law was also amended to allow applications to hold demonstrations to be submitted three days prior to an event, rather than the previous six days.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. However, the law limits proselytizing, and some groups that sought to register faced bureaucratic harassment and extortion from lower level officials acting on their own.

The constitution explicitly recognizes the separation of church and state. However, although there is no official state religion, traditionalists believe that Buddhism is the "natural religion" of the country. While the government contributed to the restoration of several Buddhist sites that are important religious, historical, and cultural centers it did not otherwise subsidize Buddhism.

The Kazakh Muslim minority, whose population of approximately 100 thousand is primarily concentrated in the western part of the country, generally enjoyed freedom of religion. However, the government did not allow the Kazakh community in Ulaanbaatar to construct a mosque. According to Muslim leaders the government was concerned increased visibility of the Muslim population might provoke anti-Muslim sentiment. The government monitors the Kazakh community closely for any activity that could be construed as "Kazakh political separatism" or "terrorism."

Religious groups are required to register with the MOJHA. However, the registration process was decentralized and bureaucratic, and officials sometimes demanded bribes in exchange for authorization. Local assemblies have the authority to approve applications at the local level. In general, the primary difficulties with registering were due to the actions of local officials who attempted to extort financial assistance for projects not publicly funded. During the year, 12 new Christian churches registered; no churches were known to have been refused registration. However, procedural changes to the registration process reportedly resulted in indefinite delays for 14 churches that applied during the year.

Under the law, the government may supervise and limit the number of clergy and places of worship for organized religions; however, there were no reports that the government did so during the year.

The law does not prohibit proselytizing, but it forbids the use of incentives, pressure, or “deceptive methods” to introduce religion. In addition, a Ministry of Education directive bans mixing foreign language or other training with religious instruction.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts during the year. There was no identified Mongolian Jewish population, and the number of resident foreign Jews was very small.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. In an effort to reduce the strain on city resources, Ulaanbaatar has initiated bureaucratic measures such as increased fees for residency applications.

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

Protection of Refugees.—Mongolia is not a party to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol. The law does not provide asylum or refugee status, and the government has not established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but it did not routinely grant refugee or asylum status. The government continued talks with the Office of the UN High Commissioner for Refugees (UNHCR) representatives on refugee and asylum issues.

Small groups of North Koreans reportedly continued to enter the country from China. The government’s concerns about potentially attracting larger numbers of North Korean migrants increased opposition to accession to the 1951 UN Convention. The government cooperated with UNHCR and other humanitarian organizations and governments to assist with the resettlement of foreign migrants outside of Mongolia.

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, and largely free and fair elections held on the basis of universal suffrage. However, the campaign and balloting process in the 2004 national parliamentary election was widely considered marred by violations and irregularities. Minor irregularities were noted in the May presidential election. The law limits the president to two four-year terms; parliamentary and local elections are held separately, also for four-year terms.

The law provides that the majority party in parliament, in consultation with the president, shall appoint the prime minister. Members of parliament may serve as cabinet ministers. There is no requirement that the prime minister must be a member of parliament.

Elections and Political Participation.—A presidential election was held in May. Voter turnout was 75 percent, slightly down from the 2000 presidential election. The candidate from the MPRP won 53 percent of the vote; the closest of four other candidates received 20 percent of the vote. Observers found a variety of minor irregularities in the election process, but no major problems were cited. A parliamentary by-election was held in an Ulaanbaatar constituency in late August. Due to a formal agreement between the two coalition parties on August 2, the Democratic Party agreed to withdraw its candidate against the MPRP nominee, who was the chairman of the party. Many Democratic Party members and foreign observers criticized this situation as undemocratic because it disenfranchised a large number of voters who would have voted for a Democratic Party candidate. Election observers found some irregularities in the by-election balloting process, including the prevalence of MPRP and government officials in key precinct election committee positions.

The campaign and balloting processes for the June 2004 parliamentary elections were marred by violations and inconsistencies. The president, major political forces, domestic and foreign observers all complained of numerous irregularities and violations by political parties, individual candidates, and members of the appointed district election committees. Domestic NGOs and observers documented widespread illegal use of state property and civil service workers, primarily by the MPRP, for campaign activities. Approximately 10 percent of the population moved from one district or precinct to another during the final 2 weeks of the campaign, in order

to exploit so-called transfer voter provisions in the law. Observers also reported abuses related to the control of mobile ballot boxes, ballot-box stuffing, police intimidation, fraudulent ballots, multiple voting and the removal of political party and foreign observers from polling stations. Two seats were disputed and resolved in court. An MPRP candidate was declared the winner and seated in parliament after a court-ordered partial revote in one constituency in February. In late September, the Supreme Court dismissed challenges to lower court rulings and ruled in favor of the Democratic Party candidate, who was sworn in shortly thereafter.

There were 18 registered political parties; 5 were represented in parliament.

There were no legal impediments to the participation of women or minorities in government and politics. There were 5 women in the 76-member parliament, as well as a minister and a vice-minister. This was a substantial decrease from the number of women in Parliament between 1996 and 2000. 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 parliament.

Government Corruption and Transparency.—Corruption was perceived to be a growing problem at both lower and upper levels of government. Government and parliamentary decision making was not sufficiently transparent, and public legislative hearings were rare. The State Secrets Law inhibits freedom of information and government transparency and accountability. There were public calls to amend the law and implement the equivalent of a “freedom of information act.”

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. At the invitation of the government, the UN Special Rapporteur on Torture made a fact-finding visit in June (see section 1.c.).

With UNDP assistance, a local representative in each provincial assembly monitored human rights conditions, among other duties.

The National Commission on Human Rights (NCHR) consists of three senior civil servants nominated by the president, the Supreme Court, and the parliament for terms of six years. The NCHR was responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. The NCHR reported directly to parliament. In its annual reports, the NCHR has repeatedly criticized the government for abuses of the power of arrest and detention, poor conditions in detention and prison facilities, lengthy detentions without trial, and failure to implement laws related to human rights. The reports also faulted parliament and the courts for failing to protect human rights fully.

Section 5. 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.—Domestic violence against women was a serious problem. Rape and domestic abuse are illegal, and offenders can be prosecuted after formal charges have been filed. During the year there were 209 reported domestic assaults. There was no law specifically prohibiting spousal rape. Rape, including spousal rape, remained a problem. During the year there were 320 cases of rape reported to authorities, down from 378 cases in 2004; however, many rapes are not reported.

In January a new comprehensive law specifically typesetting domestic violence came into effect. By year's end 20 cases had been brought to trial under the law. The law empowers central and local authorities to implement national policy aimed at combating and preventing domestic violence, funding such activities from the national budget, and enlisting the support and cooperation of NGOs in their efforts. The law requires police to accept and file complaints, visit the site of the incidents, interrogate the offenders and witnesses, explain the law, impose administrative criminal penalties, bring victims to refuge, and transfer custody of the relatives if necessary. Police may also detain an offender temporarily, send drunken offenders to “sobering houses,” and inform social workers and advise relevant authorities of restrictions to place on an offender. The law outlines the role of social welfare organizations and NGOs and confidentiality provisions for the victims. The law also provides for the following sanctions on offenders: expulsion from home or separate accommodations, prohibitions on the use of jointly owned property, prohibitions on

meeting victims, and prohibitions on access to minors, compulsory training aimed at behavior modification, and compulsory treatment for alcoholism.

There were no reliable statistics regarding the extent of domestic abuse, but qualified observers believed that it affected as much as one-third of the female population. Virtually all of those who committed violent crimes in the home were men, and women typically were the victims. In recent years, domestic abuse became more violent, including increases in the number of murders. After many years of government and societal denial, there was increasing public and media discussion of domestic violence, including spousal and child abuse. However, the perception remained that domestic abuse was either a family issue or not a problem. In recent years, economic and societal changes have created new stresses on families, including loss of jobs, inflation, and lowered spending on social and educational programs. Some statistics showed that more than 60 percent of family abuse cases were related to alcohol abuse. The high rate of alcohol abuse contributed to increased instances of family abuse and abandonment and added to the number of single-parent families, most of which were headed by women. Women were hesitant to ask authorities to prosecute cases of domestic abuse because of likely long-term detention of spouses and the resulting loss of household income.

There was no official discrimination against those with HIV/AIDS; however, some social discrimination existed.

The Family Law details rights and responsibilities regarding alimony and parents' rights, and it is intended to bring about timely dispute settlement and ameliorate the causes of some domestic violence. The National Center against Violence operated branches in two districts of Ulaanbaatar and eight provinces. Two shelters for victims of domestic abuse existed in the country, largely funded by foreign charitable organizations.

Prostitution is legal. However, public solicitation for prostitution and organizing prostitution remains illegal. There were reports that some female and teenage citizens worked in the sex trade elsewhere in Asia and Eastern Europe; an unknown number of them may have been trafficked (see section 5, Trafficking).

There are no laws against sexual harassment.

The law provides men and women with equal rights in all areas. By law, women are to receive equal pay for equal work and have equal access to education. Women represented approximately half of the work force, and a significant number were the primary wage earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health, and the government effectively enforced these provisions. Many women occupied midlevel positions in government and business, and many were involved in the creation and management of new trading and manufacturing businesses.

There was no separate government agency to oversee women's rights; however, there was a national council to coordinate policy and women's interests among ministries and NGOs, and the Ministry of Social Welfare and Labor had a Division for Women and Youth Issues. There were approximately 40 women's rights groups that concerned themselves with issues such as maternal and child health, domestic violence, and equal opportunity.

Children.—Increased societal stress on the family structure had adverse effects on many children. Although the government has been unable to keep pace with the educational, health, and social needs of this rapidly growing segment of the population, in principle it remained committed to children's rights and welfare. The government provided children with free and, by law, compulsory public education through the age of 16; however, family economic needs and state budgetary troubles made it difficult for some children to attend school. In practice, female children over the age of 15 had better opportunities to complete their education than male children, because teenage males often were required to work at home, and schools generally were located far from homes (see section 6.d.). In addition, there continued to be a severe shortage of teachers and teaching materials at all educational levels.

There was growing awareness that child abuse, often associated with parental alcoholism, was a problem. In conjunction with efforts to counter violence against women, NGOs have begun to address the problem.

By year's end the national police documented 177 cases of underage prostitution.

Although society has a long tradition of raising children in a communal manner, societal and familial changes have orphaned many children. The government was more willing than in the past to admit the extent of the problem, but it lacked the resources to improve the welfare of children who have become victims. NGOs continued to assist orphaned and abandoned children. The government did not publish statistics on street children; however, the 2002 census identified approximately 1,300 homeless youths between 7 and 18 years of age. Of those, 840 lived in shelters

provided by 21 children's centers sponsored by international NGOs. Groups working in the field disagreed on the number of street children, but they estimated that there were as many as three thousand. Female street children, who accounted for one-third of all street children, sometimes faced sexual abuse. The government established the National Committee for Children to address this and other child welfare problems. The government supported two government-funded but privately owned and administered shelters, one for children from birth to the age 3 and the other for children from ages 3 to 16. While these facilities received some government funding, it was inadequate, and foreign aid was needed to sustain the orphanages.

Trafficking in Persons.—The law specifically prohibits trafficking in women and children; however, there was evidence that female and teenage citizens working in the sex trade in Asia and Eastern Europe may have been the victims of trafficking rings. The country was both a source and transit point for trafficking.

During the year, four cases of international trafficking involving 32 victims were under investigation, but antitrafficking groups stated they were aware of other potential cases. All seven suspects in the four cases under investigation were in detention at year's end.

Although most officials and NGOs found it difficult to estimate the extent of trafficking, increasing attention was focused on the problem. In 2004 the government worked with the United Nations Children's Fund (UNICEF) and tourist companies to develop a voluntary code of conduct to protect minors from sexual exploitation in the travel and tourist industry.

The primary targets of trafficking schemes were middle-class girls and young women, ranging from 14 to approximately 28 years of age, who were lured abroad by offers to study or work. Preventive steps to combat trafficking, such as increased law enforcement measures, remained limited. As a result, it was not difficult to traffic persons across the country's borders. Some NGO experts believed that members of the police sometimes were involved in trafficking young women and helping facilitate their movement across borders.

Protections for victims and witnesses were extremely limited, which discouraged them from coming forward. Furthermore, social stigma inhibited victims from telling their stories. The government had limited resources and divergent priorities, and therefore provided no direct assistance for trafficking victims. NGOs offered support when possible, and the government relied on NGOs to increase awareness and initiate prevention programs. The government worked with the UN on a three-year project for capacity building in the National Council on Gender Equality, which included giving more attention to trafficking and prostitution.

Persons with Disabilities.—The labor law prohibits discrimination in employment and education against persons with disabilities. The law also requires the government to provide benefits according to the nature and severity of the disability, which it did. The Law on Social Protection of the Disabled designates the provincial governors and the Ulaanbaatar governor with the responsibility to work with provincial councils and the Ulaanbaatar city council to develop and implement measures to protect persons with disabilities. However, NGOs claimed that the government did little to implement such measures, and in practice most persons with disabilities could not find jobs. The law requires companies employing more than 50 persons to hire at least 3 persons with disabilities. The government provided tax benefits to enterprises that hired persons with disabilities, whom some firms hired exclusively. Persons injured in industrial accidents have the right to reemployment when ready to resume work, and the government offered free retraining at a central technical school. There were several specialized schools for youth with disabilities, but these students also were free to attend regular schools. There is no law mandating access to buildings for persons with disabilities, which made it difficult for these persons to participate fully in public life. Persons with disabilities have demonstrated for higher government subsidies. Government pensions for persons with disabilities were approximately \$33 (40 thousand tugrik) per month. Approximately 30 NGOs participated in activities assisting approximately 40 thousand persons with disabilities.

Other Societal Abuses and Discrimination.—There was no official discrimination against those with HIV/AIDS; however, some social discrimination existed.

Section 6. Worker Rights

a. The Right of Association.—The law entitles all workers to form or join unions and professional organizations of their choosing, and the government respected this right in practice. However, some legal provisions restrict these rights for some groups such as foreign workers, public servants, and workers without employment contracts.

Union officials estimated that union membership has declined over the years to 350 thousand, which represented less than half of the workforce. Workers who were self-employed or who worked at small firms generally did not belong to unions. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

In 2003, the leadership of the Association of Free Trade Unions merged with the Mongolian Trade Unions Confederation, in effect leaving only one trade union confederation in the country.

b. The Right to Organize and Bargain Collectively.—The law regulates relations between employers, employees, trade unions, and the government. The government's role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. The Labor Dispute Settlement Commission resolves disputes involving an individual; disputes involving groups are referred to intermediaries and arbitrators for reconciliation.

The law provides for the right to strike, and workers exercised this right in practice. If an employer fails to comply with a recommendation, employees may exercise their right to strike. The law protects workers' right to participate in trade union activities without discrimination. However, the government does not allow intervention in collective bargaining by third parties, and prohibits third parties from organizing a strike. Such restrictions are not in line with the International Labor Organization (ILO) Conventions, to which the country is a signatory.

Persons employed in essential services, which the government defines as occupations critical for national defense and safety, including police, utility, and transportation workers, do not have the right to strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law specifically prohibits forced or compulsory labor, and the government generally enforced this provision. During the year, the government signed and ratified the ILO Convention against Forced Labor. Although most prisoners were required to work as part of their sentences, they did receive monetary compensation to send to their families or use to buy food, books and sanitary items. Prisoners in maximum security or serving custodial prison sentences of less than six months were excluded from compulsory labor.

Beginning in 2004, North Korean laborers were employed (under contracts between the DPRK Ministry of Light Industry and private companies, with government approval), primarily in the construction and service industries. Approximately two hundred North Korean workers brought in through official channels were working in the country during the year. The contract terms generally required that the laborers return to North Korea at the end of the contract and according to the Ministry of Labor, most had departed by year's end. The Ministry of Labor did not monitor the working or living conditions of these workers. Some North Korean workers may not have been free to leave their employment or complain if work conditions were unacceptable. These workers, who reportedly were monitored closely by "minders" from their government, did not routinely receive direct and full salary payments. In addition, possible pressure on family members in North Korea raised additional concerns that the labor of these workers was not fully voluntary.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law in general prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under 18 may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Enforcement of these prohibitions, as well as all other labor regulations, was the responsibility of state labor inspectors assigned to regional and local offices. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited, due to the small number of labor inspectors and the growing number of independent enterprises.

Children worked informally in petty trade, scavenging in dumpsites, working in unauthorized small-scale mining, and herding animals. Increasing alcoholism and parental abandonment made it necessary for many children to have an income to support themselves, their siblings, and sometimes their parents. Estimates placed the number of children in the labor force as high as 58 thousand.

In addition, due to economic pressures, fewer children, especially teenage boys in the countryside, stayed in school until the age 18 (see section 5). Children most often herded family livestock, but reports of children working in factories or coalmines continued.

The government prohibits forced and compulsory labor by children and effectively enforced this prohibition.

e. Acceptable Conditions of Work.—The legal minimum wage established for the year was approximately \$33 (40 thousand tugrik) per month. This minimum wage, which applied to both public and private sector workers and was enforced by the Ministry of Social Welfare and Labor, did not provide a decent standard of living for a worker and family. Virtually all civil servants earned more than this amount, and many in private businesses earned considerably more. Some employees received housing benefits.

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. For those 16 and 17 years of age, the workweek is 36 hours, and overtime work is not allowed. These laws generally were enforced in practice.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards. However, the near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the mining, power, and construction sectors. Enforcement of occupational health and safety standards was inadequate. The labor monitoring unit employed only 73 inspectors to inspect a growing number of enterprises throughout the country. According to the law, workers have the right to remove themselves from dangerous work situations and still retain their jobs. There were increasing numbers of Chinese workers in low-wage construction jobs, who often lived under sparse conditions, but generally enjoyed the same protections as citizens. However, due to various pressures and restrictions, a small number of North Korean workers in the construction and service industries may not have been able to speak out about working conditions (see section 6.c.).

NAURU

The Republic of Nauru is a parliamentary democracy with a unicameral parliament. Its population was approximately 10 thousand, of which an estimated 1,450 were foreign workers and their families. The most recent parliamentary elections, held in October 2004, were generally free and fair. Parliament elects one of its members to be president, who is both chief of state and head of government. The civilian authorities maintained effective control of the police force.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. During the year the government adopted measures to address charges that the country's financial and commercial regulations were not sufficient to protect against money laundering. The Australian government was in the process of deactivating its refugee processing center on Nauru, which at year's end held only two persons. The following human rights problems were reported:

- detention of asylum seekers in isolated, Spartan living conditions in a refugee processing center
- limited access to the refugee processing center
- judicial delays
- reduced levels of social services for stranded foreign workers and their families

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—During the year the country's prison facility was refurbished by the Australian government. The facilities were austere but generally met international standards.

There were no local human rights groups, and the question of visits to the prison by human rights observers did not arise. Prison visits by church groups and family members were permitted.

Beginning in 2001 the country hosted a refugee processing and detention center, funded by Australia. At year's end only 2 unsuccessful asylum seekers remained at the facility (see section 2.d.), down from 58 at the beginning of the year and the last of approximately 1,200 refugees at one time held at 2 centers. At year's end the Australian government was deactivating the remaining center and had moved the two asylum seekers to an administrative building. The two persons, deemed security risks by Australia, were awaiting the outcome of legal challenges to their status. Australian human rights organizations had repeatedly expressed concern about detention center conditions.

Human rights groups protested that journalists, human rights activists, doctors, lawyers, and clergy members have been denied visas to visit asylum seekers held in the detention centers. In July the government denied a visa to an Australian parliamentarian critical of the center.

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 country has no military force, and the 129-member police force is responsible for law enforcement and maintenance of order. Under a cooperative agreement, Australian federal police officers were seconded to the country's police force to facilitate organizational reforms and training and increase police accountability, skills, professionalism, and community responsiveness. There were no reported cases of police corruption.

Arrest and 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. A functioning bail system was in place. Authorities confiscated the passports of some accused persons released on bail to prevent flight. The law provides accused persons access to legal assistance.

Judicial delays were a problem. The lack of qualified magistrates and judges, coupled with severe financial constraints, caused delays of up to two years, during which defendants were released from detention to await trial.

Since 2002 human rights activists have asserted that the detention by Australian authorities of asylum seekers in the country was in violation of Nauru's and Australia's constitutions. The courts of both countries have ruled that the detention arrangements are legal.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The Supreme Court is the highest court addressing constitutional issues; it is presided over by the chief justice. Parliament cannot overturn court decisions. Under the Appeals Act, the High Court of Australia may review cases on criminal and civil actions, but this rarely was done. The post of resident magistrate, who presides over the district court, and also the family court as chairman of a three-member panel, was unfilled during the year. Instead, three lay magistrates handled simple cases; serious matters were given directly to the Supreme Court. The constitution also provides for two quasi-courts, the public service appeal board and the police appeal board, but these did not meet during the year. The chief justice presides over both boards.

Trial Procedures.—Procedural safeguards are based on English common law. They include the presumption of innocence; the right to be informed promptly of charges; a guarantee of adequate time and facilities to prepare a defense; the right to confront witnesses, present evidence, and appeal convictions; the right to trial by jury; and a prohibition on double jeopardy and forced self-incrimination. Trials are public, defendants have the right to legal counsel, and a representative for the defense is appointed when required "in the interest of justice." Bail and traditional reconciliation mechanisms rather than the formal legal process were used in many cases—usually by choice but sometimes under communal pressure.

Stranded contract workers from Kiribati and Tuvalu who formerly worked in the moribund mining sector did not have recourse to effective communal assistance and were disadvantaged in complaints against citizens. There were few trained lawyers, and many persons were represented in court by "pleaders," trained paralegals certified by the government.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An effective judiciary and a functioning democratic political system combined to ensure freedom of speech and of the press.

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

c. Freedom of Religion.—The constitution provides for freedom of religion; however, the government restricted this right in some cases. In recent years the government has prevented Mormons and members of Jehovah's Witnesses from practicing their religion freely on some occasions, and members of these religions were subjected to arbitrary licensing and immigration requirements.

Societal Abuses and Discrimination.—The relationships among religions generally were amicable. There was no known Jewish community, and there were no reports of anti-Semitic acts.

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

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

By regulation foreign workers were required to apply to their employers for permission to leave the country during the period of their contracts; however, the nearly complete suspension of mining operations has made the regulation moot. At year's end an estimated 1,450 unpaid foreign workers and family members were awaiting imminent repatriation (mostly to Tuvalu and Kiribati) after Taiwan agreed to fund the process. The two remaining persons detained at the Australia-funded processing camp were permitted to move freely during the day but had to return to the facility in the evening.

Neither the constitution nor law prohibits forced exile; however, the government did not use it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; the country is a party to neither. Although the government has not established a system for providing protection to refugees, under its 2002 agreement with Australia establishing the refugee processing centers, the country undertook not to commit *refoulement*, the return of persons to a country where they feared prosecution. The government did not accept refugees for resettlement, nor did it grant refugee status or asylum. However, the government cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

Beginning in 2001 the country hosted an Australian government processing center for persons seeking asylum in Australia. The persons were detained under national law while their status as refugees was determined and possible applications for asylum in Australia were adjudicated. These persons were held in facilities funded by Australia but administered by officials of the International Organization for Migration. The UNHCR took a limited role, on "an exceptional basis," in conducting refugee determinations of some applicants when the processing centers were first opened. In subsequent years the UNHCR also assisted in resettling some of the successful applicants in countries other than Nauru, but it was not active during the year. Nearly all of the 58 asylum seekers held at the processing center at the beginning of the year were from Afghanistan and Iraq. Of these, 56 asylum seekers were removed to Australia during the year, many on temporary visas while processing continued. At year's end only two persons, determined by Australia to be security risks, remained at the center, and the Australian government was in the process of deactivating it.

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.—Citizens 20 years and older directly elect an 18-member unicameral parliament in compulsory voting for a term of 3 years. Following general elections in October 2004, Ludwig Scotty was reelected president by parliament. Multiple candidates stood for all parliamentary seats in each of the country's eight constituencies.

There are no legal impediments to participation in politics by women, but in general women traditionally have been less prominent in politics than men. There were no women in the 18-seat parliament or the cabinet. Women held many senior civil service positions, including the head of the civil service and the presidential counsel.

Government Corruption and Transparency.—During the year the government took corrective measures in government and in publicly owned corporations to combat corruption. Loose controls on the enormous revenues generated by phosphate mining led to mismanagement and misappropriation of vast sums of public funds. With the effective end of mining in recent years, within a decade the country went from great wealth to de facto bankruptcy. A search for new sources of income led to the creation of facilities to register offshore businesses and banks. This led in turn to the creation of thousands of shell banks and companies and to massive money laundering. In 2000 the country was placed on a list of noncooperative countries by the Organization for Economic Cooperation and Development (OECD) antimoney laundering taskforce and forced to close its offshore banking sector and revise its business incorporation program. In recognition of its corrective actions, in October the OECD removed the country from the list. The financial and regulatory crises, accompanied by continued corruption and severe national impoverishment, dominated national politics from the late 1990s. The 2004 elections were widely interpreted as a victory for reformists dedicated to addressing corruption and economic problems.

There are no legal provisions providing for public access to government information, and the government did not freely provide such access.

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

There were no government restrictions on establishing local human rights organizations, but no such groups have been formed. The government restricted or denied entry visas to representatives of foreign nongovernmental organizations and other persons focused on the refugee processing center. In July the government denied a visa to an Australian Green Party senator asking to visit the center.

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

The law prohibits discrimination on the basis of race, sex, disability, language, or social status, and the government generally observed these provisions.

Women.—The government did not record incidents of physical and domestic abuse against women. However, credible reports indicated that sporadic abuse, often aggravated by alcohol use, occurred. Families normally sought to reconcile such problems informally and, if necessary, communally. The judiciary and the government treated major incidents and unresolved family disputes seriously.

Spousal rape is not a crime, but police investigate and file charges if allegations of rape are made against a spouse. Prostitution is illegal and was not widespread. Sexual harassment is a crime but was not a serious problem.

The law grants women the same freedoms and protections as men. The government officially provides equal opportunities in education and employment, and women are free to own property and pursue private interests. However, in practice societal pressures and the country's impoverished economic circumstances often limited opportunities for women to exercise these rights fully. The Women's Affairs Office was responsible for promoting professional opportunities for women.

Children.—Government resources for education and health care for children were severely constrained by the country's economic crisis. Education is compulsory until age 16. The Bureau of Statistics reported that 60.3 percent of school-age children attended primary school in 2000. The government declared that truancy was as high as 60 percent in some schools. Most children did not complete secondary school. Foreign workers left unemployed and stranded by the virtual closure of the phosphate mines complained that health and educational services to their children were inferior to those provided to citizens.

Child abuse statistics were not compiled, and there were no reported cases of child abuse or child prostitution during the year. However, anecdotal evidence indicated that abuse occurred.

Trafficking in Persons.—The law does not specifically prohibit trafficking, but there were no reports of persons trafficked to, from, or within the country.

Persons with Disabilities.—There was no reported discrimination in employment, education, access to health care, or in the provision of state services to persons with disabilities. However, no legislation mandates services for persons with disabilities or access to public buildings. The country's economic crisis has led to an overall deterioration in funding for health care facilities and services.

There are no formal mechanisms to protect persons with mental disabilities.

National/Racial/Ethnic Minorities.—Ethnic Chinese, who composed 5 to 8 percent of the population, and their property were the targets of racially motivated attacks, most of a minor character. Theft, property damage, and violence directed at the Chinese community increased during the year.

Workers from other Pacific Islands, primarily Tuvalu and Kiribati, who were unemployed and stranded in the country experienced discrimination. The foreign workers previously had been provided free housing as part of their contracts, and they continued to occupy this housing, but it was poorly maintained and overcrowded.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of citizens to form and belong to trade unions or other associations. However, the country has virtually no labor laws, nor does it have any formal trade unions. Historically, the transient nature of the mostly foreign workforce hampered efforts to organize trade unions.

b. The Right to Organize and Bargain Collectively.—The right to strike is not protected, prohibited, or limited by law. Although there were no legal impediments, collective bargaining did not take place. A tiny private sector, mostly family-run stores and restaurants, employed approximately 1 percent of salaried workers. Salaries, working hours, vacation periods, and other employment matters for government workers are nominally governed by public service regulations. However, as a consequence of the economic crisis, all civil servants, parliamentarians, and members of government were paid a common salary of approximately \$105 (A\$140) every other week.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law forbids forced or compulsory labor, including by children, and the government effectively enforced these prohibitions.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age of employment at 17. The only two large employers, the government and the Nauru Phosphate Corporation (NPC), honored this rule. Some children under 17 worked in small, family-owned businesses.

e. Acceptable Conditions of Work.—As an emergency measure, the government decreed a single maximum public servant wage equal to approximately \$105 (A\$140) every 2 weeks, which did not provide a decent standard of living for a worker and family. The measure was valid for all civil servants, including parliamentarians and government ministers. This represented a major salary reduction for most workers and families. However, prior to the wage measure, public service salaries often went unpaid, frequently for months.

Hundreds of foreign workers formerly employed by NPC remained in the country. Previously, they and their families received free housing, utilities, medical treatment, and often a food allowance. At year's end NPC was unable to meet unpaid wages claims. The government began paying the foreign workers a stipend of \$37 (A\$50) every other week, barely enough to survive. They continued to occupy company housing at no cost, but their circumstances were dire. The government of Taiwan agreed in October to compensate these laborers for some portion of their unpaid NPC back wages and to finance and facilitate their repatriation, mostly to Tuvalu and Kiribati.

By regulation the workweek in both the public and private sectors was 36 hours for office workers and 40 hours for manual laborers. Neither the law nor regulations stipulate a weekly rest period; however, most workers observed Saturdays and Sundays as holidays.

The government sets health and safety standards. NPC had an active safety program that included an emphasis on worker education and the use of safety equipment such as helmets, safety shoes, and dust respirators. NPC also had a safety officer specifically responsible for improving safety standards and compliance throughout the company. However, with operations in the phosphate industry almost at a standstill, enforcement of these regulations was lax.

NEW ZEALAND

New Zealand is a parliamentary democracy with a population of approximately 4.1 million. Queen Elizabeth II is chief of state and is represented by the governor general. Citizens periodically choose their representatives in free and fair multiparty elections. The 121-member Parliament is elected in a mixed-member, proportional representation system, with 7 seats reserved for members of the native Maori population. The most recent elections were held in September. The Labor Party won 50 parliamentary seats and formed a minority coalition government; Helen Clark remained prime minister. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- disproportionate societal problems for indigenous people

RESPECT FOR HUMAN RIGHTS

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

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

There were no further developments in the August 2004 police killing of a man who attacked his wife and police officers with a knife. For the 12-month period ending June 30, 9 new cases of death involving a police officer were received and under investigation at year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

During the year there were some complaints that individual members of the police committed abuses. The Independent Police Complaints Authority handled complaints of police abuse, ranging from use of abusive language to allegations of complicity in deaths.

In March an assistant police commissioner and 2 former police officers were arrested for sexual offenses against 2 women in Rotorua dating back to 1986 and were charged with 20 counts of rape, indecent assault, and unlawful sexual connection. The case was awaiting trial at year's end.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by human rights observers. In June 2004 Parliament passed a new corrections act, which came into force in June. The objectives of the act were to eliminate private management of prisons, establish individual management plans for prisoners, and make prisoners' minimum entitlements more consistent with UN standards.

In the 12-month period ending June 30, there were 9 serious assaults on staff by inmates and 18 assaults of inmates by other inmates. During the same period there were 12 recorded deaths in custody, including 5 suicides.

Prison overcrowding was a problem during the year. At year's end there were 6,965 male prisoners and 455 female prisoners, while prison capacity was 6,942 beds for male prisoners and 455 for female prisoners. To alleviate overcrowding, during the year the government continued expansion and new prison construction efforts, used double bunking at prisons, and housed prisoners in police and court cells. In March the Northland Region Correction Facility opened, and its full 350-bed capacity was operational by year's end. An additional 380 beds were added at existing facilities during the year, and 3 new correctional facilities were under construction that would add space for 1,286 inmates over the next 2 years.

Juvenile detainees come under the jurisdiction of Child, Youth, and Family Services (CYFS) rather than the police. On October 4, to relieve pressure on overcrowded facilities, CYFS completed a new youth justice facility, raising to 102 the number of beds available for juvenile offenders serving residential orders and juvenile pre-trial detainees. As of November juveniles spent more than 600 detention nights in police cells during the year while waiting for a bed in a youth justice residence.

A government report released in December 2004 concerning the use of excessive force by the Canterbury Emergency Response Unit, also known as the "goon squad," found that management failings in the Department of Corrections allowed the unit to develop an inappropriate militaristic culture, and the department disciplined some unit members for violating proper procedures. On January 28, the Christ-

church District Court dismissed a civil suit for compensatory damages brought by one affected prisoner.

In 2003 nine inmates of Auckland's Paremoremo Prison Behavioral Management Regime (BMR) brought a case against the Department of Corrections, alleging that the practices employed by the BMR, a special unit that isolates prisoners who pose a risk to staff or other inmates, constituted torture. In September 2004 the Wellington High Court awarded compensation of \$91 thousand (NZ\$130 thousand) to 5 of the claimants for breaches of their rights under the Bill of Rights Act, although the court did not find that their treatment constituted torture. The claimants appealed to dispute the amount of the compensation, and in December the Court of Appeal increased the amount awarded in the High Court to \$98 thousand (NZ\$140 thousand) to correct for a calculation error.

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 commissioner, appointed by the governor general, is the chief executive of the police force and reports to the minister of police. A board of commissioners, consisting of the commissioner and two deputy commissioners, is responsible for high-level leadership and makes decisions on police strategy, governance, and performance management. The police are organized into 12 districts. There are three operational branches: general duties, criminal investigation, and traffic safety. Allegations of corruption or impunity are referred to the Independent Police Complaints Authority, which can refer cases directly to Parliament. The police generally did not have problems with corruption and impunity.

Arrest and Detention.—Police may arrest a suspect without a warrant if they have reasonable cause. Police also may request a warrant from a district court judge. Police may enter premises without a warrant to arrest a person if they reasonably suspect the person of committing a crime on the premises, or if they 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 a suspect has been arrested and charged, police have the power to release the person on bail until the first court appearance. That bail comes to an end at the first court appearance and is distinct from court bail. Court bail is granted unless there is good reason to believe that the suspect would flee or is likely to be a danger to the community. Police bail is not normally granted for more serious offenses such as serious assault or burglary. Attorneys and families were granted prompt access to detainees.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The Supreme Court is the country's highest court of appeal. It is composed of the chief justice and four other judges appointed by the governor general. Below the Supreme Court is the Court of Appeal; it hears appeals from the High Court, which has original jurisdiction for major crimes and important civil claims. The Court of Appeal also hears appeals on decisions of the district courts in serious criminal matters. The High Court hears appeals from lower courts and reviews administrative actions. Remaining original jurisdiction rests with the 63 district courts. Special courts include the Employment Court, Family Court, Youth Court, Maori Land Court, Maori Appellate Court, and Environment Court. The country's military forces have their own court system, with a Courts Martial and a Courts Martial Appeals Court; appeals from the Courts Martial Appeals Court may be made to the Court of Appeal and the Supreme Court.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy the rights found in other common-law jurisdictions, including a presumption of innocence, a right to a jury trial, a right of appeal, and the right to counsel, to question witnesses, and to access government-held evidence.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective ju-

diciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

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

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

Societal Abuses and Discrimination.—In November a man was convicted and sentenced to 15 months' imprisonment for abuse directed at Muslims at a bus stop and on a bus in South Dunedin. Also in November, a court sentenced 2 former members of the National Front, a white supremacist group, to 12 months' imprisonment for vandalizing mosques in Auckland following the July subway bombings in London. In July the person charged in October 2004 for sending racist letters to members of Wellington's Somali community and other Muslims was convicted of harassment and in September was sentenced to six months' imprisonment.

The Jewish community numbered approximately 10 thousand persons. There were no reports of anti-Semitic acts during the year. The government-funded Human Rights Commission (HRC) actively promoted religious tolerance.

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

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

There is no statutory authority for imposing a sentence of exile, and the government did not practice forced exile.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided protection to individuals who may not qualify under the definition of the 1951 convention and the 1967 protocol. Under its refugee quota, the government resettles up to 750 UNHCR-approved refugees per year. In the 12-month period ending July 30, the government approved 761 persons for refugee status.

During the year asylum seeker and former member of the Algerian Parliament Ahmed Zaoui continued to be the subject of a national security risk certificate issued by the Security Intelligence Service, which continued its review of the certificate at year's end. Zaoui was released from detention on bail by order of the Supreme Court in December 2004.

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.—Parliamentarians are elected under a mixed-member, proportional representation system. In the most recent general elections, held in September, the Labor Party won 50 of 121 parliamentary seats and formed a minority government with Jim Anderton's Progressive Party (1 seat) and support from the center-right New Zealand First (7 seats) and United Future (3 seats) parties. The Labor Party also had a cooperation agreement with the Green Party (6 seats). Three other political parties were represented in Parliament: the National Party (48 seats), Maori Party (4 seats), and ACT party (2 seats). Executive authority is vested in a 21-member cabinet led by the prime minister.

Women participated fully in political life. There were 39 women in the 121-seat Parliament. There were 7 women (including the prime minister) on the executive council, which comprises 29 ministers (21 within the cabinet and 8 outside the cabinet). The cabinet included five women. The prime minister, the speaker of the house, and the chief justice of the Supreme Court were women; the governor general also was a woman. There were 2 women in the 25-seat Parliament of the dependent territory of the Cook Islands and 3 women in the 20-seat Parliament of the dependent territory 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 of Maori ancestry who register to vote on the Maori electoral roll.

There were 21 Maori in Parliament, including the 7 reserved seats; 3 members of Pacific Island origin; and 1 member each of East and South Asian heritage. The cabinet included at least two members with Maori ancestry.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The law provides for public access to government information, to be provided within 20 working days of a request. Information must be made available unless a good reason, such as concern for national security, exists for not doing so. The requester must be provided with an estimate of any fees before the information is provided.

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

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

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

The law prohibits discrimination on the basis of race, sex, religion, disability, and national or ethnic origin, and the government actively enforced it. The HRC, a UN-accredited national human rights institution, investigated complaints of human rights violations and unlawful discrimination and acted as a conciliator. The HRC, which presents an annual report to Parliament, is funded by the government but acts independently.

Women.—Violence against women affected all socioeconomic groups. According to a national survey of crime victims conducted in 2001 and released in 2003, an estimated 32 percent of Maori, 17 percent of persons of European ancestry, and 12 percent of Pacific Islanders reported violent abuse by a heterosexual partner at least once in their lifetime; these figures included both men and women. One in four of the women included in the survey reported experiencing violent behavior from a partner at least once. In the year ending June 30, there were 3,374 convictions involving assault by a male on a female. Of these convictions, 51 percent involved Maori men, 30 percent men of European ancestry, and 15 percent Pacific Islanders. Although Maori women and children constituted less than 10 percent of the population, during the 12-month period ending June 30, approximately half of the 19,949 women and children who used the National Collective of Independent Women's Refuges were Maori; 33 percent were of European ancestry, and 6 percent were Pacific Islanders. In March the government established the Taskforce for Action on Violence within Families to coordinate a variety of government initiatives to eliminate family violence, including continuation of its *Te Rito* program, a national strategy to address all forms and degrees of domestic violence. The government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services. The Family Violence Intervention Program provided training for 1,600 social benefits staff to improve the government's response to clients facing issues of family violence.

The law penalizes spousal rape. During the year the government prosecuted and convicted a small number of persons for spousal rape or unlawful sexual connection with a spouse. Rape crisis groups existed throughout the country and included centers focusing specifically on Maori and Pacific Islanders.

It is illegal to perform female genital mutilation (FGM) or to remove a child from the country to carry out the procedure; violations of the law are punishable by up to seven years in prison. The government funded a national FGM education program. There were no FGM cases reported during the year.

Prostitution is legal. The Prostitution Reform Act sets a minimum age of 18 to work in the sex industry, gives prostitutes the same workplace protections as other industries, and provides for a licensing regime for brothels. The law also eliminates a client's defense of claiming ignorance that a person engaged in commercial sexual activity was under 18, and it extends culpability to any person who receives financial gain from such activity involving an underage person. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts. During the year there were no reports of abuse or of the involuntary detention of women involved in prostitution, and no reports of such persons having passports held until employer bonds were repaid.

The Prostitution Reform Act also established a statutory Prostitution Law Review Committee (PLRC) to review the act within three to five years of its enactment (by June 2008), including an assessment of the act's impact on the number of persons engaged in prostitution, and the nature and adequacy of resources available to assist persons in avoiding or leaving employment in the commercial sex industry. The government also had an agreement with the United Future Party to review the act to "address problems associated with street soliciting, under age involvement and local authority control over brothel zoning." In April the PLRC published a baseline profile of the commercial sex industry as a basis for comparison in future years' reviews.

The law prohibits sexual harassment. The HRC offered sexual harassment prevention training.

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. While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the government acknowledged that a gender earnings gap persisted in practice and in December 2004 set up a unit dedicated to this issue within the Department of Labor. The unit administers a fund supporting employer and union initiatives to promote pay and employment equity and accepted its first round of applications from May to July.

Children.—The law provides specific safeguards for children's rights and protection. The government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care. The government provides 14 weeks of government-funded, paid parental leave to care for children born after December 1. The office of the commissioner for children played a key role in monitoring violence and abuse against children.

The law provides for compulsory, free, and universal education through age 16, and the government effectively enforced the law. As of July 2004 on average 99 percent of children age 6 to 16 were enrolled in formal education. The government provided free health care to all children under age five.

Child abuse continued to be of concern to the government. The government promoted information sharing between the courts and health and child protection agencies to identify children at risk of abuse. During the calendar year there were 26,765 applications to Family Court under the Guardianship Act and 8,688 applications under the Domestic Violence Act. There were 318 convictions involving assaults on children in the 12-month period ending June 30. Of those convicted, 144 were Maori, 83 were of European descent, 64 were Pacific Islanders, 14 were members of other ethnic groups, and the ethnicity of 13 was unknown.

Commercial sexual exploitation of children remained a problem (see section 5, Trafficking).

The Department of Internal Affairs' Censorship Compliance Unit actively policed Internet child sex abuse images and prosecuted offenders. The government maintains extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to or from the country. No new confirmed cases of internationally trafficked persons have been brought to the attention of the authorities since 2001, although there was evidence that some women from Asia, and more recently the Czech Republic and Brazil, were working illegally in the country as prostitutes. Although prostitution has been decriminalized (see section 5, Women), it remains illegal for nonresidents to work in the commercial sex industry.

The government has signed the relevant international instruments dealing with trafficking and has adopted tough domestic legislation to criminalize trafficking, with penalties of up to 20 years in prison and fines of up to \$349,650 (NZ\$500 thousand). Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison. During the year the government began work on a national plan of action against trafficking in persons, due for completion in early 2006, addressing the areas of prevention, protection, prosecution, and victim reintegration.

Commercial sexual exploitation of children was a problem. Under the Prostitution Reform Act, it is illegal to use a person under 18 years of age in prostitution. A study by the PLRC completed in April 2004 estimated that approximately 200 young persons under the age of 18 were working as prostitutes. During the year 3 brothel operators and 1 client were prosecuted for the use of persons under age 18 in prostitution. The client and two of the brothel operators were convicted, and one operator was awaiting trial at year's end. The government worked with nongovernmental organizations (NGOs) to address trafficking in children and provided fund-

ing for NGO outreach programs in Auckland and Christchurch that provided accommodations and other support for young persons at risk for involvement in prostitution. The government had a national plan of action against the commercial exploitation of children developed in concert with NGOs and completed a progress review of the plan during the year; its report on the review was scheduled for release in 2006.

Shakti Migrant Services Trust, an antitrafficking NGO, reported abuses resulting from the immigration of Indian women for arranged marriages and provided services to abused women through four refuges located in three cities: Auckland, Christchurch, and Tauranga. In December the UN's special rapporteur on human trafficking, while on a private visit to the country, asserted in the press that although in many cases such groups as mail-order brides, migrant workers, foreign fishermen, and those in arranged marriages enter the country voluntarily, they could be at risk of losing their autonomy and becoming victims of trafficking.

An extensive infrastructure of government and NGO assistance programs was available to victims of trafficking.

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, and accommodation. Compliance with access laws varied. The government is prohibited from discrimination on the basis of disability, mental or physical, unless such discrimination can be “demonstrably justified.” Of the 7,344 inquiries and complaints that the HRC received during the 12-month period ending June 30, it received more complaints of discrimination based on disability than for any other type of discrimination (23.3 percent of all inquiries and complaints). In its action plan for human rights released in February, the HRC noted that persons with disabilities faced major barriers in obtaining and retaining employment and earning adequate income.

The government's Office for Disabled Issues worked to protect and promote the rights of persons with disabilities. In addition, during the year both the HRC and the Mental Health Commission continued to address mental health issues in their antidiscrimination efforts.

National/Racial/Ethnic Minorities.—Pacific Islanders, who made up 6.5 percent of the population, experienced societal discrimination and accounted for approximately 11 percent of prison inmates and 17 percent of those serving community sentences. On July 29, the Department of Corrections launched its Pacific Strategy 2005–08, designed to reduce the crime rate and recidivism among Pacific Islanders through the use of culturally based techniques. Asians, who made up less than 5 percent of the population, also reported discrimination.

Indigenous People.—Approximately 15 percent of the population claimed at least 1 ancestor from the country's indigenous Maori or Moriori minorities. 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. In November the special rapporteur on human rights and fundamental freedoms from the UN Commission on Human Rights (UNCHR) visited the country at the government's invitation to obtain information on human rights related to treaty settlements, and indigenous economic, social and cultural rights in general. The rapporteur's report to the UNCHR was due in 2006.

On June 23, the coordinating minister for race relations completed a mandated review of government policies and programs to ensure that they were directed at persons in need, without racial bias. Of 49 policies and programs reviewed, the minister recommended changes to 20, and an additional 15 were under further review for possible revision. Recommended changes involved widening program eligibility to include all groups in need and improving program delivery of the desired results.

Maori continued to constitute half the prison population and 17 percent of persons serving community sentences. The government addressed the problem of recidivism among Maori through Maori focus units and special cultural assessments of Maori offenders.

Government policy recognized a special role for indigenous people and their traditional values and customs, including cultural and environmental issues that affected commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people. A special tribunal established in 1975 continued to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

In November 2004 legislation was enacted that regulates ownership of the foreshore (the land between high and low tide) and the seabed. The law grants ownership of the foreshore and seabed to the state and provides for universal public ac-

cess. It also established a mechanism to accommodate customary indigenous rights of land use, including preservation of existing fishing rights. This legislation was the focus of protests by Maori groups asserting customary title to the land and by non-Maori groups opposing such claims. Concerns about the impact of the legislation on Maori customary rights resulted in the 2004 resignation of Labor Party member of Parliament Tariana Turia, who then helped to found the Maori Party (see section 3).

Section 6. Worker Rights

a. The Right of Association.—The law provides workers the right to form and join organizations of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Nearly all unionized workers were members of the Council of Trade Unions, a federation that included unions representing various trades and locations. A few small, independent labor unions also existed. Unions represented approximately 22 percent of all wage earners.

Labor organization was rudimentary in the territory of Tokelau (population 1,500) and in the Freely Associated State of Niue (population 1,700). In the more developed Associated State of the Cook Islands (population 19 thousand), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of national legislation.

The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. Sworn police officers (which includes all uniformed and plainclothes police but excludes clerical and support staff) are barred from striking or taking any form of industrial action. However, police have freedom of association and the right to organize and to bargain collectively. Disputes that cannot be settled by negotiation between the police association and management are subject to compulsory, final-offer arbitration.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of workers to organize and contract collectively, and workers exercised this right in practice.

The Employment Relations Act governs industrial relations and promotes collective bargaining. In order to bargain collectively, unions must be registered, be governed by democratic rules, be independent, and have at least 15 members. Unions may not bargain collectively on social or political issues.

There were a number of strikes during the year. The Council of Trade Unions reported 31 work stoppages for the year through mid-August. During the 12-month period ending June 30, 41 work stoppages ended and 4 were ongoing.

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

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. Inspection and legal penalties ensured respect for provisions against forced labor. There were no reports of the involuntary detention of women involved in prostitution and no reports that foreign commercial sex workers had their passports held by employers until bonds were repaid.

d. Prohibition of Child Labor and Minimum Age for Employment.—Department of Labor inspectors effectively enforced a ban on the employment of children under the age of 15 in manufacturing, mining, and forestry. Children under age 16 may not work between the hours of 10 p.m. and 6 a.m. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

There were reports of children involved in the commercial sex industry (see section 5).

e. Acceptable Conditions of Work.—A 40-hour workweek is traditional. There are legal limits regarding hours worked. There is premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum 3-week annual paid vacation and 11 paid public holidays. The minimum wage was approximately \$6.65 (NZ\$9.50). Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage generally was adequate to provide a decent standard of living for a worker and family. There was a separate youth minimum wage of approximately \$5.32 (NZ\$7.60) for younger workers (ages 16 to 17). A majority of the work force earned more than the minimum wage.

Raising the minimum wage was a significant campaign issue during the September general election. Both the New Zealand First and the Green parties concluded agreements with the government to continue annual increases in the min-

imum wage with a target of \$8.40 (NZ\$12.00) by the end of 2008, economic conditions permitting.

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. Department of Labor inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The Department of Labor normally investigated reports of unsafe or unhealthy working conditions within 24 hours of notification.

PALAU

Palau is a constitutional democracy with a population of approximately 20,900. The constitution provides for executive, judicial, and legislative branches. The president, the vice president, and members of the legislature, the Olbiil Era Kelulau, are elected for four-year terms. There are no political parties. In free and fair elections held in November 2004, President Tommy E. Remengesau, Jr. was reelected, and Camsek Chin was elected vice president. The country is organized politically into 16 states. The Council of Chiefs, consisting of the highest traditional chiefs from each state, advises the president on traditional laws and customs. The civilian authorities generally maintained effective control over the security forces.

The government generally respected the human rights of its citizens; however, there were problems in a few areas. The following human rights problems were reported:

- government corruption
- domestic violence
- trafficking in persons
- discrimination and some abuse against foreign workers

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—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 generally met international standards, and the government permitted visits by independent human rights observers. However, during the year the country's sole prison continued to suffer from overcrowding resulting from increased convictions and mandatory sentences for firearms and drug-related offenses.

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 Bureau of Public Safety within the Ministry of Justice has a force of approximately 145 officers and performs both police and emergency response functions. Law enforcement personnel received training both locally and in other countries. The police generally were considered effective. Since 2000 the overall crime rate has fallen, and investigations, prosecutions, and convictions for drug offenses have increased. Police corruption and impunity were not major problems. An internal affairs officer within the bureau investigates reports of police misconduct. There also is a special prosecutor, with authority to investigate reports of misconduct by government employees.

Arrest and Detention.—Warrants for arrests 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.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary consists of the Supreme Court, the Land Court, and the Court of Common Pleas. The constitution also provides for a national court; however, other courts absorbed its caseload and it is inactive. The president appoints judges to the Supreme Court from a list submitted by the Judicial Nominating Commission. Appointments are for life.

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 special prosecutor and an independent public defender system.

Trials are public and are conducted by judges; there are no juries. Defendants enjoy a presumption of innocence and a right of appeal. They can question witnesses, present evidence on their own behalf, and access government-held evidence in their cases.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. However, in November, under instructions from the Office of the Attorney General, police seized a bag of outbound mail without a court order in connection with a criminal investigation. The mail later was released to the sender and sent to its original destination.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

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

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

The government required religious organizations to obtain charters as nonprofit organizations from the Office of the Attorney General. This process was not protracted, and the government did not deny any groups charters during the year.

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

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

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

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

Protection of Refugees.—The law does not provide for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees.

In November two Burmese men entered the country on visitor permits and requested asylum. Since the country has no law providing for asylum and the two men had no connections to the country, the government decided to return the men to the Philippines, their prior destination before entering Palau. In December both men returned to Manila after the expiration of their visitor permits.

The government coordinated with the Office of the UN High Commissioner for Refugees (UNHCR) in the case of the two Burmese men who requested asylum. There were no other cases during the year involving the issue of cooperation with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

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

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

Elections and Political Participation.—The legislature, the Olbiil Era Kelulau, consists of two houses: the 9-member Senate and the 16-member House of Delegates. Legislators are elected by popular vote every four years. The president and vice president also are elected every four years, and there is no limit on the number of their terms, except that the president may serve only two consecutive terms. Although there have been political parties in the past, there were none during the year. In November 2004 President Tommy E. Remengesau, Jr. was reelected, and Camsek Chin was elected vice president.

There are no legal impediments to women's participation in government and politics. Women constituted 14 percent of state government legislators. There were no women in the Olbiil Era Kelulau, and no women served as state governors during the year. There were some women candidates, but no women were elected to office in the 2004 elections. Two of the three associate justices of the Supreme Court were women. A woman served as the bureau director for cultural affairs in the Ministry of Community and Cultural Affairs.

There were 2 members of minorities in the 16-member House of Delegates.

Government Corruption and Transparency.—Government corruption was a problem, which the government took some steps to address. The special prosecutor has authority to investigate allegations of corrupt practices. In June the special prosecutor charged the governor of Ngwal State with grand larceny, forgery, and other offenses for allegedly diverting at least \$25 thousand in state funds to his personal use and for other alleged misconduct. The case was still pending at year's end. In October 2004 an employee of the Koror State government was charged with cashing for his personal use \$30 thousand in checks intended for the state government. During the year the employee entered into a plea agreement with the Office of the Attorney General to serve two years in jail and pay a five thousand dollar fine.

The law provides for the right of citizens and noncitizens to examine government documents and observe official deliberations of any government agency, and the government generally respected this provision in practice.

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

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

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

The law prohibits discrimination on the basis of sex, race, place of origin, language, religion or belief, social status, or clan affiliation, and the government generally observed these provisions.

Women.—The Office of Victims of Crimes under the Ministry of Health reported 54 incidents of violence against women in the 2004 fiscal year (October 1, 2003 to September 30, 2004), an estimated 10 percent increase from the previous 12-month period. Most involved domestic abuse. Alcohol and illegal drug abuse increasingly contributed to this problem. According to the Office of the Attorney General, the Ministry of Health, and women's groups, only a relatively small number of cases are reported to the authorities. Although assault is a criminal offense and the police responded when such cases were reported, women were reluctant to prosecute their spouses. The government conducted public education efforts to combat domestic violence.

The law prohibits rape, including spousal rape, and such crimes were not common. There was one conviction for rape during the year.

Prostitution is illegal; however, it was a problem. There were reports of women being trafficked to the country from the People's Republic of China (PRC), Taiwan, and the Philippines to work in karaoke bars as hostesses and prostitutes (see section 5, Trafficking). There was one conviction for trafficking for prostitution during the year.

Sex tourism is illegal, and it was not a problem. Sexual harassment is illegal and did not appear to be a major problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. There were no reported instances of unequal pay for equal work or sex-related job discrimination.

Since 1993 local women's groups have organized an annual women's conference that focuses 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, have participated in the conference to discuss these issues. The 12th annual women's conference held in March continued its focus on previously discussed issues and problems.

Children.—The government provided a well-funded system of public education and medical care for children. There was no difference in the treatment of girls and boys in educational opportunities or in the availability of scholarships to attend postsecondary education abroad. Education was free, universal, and mandatory from ages 6 to 17. Of the 94 percent of school-age children who attended school, 97 percent finished elementary school, and 78 percent completed high school. Girls and boys received equal treatment in health care services.

The Office of Victims of Crimes reported 21 incidents of child abuse in fiscal year 2004. The Office of the Attorney General has prosecuted such cases successfully. In November a man was sentenced to 10 years in prison for molesting 2 underage girls. Children's rights generally were respected, although there were isolated reports of child neglect. Commercial sexual exploitation of children was neither accepted within society nor practiced.

The annual women's conference held in March included discussion of children's issues, such as education and drug abuse among youth (see section 5, Women).

Trafficking in Persons.—An antitrafficking law adopted in May provides for penalties of up to 25 years' imprisonment and a fine of up to \$250 thousand for trafficking involving force, fraud, or deception; penalties of up to 50 years' imprisonment and a fine of up to \$500 thousand for trafficking involving a child "by any means for the purpose of exploitation"; and penalties of up to 10 years' imprisonment and a fine of up to \$50 thousand for exploiting or otherwise profiting from a trafficked person. There are also laws against slavery, fraud, and prostitution. There have been reports of women and some men being trafficked to the country from the PRC, Taiwan, and the Philippines to work in karaoke bars as hostesses and prostitutes, as domestics in private homes, and on construction sites.

In December a PRC national was convicted under the new antitrafficking law on two counts of exploiting a trafficked person. She recruited two Chinese women ostensibly to work as waitresses, but the women instead were forced into prostitution. The defendant was sentenced to six months in jail, with a possible three-month reduction in the sentence if restitution was paid to the victims. The victims were repatriated to the PRC at their own request.

The Divisions of Immigration and Labor are involved in combating trafficking; however, the government lacked the resources and expertise to address the problem in practice. There was no formalized assistance available for victims, and victims normally were detained, jailed, or deported if they committed a crime such as prostitution. No nongovernmental organizations specifically addressed trafficking.

Persons with Disabilities.—The National Code includes the Disabled Persons' Anti-Discrimination Act and the Programs and Services for Handicapped Children Act, which 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 law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. The public schools have established special education programs to address problems encountered by persons with disabilities.

National/Racial/Ethnic Minorities.—The law prohibits noncitizens from purchasing land or obtaining citizenship. A majority of citizens viewed negatively the rapid increase over the past several years in foreign workers, who, according to estimates during the year, constituted nearly 30 percent of the population and 69 percent of the work force. Foreign residents were subjected to some forms of discrimination and were targets of petty, and sometimes violent, crimes, as well as other random acts against person and property. Foreign residents made credible complaints that the authorities did not pursue or prosecute crimes against noncitizens with the same vigor as crimes against citizens.

Some foreign nationals experienced generalized discrimination in employment, pay, housing, education, and access to social services, although the law prohibits such discrimination. While precise data was lacking, there continued to be anecdotal reports of the abuse of foreign workers by employers (see section 6.e.).

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of all persons to assemble peacefully and to associate with others for any lawful purpose, including the right to join and organize labor unions. However, there were no active labor unions or other employee organizations; the majority of businesses were small-scale, family-run enterprises employing relatives and friends.

b. The Right to Organize and Bargain Collectively.—There is no law concerning trade union organization or collective bargaining, although there are no legal impediments to either. Wages in the cash economy were determined by market factors.

The law does not provide for the right to strike, and the government has not addressed this issue.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits slavery or involuntary servitude except to punish crime. The law does not prohibit specifically forced or compulsory labor by children; however, there were no reports that such practices occurred.

Some foreign workers, particularly domestic helpers and unskilled laborers, reportedly were 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.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law states that the government shall protect children from exploitation. 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 other small-scale family enterprises. By regulation no foreigner under age 21 may be admitted into the country for employment purposes, and the government enforced this regulation effectively.

e. Acceptable Conditions of Work.—The law sets the minimum wage at \$2.50 per hour. (The US dollar is the national currency.) 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 control. The national minimum wage provided a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers for commercial firms (usually foreigners) were paid only \$1.50 to \$2.00 per hour. However, foreign workers usually were provided, in addition to their wages, basic accommodations and food at no or nominal cost. Although these wages were low, the country continued to attract large numbers of foreign workers from the Philippines and the PRC. During the year there were over 6,500 foreign nationals with work permits in the country; of these, 76 percent were from the Philippines, 13 percent from the PRC, and 11 percent from South and Southeast Asia.

There is no legislation concerning maximum hours of work, although most businesses are closed on either Saturday or Sunday. The Division of Labor has established some regulations regarding conditions of employment for nonresident workers. The division may inspect the conditions of the workplace and employer-provided housing on the specific complaint of the employees, but actual enforcement was sporadic. Working conditions varied in practice. No law specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no law protects workers who file complaints about such conditions.

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, the PRC, and Taiwan. The most commonly reported abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, substandard food and housing, and at times physical abuse. In a number of instances, local authorities took corrective action when alerted by social service and religious organizations. Nonetheless, foreign workers often were reluctant to seek legal redress for fear of losing their employment and, thus, permission to remain in the country.

PAPUA NEW GUINEA

Papua New Guinea is a federal multiparty parliamentary democracy. The population was approximately 5.9 million, and there were more than 800 indigenous tribes. Citizens elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. The most recent general elections were held in June 2002; there were localized instances of voter intimidation, violence, and influence peddling. A coalition government, led by Prime Minister Michael Somare, was formed following the election. While civilian authorities generally maintained

effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were serious problems in some areas. The following human rights problems were reported:

- arbitrary or unlawful killings by police
- beatings and other abuses by police, including of children
- poor prison conditions
- lengthy pretrial detention
- police infringement of citizens' privacy rights
- government corruption
- violence and discrimination against women, and child abuse
- discrimination against persons with disabilities
- intertribal violence

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, police killed a number of persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. However, public concern about police violence continued. On October 31, police fired into a crowd of students in Enga Province, killing 3 and reportedly injuring at least 20. A police official stated that police were confronted by rock-throwing students when they attempted to arrest the headmaster of Porgera primary school, and, fearing for their safety, opened fire to disperse the crowd. Two officers involved in the shootings were suspended, and the police commissioner opened an investigation into the incident; the investigation was still ongoing at year's end. Early in the year 3 police officers were sentenced to 15 years in jail for shooting a young suspect in late 2004 and throwing him back into his burning home, where he bled to death.

In the past few years, due to the availability of modern weapons, there have been an increasing number of deaths resulting from violent tribal conflicts (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 law prohibits such practices; however, individual members of the police frequently beat and otherwise abused suspects during arrests, interrogations, and in pretrial detention. There were numerous press accounts of such abuses, particularly against young detainees. In August the minister for internal security revealed that the government paid more than \$120 million (352.8 million kina) in damages to victims of police abuse over the past 10 years. In September the nongovernmental organization (NGO) Human Rights Watch (HRW) published a report detailing widespread police abuse of children in custody, including severe beatings and sexual abuse. Following the report's release, the police commissioner stated that since 2002 more than 500 cases of police abuse had been reported and more than 100 police officers had been dismissed as a result.

Although abuses such as citizens being permitted to beat suspects reportedly did not occur during the year, no action was taken against offenders from previous years.

On February 7, persons from a neighboring village reportedly burned down more than 80 houses in Bau village in Madang Province. One person was reported hospitalized and two were reported missing in the incident.

Prison and Detention Center Conditions.—Prison conditions were poor. According to the minister for correctional services, at year's end there were more than 3,300 detainees, of whom approximately 90 percent were male. During most of the year, 15 of the country's 17 jails were operational. The prison system suffered from serious underfunding. During most of the year, prisons closed because of life-threatening conditions remained closed. Some prisons in urban areas were seriously overcrowded. In rural areas infrequent court sessions and bail restrictions for certain crimes exacerbated overcrowding (see section 1.d.).

Male and female inmates usually were housed separately, but some rural prisons lacked separate facilities, and there were reports of assaults on female prisoners. There were no separate facilities for juvenile offenders; however, in some prisons juveniles were provided with separate sleeping quarters. HRW reported that juveniles

routinely were held with adults in police lockups. Pretrial detainees were not separated from convicted prisoners.

Prisoners were often confined in crowded conditions in police stations. Prison guards' living conditions were as poor as those of the prisoners. Prison escapes were common, even from high-security installations. In January 65 prisoners escaped from Bomana Prison near Port Moresby; the following month more than 60 prisoners escaped in 2 separate jailbreaks in the highlands region. In October 33 inmates escaped from Baisu Prison near Mount Hagen; police fatally shot one escapee while attempting to recapture him. Seventeen of the remaining escapees remained at large at year's end.

The government permitted prison visits by human rights observers.

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

Role of the Police and Security Apparatus.—A commissioner who reports to the minister for internal security heads the country's national police force, the Royal Papua New Guinea Constabulary. A new commissioner appointed in 2002 replaced much of the police leadership in an effort to address corruption and inefficiency. During the year some police officials were suspended for involvement in corruption or other criminal activity. Police effectiveness was impeded both by a serious lack of resources and by clan rivalries; within the constabulary, clan members often attempted to thwart remedial or disciplinary actions against fellow members of their clan.

Police shootings are investigated by the police department's internal affairs office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police may challenge the coroner's finding in the National Court, with the assistance of the public solicitor's office. Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court.

In September 2004 the minister for internal security published a highly critical report on the administration and operation of the police force. Among other problems, the report cited widespread police corruption and abuses, inadequate resources, poor discipline, and lack of accountability, and recommended reforms. The report's publication coincided with the launch of the Australian-sponsored Enhanced Cooperation Program (ECP), under which 210 Australian Federal Police (AFP) officers were sent to work alongside the constabulary to improve police practices. The ECP met with some initial success, but in May the Papua New Guinea Supreme Court ruled that immunity of AFP officers from prosecution in local courts, which had been a condition of the ECP, was unconstitutional. Virtually all AFP officers left the country after the court's decision, but approximately 40 advisers working in ministries and offices remained. At year's end the two governments were engaged in negotiations on a possible scaled-down version of the ECP, which would increase the number of advisers but probably not include AFP police on the streets.

Arrest and Detention.—Under the law, to make an arrest police must have reason to believe that a crime was committed, is in the course of being committed, or will be committed. A warrant is not required, and police made the majority of arrests without one. Citizens may make arrests under the same standards as the police, although this was rare in practice. Police, prosecutors, or 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.

Under the law only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases the 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. The government did not always respect these rights in practice. Access to counsel by detainees was not a problem during the year. During the year there were reported instances of politicians directing or bribing police officials to arrest or intimidate individuals seen as political enemies or as possible whistle-blowers on corruption or misuse or theft of public assets.

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 and occasional political interference or police corruption frequently delayed cases for months. Additionally, circuit court sittings were infrequent because of a shortage of judges and travel funds. Some detainees have been held in jail for more than two years because of shortages of judges.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The Supreme Court is the final court of appeal and has original jurisdiction on constitutional matters. The National Court hears most cases and appeals from the lower district (provincial) courts. There also are village courts headed by lay persons (generally local chiefs, known as “big-men”), who judge minor offenses under both customary and statutory law.

Trial Procedures.—The legal system is based on British common law. The law provides for due process, including a public trial, and the court system generally enforced these provisions. Judges conduct trials and render verdicts; there are no juries. Defendants have the right to an attorney. The public solicitor’s office provides legal counsel for those accused of “serious offenses” who are unable to afford counsel. Serious offenses are defined as charges for which a sentence of two years or more is the norm. Defendants and their attorneys may confront witnesses, present evidence, plead cases, and appeal convictions. The shortage of judges created delays in both the process of trials and the rendering of decisions (see section 1.d.). During the year development aid was provided for some training and education of the judiciary.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, there were instances of abuse. Police raids and searches of illegal squatter settlements and the 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 (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. All newspapers included a variety of editorial viewpoints and reported on controversial issues. There was no evidence of officially sanctioned government censorship; however, newspaper editors complained of intimidation tactics aimed at influencing coverage.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government often has limited this right in practice. Public demonstrations require police approval and 14 days’ notice. In recent years police, asserting a fear of violence from unruly spectators, rarely gave approval. Police reportedly received no requests for such approval during the year. In May several hundred persons held demonstrations outside the Australian High Commission in Port Moresby; while the demonstrators reportedly did not have police approval, the police took no action to disrupt the demonstrations.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. Associations wishing to open a bank account and conduct financial transactions must register with the government. The process of registration was slowed by bureaucratic inefficiency, but there was no policy of denying registration. International affiliation of church and civic groups was permitted freely.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The Department of Education set aside one hour per week for religious instruction in the public schools. Religious representatives taught the lessons, and parents chose the class their children would attend. Children whose parents did not wish them to attend the classes were excused, but there were no classes for members of non-Christian religions.

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

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—Although a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not enacted enabling legislation and has not established a system for providing protection to refu-

gees. In practice the government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or 1967 protocol.

During the year the government provided protection for several hundred persons who fled the Indonesian province of Papua (formerly Irian Jaya). Several hundred more lived in informal, unrecognized camps adjacent to the border with Indonesia. A government reservation to the 1951 convention regarding the issuance of travel documents restricted the travel of some persons from the Indonesian province of Papua living in a refugee camp in the western part of the country.

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. Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. Any citizen may stand for election. Because of the large number of candidates, some members of Parliament (MPs) have won election with less than 10 percent of the total votes cast.

Elections and Political Participation.—The most recent general election was held in June 2002. Of the 109 seats in Parliament, 77 changed hands. Prime Minister Michael Somare formed a coalition government following the election. Fraud, voter intimidation, theft of ballot boxes, and violence, including rape and murder, marred the election in some parts of the country, and the polls were declared failed in six electoral districts in the Southern Highlands. New elections in those districts, financed by Australia and accompanied by very little violence, were held successfully in April 2003.

The law provides that a losing candidate may dispute an election result by filing a petition with the National Court. Such petitions may question actions of the winning candidate and his supporters or allege malfeasance by the election officials. The procedure is fair, but time consuming and expensive both to initiate and to defend. Following the 2002 election, 83 such petitions were filed against winning candidates. A number of the petitions were successful, and new elections were held in those cases.

In August 2001 the government signed a peace agreement with Bougainville rebels, and in November 2004 a new Bougainville constitution was approved in a referendum. In May legislative and presidential elections for a new Autonomous Bougainville Government (ABG) were held; international observers considered them to be free and fair. Voters elected Joseph Kabui as the first president of the ABG. The UN Observer Mission in Bougainville (UNOMB) closed following the inauguration of President Kabui in June.

The weapons-surrender program mandated in the 2001 Bougainville peace agreement and carried out under UN supervision was declared successful and formally concluded in 2003, but the collection of weapons continued during the first half of the year. Weapons collection ended in June with the closure of the UNOMB.

There is no law limiting political participation by women, but the country's deeply rooted patriarchal traditional culture impeded women's full participation in political life. There was 1 woman in the 109-seat Parliament, compared with 2 in the previous Parliament. She was named minister for welfare and social development, the only cabinet position held by a woman. There were no female Supreme Court justices or provincial governors.

There were five members of minorities (non-Melanesians) in the Parliament. Of these, two were in the cabinet and two were provincial governors.

Government Corruption and Transparency.—Corruption at all levels of government was a serious problem, primarily because clan-related obligations continued to undermine allegiance to constituents or to the country as a whole.

In February a court overturned a December 2004 lower court ruling to dismiss an MP and former minister of public works from office following his November 2004 conviction for failing to account for approximately \$578,230 (1.7 million kina) in public funds during his 1992–97 tenure as minister. The MP took his seat in Parliament days after the court's decision, after paying a nominal fine.

In August the leader of the opposition party was arrested and charged with misappropriation of government funds. He was released on bail and continued to sit in Parliament. The investigation into his conduct was ongoing at year's end.

At year's end more than 50 government officials were under investigation by the ombudsman's office.

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

There were no official barriers to the formation of human rights groups. The government cooperated with both domestic and international human rights NGOs, but at times was slow in responding to their requests for information. The International and Community Rights Advocacy Forum, an umbrella group, concentrated on human rights and the environment during the year.

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

The constitution provides for equal protection under the law irrespective of race, tribe, place of origin, political opinion, color, creed, religion, or sex. Despite these constitutional and other legal provisions, women often faced discrimination. Geographic diversity prevents any one tribe or clan from dominating the country. Successive governments, based on loose coalitions, have consistently avoided favoring any group. Skirmishes and conflicts tended to be based on disputes between clans over issues such as boundaries, land ownership, and injuries and insults suffered by one clan at the hands of another; they were not ethnically based.

Women.—Violence against women, including domestic violence and gang rape, was a serious and prevalent problem. Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter, few victims pressed charges and prosecutions were rare. Traditional village mores, which served as deterrents, were weakening and were largely absent when youths moved from their village to a larger town or to the capital. Although rape is punishable by imprisonment and sentences were imposed on convicted assailants, 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. In July several thousand women demonstrated in Kainantu, in the Eastern Highlands, calling for government action to combat the high rate of violent crime in the area, including numerous rapes.

In late 2004 Madang provincial governor James Yali was charged with raping his sister-in-law, a 17-year-old high school student, during the 2004 national governors' conference. On December 13, the National Court found him guilty of rape and remanded him to Beon Jail in Madang until sentencing, scheduled for January 2006.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was still customary, an increasing number of women were charged with the murder of another of their husband's wives. According to one report, 65 percent of women in prison were there for attacking or killing another woman.

Prostitution is illegal; however, the laws were not enforced and the practice was widespread. There were no reports of sex tourism during the year. Sexual harassment is not illegal, and it was a widespread problem.

The laws have provisions for extensive rights for women dealing with family, marriage, and property issues. Some women have achieved senior positions in business, the professions, and the civil service. However, traditional discrimination against women persisted. Many women, even in urban areas, were considered second-class citizens. 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 of the country's tribal cultures of paying a bride price tended to reinforce the view that women were property. In addition to the purchase of women as brides, women also sometimes were given as compensation to settle disputes between clans. The courts have ruled that such settlements denied the women their constitutional rights. In May police reported that tribesmen in the Western Highlands were trading young women and girls for guns to use in fights with rival tribes.

According to statistics published in the UN Development Program's 2003 human development report, women continued to lag behind men in literacy and education. Adult literacy was 65 percent; 58 percent of women were literate, compared with 71 percent of men. There were approximately 10 percent fewer girls in primary schools than boys. According to government statistics cited in a UN Children's Fund (UNICEF) report published during the year, the maternal mortality rate was approximately 370 deaths per every 100 thousand live births based on available data for the period 1990–2004.

During the year the Ministry of Community Development was responsible for women's issues and had considerable influence over the government's policy toward women.

Children.—Independent observers generally agreed that the government did not dedicate significant resources to protecting the rights and welfare of children. Religious and secular NGOs operated programs to protect and develop youth and children. In the past, children were well cared for within the family and under traditional clan and village controls; however, small-scale studies indicated that this situation has changed over the last decade, especially in areas where households have become isolated from the extended family support system and depend on the cash economy for a livelihood.

Primary education was not free, compulsory, or universal; substantial fees were charged. According to a UNICEF report published during the year, the primary school enrollment rate was 79 percent for boys and 69 percent for girls based on data for the period 2000–2004. Many children did not progress further. Government-provided free medical care for citizens, including children, was no longer available due to budget cuts and deteriorating infrastructure, particularly in rural areas. Boys and girls had equal access to medical care, but many children did not have effective care. Many villages were geographically isolated, and malnutrition and infant mortality rates were very high. Nearly 70 of every 1,000 children born did not survive their first year.

According to a report prepared by the government and UNICEF, sexual abuse of children was believed to be frequent. There were some cases of commercial sexual exploitation of children in urban areas, including children working in bars and nightclubs. A report by HRW documented numerous instances of police abuse of children (see section 1.c.). Some children were forced to work long hours as domestic servants in private homes, often to repay a family debt to the “host” family.

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.

Trafficking in Persons.—Although the law does not prohibit trafficking in persons, there was no evidence that persons were trafficked to, from, or within the country. However, over the last several years, the government investigated allegations of corruption among officials dealing with passport issuance and immigration. These allegations primarily involved the illegal issuance of residence and work permits for Chinese or South Asian nationals migrating to the country. Nevertheless, there was concern that the country may be used as a route for trafficking in persons to Australia.

Persons with Disabilities.—Through the National Board for the Disabled, the government provided funds to a number of NGOs that provided services to persons with disabilities. The government did not provide programs or services directly. Apart from the traditional clan and family system, services and health care for persons with disabilities did not exist in several provinces. No legislation mandates accessibility to buildings. Persons with disabilities faced discrimination in education, training, and employment. Most persons with disabilities did not find training or work outside the family structure. The government provided free consultation and treatment for persons with mental disabilities; however, such services were rarely available outside major cities.

National/Racial/Ethnic Minorities.—Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement sometimes resulted in violent tribal conflict in the highland areas. In the last few years the number of deaths resulting from such conflicts has risen due to the availability of modern weapons.

Other Societal Abuses and Discrimination.—The 2004 AIDS/HIV Management and Protection Act makes it illegal to impede the access of any person to goods or services for protection against HIV infection, including relevant medical care and information; prohibits the termination of employees because of AIDS/HIV status; gives the ombudsman and the courts authority to deal with unlawful discrimination against persons with AIDS/HIV; and provides for criminal penalties for intentional transmission of the HIV virus. There were no reports of government discrimination against persons with AIDS/HIV; however, there was a strong societal stigma attached to AIDS/HIV infection, and there were reports that companies have dismissed HIV positive employees after learning of their condition.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form and join labor unions, subject to registration by the Department of Labor and Industrial Relations. The government did not use registration to control unions; however, an unregistered union has no legal standing with the Department of Labor and Industrial Relations or before the courts and thus cannot operate effectively. About half of the approximately 250 thousand wage earners in the formal economy were organized and were members of approximately 50 trade unions. Most unions representing private-sector workers were associated with the Trade Unions Congress. The Public Employees Association represented an estimated 23 thousand persons employed by national, provincial, and municipal governments, or one-third of the public sector work force. The law prohibits antiunion discrimination by employers against union leaders, members, and organizers; however, it was enforced selectively. Unions were independent of the government and of political parties.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to engage in collective bargaining and to join industrial organizations, and workers exercised these rights in practice. Under the law the government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. The International Labor Organization has criticized this law. The Department of Labor and Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage are set through negotiations between employers and employees or their respective industrial organizations.

The law provides for the right to strike, although the government can and often does intervene in labor disputes to require arbitration before workers can legally strike. The law prohibits retaliation against strikers; however, it was not always enforced. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies. These strikes were brief and ineffective. In December more than four thousand nurses nationwide went on strike after the government failed to respond to a May proposal by the nurses' association for higher pay and other benefits. The government declared the strike illegal; the nurses' association asserted that the strike was legal. The dispute was ongoing at year's end.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law forbids slavery and all forms of forced or compulsory labor, including that performed by children, and there were no reports that such practices occurred in the formal economy. Some children were obliged to work long hours as domestic servants in private homes (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law establishes the minimum working age as 18. However, children between the ages of 11 and 18 may be employed in a family-related 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. Some children under 18 were working in bars and nightclubs (see section 5).

e. Acceptable Conditions of Work.—The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. The national youth wage, for new entrants into the labor force between 16 and 21 years of age, was set at 75 percent of the adult minimum wage. During the year the minimum wage was increased to \$12.75 (37.50 kina) per week. Although it is above the national per capita income, the minimum wage did not provide a decent standard of living for a worker and family who lived solely on the cash economy.

The law regulates minimum wage levels, allowances, rest periods, holiday leave, and overtime. Although the Department of Labor and Industrial Relations and the courts attempted to enforce the minimum wage law, enforcement was not effective. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas. The law provides for at least one rest period of 24 consecutive hours every week; however, enforcement was lax. Enforcement of the Industrial Health and Safety Law and related regulations is the responsibility of the Department of Labor and Industrial Relations. The law requires that work sites be inspected on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions. Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations.

The law protects legal foreign workers. The few illegal foreign workers lacked full legal protection.

PHILIPPINES

The Philippines, with a population of 87 million, is a democratic republic with an elected president, an elected bicameral legislature, and a fractious but functioning multiparty system. The May 2004 national elections for president and both houses of congress continued to be a source of contention, and the political opposition called for the president's impeachment alleging election fraud and corruption. Civilian authorities generally maintained effective control of the security forces; however, some elements of the security forces committed human rights abuses.

The government generally respected the human rights of its citizens. However, pervasive weakness in the rule of law, official impunity, and the wide disparity between rich and poor contributed to cynicism about official justice. The constitutionally mandated Commission on Human Rights (CHR) described the Philippine National Police (PNP) as the worst abuser of human rights. The following human rights problems were reported:

- arbitrary, unlawful, and extrajudicial killings by elements of the security services; and political killings, including killings of journalists, by a variety of actors, which often go unpunished
- disappearances
- physical and psychological abuse of suspects and detainees and instances of torture
- arbitrary arrest and detention
- police, prosecutorial, and judicial corruption
- long delays in trials
- harsh prison conditions
- societal discrimination against Muslims
- harassment of some human rights and left-wing political activists by local military and police forces
- violence against women and abuse of children, as well as child prostitution, and trafficking in persons
- child labor, including underage domestic servants
- ineffective implementation and enforcement of worker rights

Violent clashes between government forces and communist insurgents and Islamic terrorists continued, but negotiations with the remaining Muslim separatist movement made progress. The terrorist New People's Army (NPA), the military arm of the long-standing communist insurgency, continued to operate nationwide, and committed numerous human rights violations, including political assassinations, kidnappings, and torture. The terrorist Abu Sayyaf Group (ASG) bombed civilian targets, at times with the suspected involvement of the regional terrorist group Jemmah Islamiyah. Both the NPA and the ASG continued to use children both as soldiers and as noncombatants.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Police forces and antigovernment insurgents committed a number of arbitrary and unlawful killings. The nongovernmental organization (NGO) Task Force Detainees of the Philippines (TFDP) documented the summary execution of 9 individuals by government forces by year's end, compared with 11 in 2004. The CHR investigated 381 complaints of killings between January and September, compared with a total of 307 complaints of killings during 2004. The CHR included killings by antigovernment insurgents in its investigations, although the majority of the cases involved the security forces and local officials. The CHR suspected PNP members in a majority of the human rights violations including deaths that it investigated during the year.

In combating criminal organizations, security forces sometimes resorted to the summary execution of suspects, or "salvaging." Police and military spokesmen explained these killings as the unavoidable result of an exchange of fire with suspects or escapees. The Philippine Alliance of Human Rights Advocates (PAHRA) reported that police used excessive force including summary executions on March 15 while

ending a siege at the Metro Manila district jail that began with an escape attempt (see section 1.c.).

Summary killings by vigilante groups in two major cities increased, and local officials seemed to condone and even encourage them. Through December vigilantes killed some 147 persons in Davao City, Mindanao (compared with 104 killings in 2004), and 104 in Cebu City in the central Visayan region. The cities of Toledo and Carcar on Cebu island also saw apparent extrajudicial killings. Most of the victims were suspected of involvement in criminal activities, and the killings appeared to have popular support. The authorities made no arrests in these cases. A court dismissed two cases filed last year in Davao because the victims' relatives withdrew their complaints. In June the Office of the Ombudsman suspended four police officers in Davao for failing to solve extrajudicial killings in their jurisdiction; however, on July 4, the court of appeals reinstated them.

On March 3 and 13, gunmen killed a leader of the leftist political party Bayan Muna (People First) and a priest of the Aglipayan Church who were involved in supporting a strike by plantation workers in Tarlac Province; officials arrested a suspect in one of these cases. The CHR has not released a final report of its investigation of the November 2004 killing by security forces of seven persons during the strike.

There were no developments in the case of four human rights workers, allegedly killed by the military in February 2004 in Mindoro Oriental and Mindoro Occidental.

There were no developments in the August 2004 killing of human rights activist Jacinto Manahan in Davao. A police investigation did not identify any suspects.

In December 2004 the Department of Justice dismissed the case against members of the Armed Forces of the Philippines (AFP) for the 2003 abduction and killing of two members of a team of human rights advocates in Mindoro Oriental. The CHR also dismissed its inquiry proceedings after the complainants withdrew the case.

In recent years there have been deaths as a result of military hazing. On March 11, a freshman cadet at the Philippine Merchant Marine Academy died after a senior cadet beat him. Police detained two individuals on charges of homicide. There were no developments in the June 2004 case of a PNP cadet who died allegedly from maltreatment during training.

Government forces killed a number of civilians during clashes with antigovernment forces and the ASG and NPA (see section 1.g.).

Killings of community activists, church workers, lawyers, and members of leftist political parties, particularly the left-wing political party Bayan Muna, increased during the year. Through December unidentified assassins, whom Bayan Muna and other leftist groups alleged to be members of the security forces, killed more than 40 activists, at least 20 of whom were members of Bayan Muna. Bayan Muna officials claimed that more than 73 of its leaders and sympathizers have been killed, and about 10 others were still missing since Bayan Muna's entry to the Congress in party-list elections in 2001.

On March 9, a gunman shot and killed Romeo Sanchez, Bayan Muna coordinator for the Ilocos region and a radio broadcaster in Baguio City. The police created a special task force that investigated the killing and identified the gunman; however, at year's end he remained at large.

On March 14, two unidentified men on a motorcycle shot and killed Felidito Dacut, Bayan Muna coordinator for eastern Visayas and a human rights lawyer in Tacloban City. Dacut's family and colleagues alleged that elements of the Eighth Infantry Division of the AFP were involved in the killing. Other activists in the operating area of the Eighth Division also have been shot or attacked in eastern Samar and Leyte.

On May 12, unidentified assailants killed Reverend Edison Lapuz, a member of Bayan Muna and a minister of the United Church of Christ in the Philippines (UCCP), in Tacloban, Leyte. Police made no arrests in the case. On August 20, Bayan Muna activist and UCCP pastor Raul Domingo was shot by armed men in Puerto Princesa, Palawan; he died on September 4. The UCCP reported at least seven other attacks on its members in several regions during the year.

On September 23, a regional trial court judge was killed in her house in Natividad, Pangasinan. Police identified two suspects, but no warrants were issued for their arrest, and the case remained under preliminary investigation. On December 31, two men riding a motorcycle shot and killed a Pasay City regional trial court judge. Trials in the 2004 killings of two judges were underway, and prosecutors filed charges in the third case. Ten cases of the killing of judges remained pending at year's end.

On October 25, unidentified assailants killed Ricardo Ramos, the local leader of the sugar workers' union at the Hacienda Luisita plantation in Tarlac Province. Po-

lice questioned two AFP soldiers about the killing and filed murder charges against the two in mid-November.

Journalists were also targets for murder. During the year 10 journalists were killed, 8 of them in work-related slayings, according to the Criminal Investigation and Detection Group Task Force "Newsmen." On November 29, a court convicted and sentenced to life imprisonment a policeman (who was relieved of duty during the investigation) for the 2002 killing of journalist Edgar Damalerio in Pagadian, the first conviction in the killing of a journalist since 1999 (see section 2.a.). There have been approximately 38 killings of journalists since 1999.

In July 2004 authorities arrested and charged 15 suspected NPA members for the June 2004 killing of the police chief of Angat, Bulacan. There have been no known developments in the case since the arrests.

Unlike the 249 incidents of election-related violence reported by the PNP during the 2004 national elections, no election-related violence occurred during the August 8 elections in the Autonomous Region of Muslim Mindanao (ARMM).

The government continued to hold in jail five Moro Islamic Liberation Front (MILF) members charged with the 2003 Davao airport and seaport bombings. Their trial began in March and was ongoing at year's end.

The terrorist ASG continued to kill civilians in bombings throughout the year (see section 1.g.). The ASG claimed responsibility for one bombing in Manila and two in Mindanao on February 14, which killed 13 civilians. On June 22, a court sentenced seven members of the ASG to death for their role in the 2001 kidnapping and subsequent murder of 12 hostages. Authorities suspected the ASG of bombings in Mindanao during August that injured dozens of civilians.

Communist insurgents, mainly from the NPA, continued to kill political figures, military and police officers, and civilians, including suspected military and police informers. On June 13, NPA rebels killed nine soldiers of the 50th Infantry Battalion and injured three others during an ambush in Ilocos Sur.

b. Disappearance.—Local human rights NGOs believed government forces were responsible for disappearances. On July 26, a group of suspected military intelligence agents abducted left-wing political activist Armando Barquillo and his associate Lirio de Castro in Tansa, Cavite Province. Their whereabouts remained unknown as of year's end. At year's end, the domestic NGO Families of Victims of Involuntary Disappearances (FIND) documented seven cases of disappearances involving 21 victims; 6 were found alive, 14 were still missing, and 1 was found dead. The Police Anticrime and Emergency Response Task Force recorded 38 cases of abduction involving 48 victims, of which 28 remained unsolved at year's end. FIND recorded 30 disappearances in 2004; 2 were found dead, 15 later reappeared and said they had been detained in military detention centers, and 13 remained missing. FIND suspected government forces in all 30 cases.

The courts and police failed to address adequately complaints of victims' families concerning past disappearances in which security forces were suspected. The police do not assume that a missing person case involves a crime. Evidence of a kidnapping or killing is required in order for charges to be filed. FIND and Amnesty International's Manila office continued to support the efforts of victims' families to press charges. In most cases, evidence and documentation were unavailable, and convictions were rare. FIND reported that only 15 cases were pending in court at year's end. During the year FIND filed a petition for a writ of habeas corpus against the suspected perpetrators in one case involving four victims, but the court has not yet granted it. Judicial inaction on the vast majority of disappearances contributed to a climate of impunity and undermined public confidence in the justice system.

Efforts to locate three members of Bayan Muna reportedly abducted in Manila in July 2004 by 10 armed men were unsuccessful. FIND claimed the Intelligence Service of the AFP was responsible.

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 routinely abused and sometimes tortured suspects and detainees. The CHR provides the police with mandatory human rights training, and senior PNP officials appeared receptive to respecting the human rights of detainees; however, rank-and-file awareness of the rights of detainees remained inadequate.

The TFDP stated that torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation reportedly included striking detainees and threatening them with guns. The TFDP reported that arresting officers often carried out such beatings in the early stages of detention.

Within the AFP, the CHR continued to observe greater sensitivity to the need to prevent human rights violations. CHR is required to certify that an officer being

considered for promotion does not have a history of human rights violations (see section 4); however, a negative CHR finding does not preclude promotion. The CHR also vets PNP officers at the senior superintendent level. Nevertheless, abuses still occurred. Human rights activists complained of abuses by security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, members of the AFP continued to beat ASG suspects.

The TFDP reported 15 cases of torture involving 32 victims during the year.

In April four farmers in Laak, Mindanao, accused the AFP of torturing them as suspected NPA collaborators. The CHR began an investigation of the case but by year's end had not yet released any conclusion.

A man arrested in June by the AFP 65th Infantry Battalion as a suspected NPA leader alleged the use of torture while he was in captivity. A CHR investigation confirmed that the victim had signs of beatings on his back and black marks on his hand from electric shock. The commanding officer of the battalion denied the allegations. No case was filed before the courts.

Prison and Detention Center Conditions.—Prison conditions were rudimentary and sometimes harsh. Provincial jails and prisons were overcrowded, lacked basic infrastructure, and provided prisoners with an inadequate diet. Jails managed by the Bureau of Jail Management and Penology (BJMP) in metropolitan Manila operated at 390 percent of designed-capacity, compared with 323 percent last year. The BJMP had a budget of \$40.85 million (P2.25 billion), an increase of 16 percent from the 2004 budget. Administrators budgeted a daily subsistence allowance of about \$0.73 (P40) per prisoner, up from 2004. Prison inmates often depended on their families for food because of the insufficient subsistence allowance and the need to bribe guards to receive food rations.

The slow judicial process exacerbated the problem of overcrowding. Some inmates took turns sleeping, and others slept on their feet. Some prison wardens reportedly allowed wives or children to move in with inmates or stay in the prison compound because they could help feed the prisoners. Lack of potable water and poor ventilation continued to cause health problems in jails.

The number of inmates in overcrowded detention centers increased, in part because of the intensified campaign against illegal drugs. As of October there were 62,462 inmates in centers managed by the BJMP nationwide, and 29 thousand inmates in prisons managed by the Bureau of Corrections, compared with 59,225 and 28,530 in 2004.

There were reports of widespread corruption among guards. Guards demanded that prisoners pay to receive food, to use sanitary facilities, and to avoid beatings by other prisoners. Jail administrators reportedly delegated to senior inmates authority to maintain order. The CHR and TFDP reported that beatings by prison guards and other inmates were common but that prisoners, fearing retaliation, refused to lodge complaints. Corruption appeared to be a problem at higher levels of authority within the prison system as well. Favored inmates reportedly enjoyed access to prostitutes and drugs.

There were reports that guards abused prisoners. Women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Victims often were afraid to report incidents (see section 5). Some detainees at Bureau of Immigration detention centers reportedly gained release by making cash payments to guards.

As of October the BJMP recorded 27 successful prison escapes involving 65 inmates; 34 were recaptured and 31 remained at large. Police blamed the escapes on lenient security and the poor quality of detention facilities. On March 15, inmates at Metro Manila District Jail killed three guards and broke into the prison armory during an escape attempt. After 24 hours, police recaptured the facility, killing 26 inmates (see section 1.a.).

According to regulation, male and female inmates are to be held in separate facilities and, in national prisons, overseen by guards of the same sex; however, there were anecdotal reports that these regulations were not uniformly enforced. In provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children in some instances, they were held in facilities not fully segregated from adult male inmates (see section 5). Only 232 out of 1,132 jails managed by the BJMP and PNP had separate cells for minors, while 435 jails had separate cells for females. In Bureau of Immigration detention facilities, male and female inmates were segregated by sex, but male guards oversaw both sexes.

International monitoring groups, including the International Committee of the Red Cross, were allowed free access to 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, police arrested and detained citizens arbitrarily. At year's end the TFDP documented 37 cases of illegal arrest and detention involving 88 victims, a considerable decline from the 128 cases CHR recorded in 2004.

Role of the Police and Security Apparatus.—The Department of National Defense directs the AFP, which has primary responsibility for counterterrorism and counterinsurgency operations. The Department of Interior and Local Government controls the PNP, which is responsible for enforcement of law and order; however, governors, mayors, and other local officials have considerable influence. The 115 thousand-member PNP has deep-rooted institutional deficiencies dating back to the 1990–91 reorganization that changed it from a constabulary force within the AFP to a national police force. The PNP suffered from a widely-held and accurate public perception that it was corrupt, and the PNP's Internal Affairs Service remained largely ineffective. Members of the PNP were regularly accused of torture, of soliciting bribes, and of other illegal acts committed with impunity. However, efforts were underway to reform the institution. From January to December, the PNP Directorate for Investigation and Detective Management dismissed 197 policemen. Of the 4,670 administrative cases filed against PNP officers and personnel, 2,344 were resolved, 1,288 remained under preliminary investigation, and 1,038 underwent summary hearings.

Arrest and Detention.—Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence or death (when evidence is strong), the right to bail; however, only 6.5 percent of detainees were able to post bail. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, with the time given to file charges increasing with the seriousness of the crime. Lengthy pretrial detention remained a problem (see section 1.e.), but during the 26 months from June 2003 to August 31, the courts released 2,087 detainees who had been in jail longer than the maximum prison term they would have served if convicted.

Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners; estimates usually ranged from a few to over 250. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons on these lists had not been convicted (see section 1.e.).

The NPA, as well as some Islamic separatist groups, were responsible for a number of arbitrary detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and other persons for “crimes against the people” (see section 1.e.).

Amnesty.—There were no amnesties during the year. After the National Democratic Front (NDF), the political arm of the Communist Party, announced in July that it would withdraw from peace talks, the government suspended—but later reinstated—security and immunity from arrest guarantees for 97 NDF members who had been involved in negotiations. The government suspended these guarantees again on October 5, citing aggressive NPA activities and a lack of progress in the peace talks.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes venality resulted in impunity for some wealthy and influential offenders and widespread skepticism that the judicial process could ensure due process and equal justice. The Supreme Court continued efforts to ensure speedier trials and to sanction judicial malfeasance, and is in the midst of a five-year program to increase judicial branch efficiency and raise public confidence in the judiciary.

During the year, two judges were killed, but the motives for the killings were unclear (see section 1.a.).

The national court system consists of four levels: local and regional trial courts; a national court of appeals divided into seventeen divisions; a 15-member supreme court; and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The *Sandiganbayan*, the government's anticorruption court, hears criminal cases brought against senior officials. A Shari'a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces.

Trial Procedures.—The law provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial before a judge. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, but

poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the Public Attorney's Office (PAO), but their workload was large and resources were scarce. The PAO provides legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

According to the law, cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for the Court of Appeals; and 3 months for lower courts. However, these time limits are not mandatory, and, in effect, there are no time limits for trials.

Lengthy pretrial detention remained a problem. In May the UN Development Program (UNDP) and the Supreme Court released a study that found that the average trial takes over three years. Trials take place in short sessions over time and as witnesses become available, these non-continuous sessions created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high; of the total 2,153 trial court judgeships (including Shari'a courts), 684 or 31 percent were vacant, a small decline from 2004. Courts in Mindanao and other poorer provinces had higher vacancy rates than the national average. Shari'a court positions were particularly difficult to fill because of the requirement that applicants be members of both the Shari'a Bar and the Integrated Bar. All 5 Shari'a district court judgeships, and 41 percent of circuit court judgeships, remained vacant. Shari'a courts do not have criminal jurisdiction.

The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people." The NPA executed some of these "defendants." The MILF also maintained similar "people's courts."

On January 12, NPA gunmen shot and killed a retired police colonel in Lucena City, Quezon Province. The NPA said its "people's court" meted out the death penalty to the retired officer for grave crimes and human rights violations committed during the 1970s and 1980s.

International and domestic NGOs criticized many court proceedings that resulted in death sentences, stating that the judicial system did not ensure due process and legal representation. At times defendants in death penalty cases lacked adequate legal representation at the time of arrest, indictment, or trial. By law the Supreme Court reviews all death sentences. No executions have been carried out since the president lifted a three-year moratorium on the application of the death sentence in 2003. On February 21, the President granted a 90-day reprieve to 14 death row convicts and then again on April 21 to an additional 21 death row convicts. At the expiration of the 90-day reprieves, although no further announcements were made, the prisoners were not executed.

Political Prisoners.—Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners. In November the TFDP said that there were 252 political prisoners. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons listed have not been convicted. Some NGOs asserted that it was frequent practice to make politically motivated arrests of persons for common crimes and to continue to detain them after their sentences expired. The government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it did not consider the persons listed to be political detainees or prisoners.

Unlike in 2004, the government did not release any persons whom NGOs claimed were political prisoners.

The government permitted access to alleged political prisoners by international humanitarian organizations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides that a judge may issue search warrants on a finding of probable cause; however, while the government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges declared evidence obtained illegally to be inadmissible.

The government generally respected the privacy of its citizens; however, leaders of communist organizations complained of what they described as a pattern of surveillance of their activities.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year. The TFDP documented one case of alleged illegal demolition of squatters' homes in Metro Manila, affecting more than 20 thousand persons. The law provides certain protections for squatters; eviction was often difficult, especially because politicians recognized squatters' voting power. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters targeted by displacement was limited.

Unlike in past years, there were no reports that paramilitary units linked to the AFP used forced conscription of indigenous peoples.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Some citizen groups complained that the AFP, in confronting the terrorist ASG and NPA, illegally detained citizens, torched houses, displaced residents, and shelled villages. The AFP defended its actions (see sections 1.a., 1.d., and 2.d.). In February a Moro rights advocate, his wife, and son were killed in Sulu, allegedly by members of the AFP conducting counterinsurgency operations. In retaliation for this and other alleged military abuses, a Moro National Liberation Front (MNLF) splinter group and ASG elements attacked government forces in Sulu, setting off several weeks of intense fighting in the region that displaced at least 26 thousand civilians (see section 2.d.).

NGOs also accused the police of wrongful detention, excessive force, and extrajudicial killings (see section 1.c.). In January members of a Muslim police unit raided the Islamic Information Center in Manila and detained 17 suspected Islamic militants, including 3 women. Police asserted the group was planning to bomb the Catholic celebration of the feast of the Black Nazarene. However, police released 15 of the suspects shortly after their arrest, due to lack of evidence.

During an attempted jailbreak at the Metro Manila District Jail on March 15, 26 prisoners, most alleged to be ASG members, 3 jail guards, and 1 police officer died. PAHRA claimed that police used excessive force including summary executions in ending the siege.

There were no reported developments with regard to the February 2004 extrajudicial killings in the Western Police District of Metro Manila, the March 2004 killing of three civilians caught in a crossfire between PNP and NPA elements, the 2004 killing of two teenage boys in Catarman, Northern Samar, and the April 2004 wounding of two minors by National Antikidnapping Task Force personnel.

On January 3, the three-year-old daughter of a government militiaman was killed when the NPA attacked a military camp in Rizal Province.

The ASG bombed multiple targets, killing and wounding civilians. Throughout the year, clashes between the AFP and ASG, mostly in the Zamboanga peninsula and Sulu archipelago, contributed to the displacement of civilians.

During the year the NPA killed political activists, mayors, other civilians, and military and police personnel. The NPA also harassed businesses and burned buses to enforce the collection of “revolutionary taxes.” The AFP reported that the NPA killed 40 civilians and 80 AFP and PNP personnel from January through August. The NPA continued actively to recruit minors both as combatants and noncombatants (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The government owned several television and radio stations; however, most print and electronic media were privately owned. The media were active and expressed a wide variety of views without restriction. Broadcast and print media were free-wheeling and often criticized for lacking rigorous journalistic ethics. They tended to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom were close associates of present or past high-level officials. Special interests often used bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions.

Journalists continued to be targets for murder. By year’s end 10 journalists were killed, according to the National Union of Journalists of the Philippines. The Criminal Investigation and Detection Group Task Force “Newsmen” classified eight of these cases as work-related slayings. According to the task force, 7 of more than 60 cases of journalist killings since 1986 resulted in convictions. In 2004 the International Federation of Journalists recorded 13 killings of journalists.

Human rights NGOs frequently criticized the government for failing to protect journalists. The National Union of Journalists accused the police and the government of failing adequately to investigate these killings and of subjecting journalists to harassment and surveillance. In some situations, it was difficult to discern if violence against journalists was carried out in retribution for their profession or if these journalists were the victims of random crime. According to a study released by the Center for Media Freedom and Responsibility (CMFR) on September 6, most of the slain journalists were not professionally trained as journalists or formally accredited to any national media organization. CMFR listed 54 journalists killed since democracy was restored in 1986.

On March 24, a gunman accompanied by three accomplices shot Marlene Esperat, a columnist for a newspaper in Tacurong City, Mindanao. Esperat was an antigraft crusader and had filed a number of cases against local and national government offi-

cials before the national Ombudsman. The police arrested and filed charges against four suspects, including a military intelligence agent. The police also filed charges against two officials of the Department of Agriculture regional office in Mindanao, but the Department of Justice recalled the arrest warrants issued by the trial court while charges were being reviewed.

On May 10, three gunmen killed Philip Agustin, editor of a local newspaper in Dingalan, Aurora Province. Agustin's family accused the Dingalan mayor of being behind the killing. Agustin had criticized the mayor's use of municipal funds. On May 14, National Bureau of Intelligence agents arrested a suspect and filed murder charges against him; his trial was on-going at year's end. Two other suspects remained at large.

In August a wreath meant for the dead was sent anonymously to a news magazine editor, who had been writing about alleged military participation in election fraud.

In November 2004 a case was filed against four suspects, including a police officer, for the July 2004 murder of Ilocos Norte radio commentator Roger Mariano. At year's end the suspects had not yet been arraigned.

In January the national Ombudsman dismissed the charges against the *barangay* (neighborhood) chairman suspected of involvement in the August 2004 murder of a newspaper writer in Batangas for lack of evidence. Charges remained in effect against the chairman's nephew and another suspect, both of whom remained at large.

There were no developments in the August 2004 attempted murder of Mindanao-based radio commentator Edward Balida.

The former policeman accused of killing journalist Edgar Demalerio in Western Mindanao in 2002 was convicted of murder and sentenced to life imprisonment on November 29. By year's end this was the only conviction in any of the cases of journalists killed since 1999.

The government did not restrict Internet use.

In June the intelligence service of the AFP released a presentation, "Know Your Enemy," listing some press unions and student organizations as "enemies of the state" or communist fronts. The government did not otherwise interfere with academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly, and the government generally respected this right in practice. Although the law requires that groups request a permit to hold a rally, the government at times followed an unwritten policy of allowing rallies to occur without requiring the filing of a request.

On June 24, police stopped about eight thousand protesters demanding the resignation of President Arroyo from proceeding toward a landmark in Manila because they did not have a permit to demonstrate. The mayor of Manila did not issue a permit to the opposition group, forcing them to assemble at the boundary of Manila and Quezon City.

On September 21, President Arroyo declared that the police and armed forces would no longer exercise "maximum tolerance" in dealing with protestors. The presidential palace subsequently explained that it was urging municipalities to enforce strictly the requirements that protests be staged in designated areas and only with government permits. In practice there did not appear to be any notable change in the way the authorities dealt with demonstrators.

In November 2004 police fired into a crowd of striking sugar plantation workers, killing an estimated 12 and wounding more than 100 (see section 1.a.).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. Although Christianity, particularly Roman Catholicism, was the predominant religion, there is no state religion, and church and state are legally separate.

The government's campaign against the terrorist ASG has led some human rights NGOs to accuse the police and military of unfairly targeting Muslims for arrest and detention. However, most observers believed that discrimination against Muslims was grounded in cultural differences, not religious beliefs or practices. There also were reports of Muslim discrimination against Christians in areas where Muslims were the majority.

Intermittent government efforts to integrate Muslims into political and economic society have achieved only limited success. Many Muslims claimed that they continued to be underrepresented in senior civilian and military positions and cited the lack of proportional Muslim representation in national government institutions (see section 3). Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development. Poverty levels in the

ARMM were almost twice as high as the national average, with per capita income of \$285 (P15,760) per year.

The teaching of religious classes in public schools was permitted with the written consent of parents, provided that there was no cost to the government. The Department of Education required schools to ensure the protection of the religious rights of students. These measures included allowing Muslim girls to wear their head coverings (*hijab*) and not requiring them to wear shorts during physical education classes.

The Commission on Higher Education, which oversees higher education, offered study grants for some former Muslim separatists who could not afford college. The program aimed to contribute to peace and order by upgrading the education of these individuals.

In August the government began implementation of a curriculum designed to integrate madrassas into the national education system. Several private madrassas began training educators to teach math, science, English, and Filipino, in addition to religious subjects. In addition, public elementary schools that have at least 25 Muslim students will be required to begin offering Arabic language and Islamic values classes. The Department of Education estimated that approximately 100 thousand students attended more than 2 thousand madrassas nationwide. To date, 1,140 madrassas seeking financial assistance from local and foreign donors were registered with the Office on Muslim Affairs, while only 40 were registered with the Department of Education.

Societal Abuses and Discrimination.—Muslims were the largest minority religious group. Estimates of the size of the Muslim population ranged from 3.9 million to 7 million, or 5 to 9 percent of the population. Muslims resided principally in Mindanao and nearby islands, but there were Muslim communities throughout the country.

Historically, the Christian majority marginalized Muslims. The national culture, with its emphasis on familial, tribal, and regional loyalties, creates informal barriers whereby access to jobs or resources is provided first to those of one's own family or group network. Muslims reported difficulty renting rooms or being hired for retail work if they used their real names or wore distinctive Muslim dress. As a result, some Muslims used Christian pseudonyms and did not wear distinctive dress when applying for housing or jobs.

An estimated four hundred to one thousand Jews lived in the country. There were no reports of anti-Semitic acts.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Travel abroad was limited only in rare circumstances, such as when a citizen has a pending court case. Government authorities discouraged travel by vulnerable workers to areas in which they face personal risk (see section 5).

The government retained its ban on travel to Iraq to work. The Philippine Overseas Employment Administration (POEA) sought to limit departures for work abroad to persons the POEA certified as qualified for the jobs. More than 8.02 million citizens worked overseas and remitted money home. Such remittances accounted for approximately 11 percent of the gross national product.

Forced exile is illegal, and the government did not use it.

Internally Displaced Persons (IDPs).—Continuing clashes between the AFP and the NPA, ASG, and a breakaway group of the MNLF displaced thousands of persons. According to the Department of Social Welfare and Development (DSWD), 143,487 persons were displaced in central Mindanao and the ARMM at year's end, mostly due to armed conflict. Since 2004 DSWD has established 707 shelter units to resettle IDPs in the area. Other agencies, including UNDP, the Mindanao Emergency Relief Network, and the Red Cross provided food and essential items such as medicine, blankets, mosquito nets, and soap to IDPs.

Protection of Refugees.—The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, there is no comprehensive legislation that provides for granting refugee status or asylum. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The refugee unit in the Department of Justice determined which asylum seekers qualify as refugees; such determinations in practice implemented many of the basic provisions of the 1951 convention. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations

in assisting refugees. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or its 1967 protocol and provided it to approximately two thousand persons during the year.

The government allowed approximately two thousand asylum seekers from Vietnam to remain in the country although none had been found to be refugees under the UNHCR-administered Comprehensive Plan of Action in the 1990s. The majority of this group was being processed for resettlement in the United States. An estimated 400 persons who married Philippine citizens remained in legal limbo: ineligible for resettlement in other countries and not granted permanent asylum.

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

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

Elections and Political Participation.—There were no reported incidents of election-related violence during August 8 elections in the ARMM. Election-related violence during the 2004 national election was a serious problem (see section 1.a.).

In May 2004 national elections were held for president, senators, representatives, provincial governors, and local government officials. Voter turnout was high, with approximately 74 percent of eligible voters participating; however, voting was marred by numerous irregularities. From April to July 2004, an election monitoring survey conducted by a consortium of three international NGOs concluded that an antiquated voting system, system error, and improper management of registration databases disenfranchised thousands of voters. Widespread reports indicated that local politicians and their supporters engaged in vote buying and that conditions did not ensure that balloting was secret. Observers also received reports of NPA activists imposing “permission to campaign” fees on local candidates.

During the year allegations intensified that President Arroyo, with the assistance of Commission on Elections officials, had manipulated the vote.

Multiple political parties were able to present candidates for office, raise funds, and mobilize voters. However, parties tended to be personality driven; dynastic and family influences were strong, and issues generally were less important. Campaign financing, antidynasty, and other political party laws and provisions often were not observed.

The 2004 election marked the first time that overseas Filipinos were able to vote. Only 230 thousand of 354 thousand registered overseas voters, or 65 percent, actually voted, a small portion of the estimated 8.67 million Filipinos working overseas. The low rate of registration was attributed to lack of information about the procedures, inaccessible registration centers, strict employers who did not allow overseas workers to take a day off, and the requirement that voters execute an affidavit to return to the country to reside within three years.

The Commission on Elections did not allow first-time voters among squatters in communities of the urban poor to register for the elections unless they could prove that they were bona fide residents of their locale. NGOs estimated that this registration residence requirement deprived one million squatters of the right to vote. Among those who did register, vote buying was common and many residents accepted bribes to vote in a certain way or to act as “flying voters,” voting in several precincts.

There were no restrictions in law or practice on participation by women and members of minorities in politics. Many women, including the president, held positions of leadership and authority. There were 4 women in the 24-seat Senate and 37 women in the 236-seat House of Representatives. There were 3 women in the 23-member Cabinet, 5 female associate justices on the 15-member Supreme Court, and 14 female governors.

Along with many other citizens, Muslims argued that electing senators from a nationwide list favored established political figures from the Manila area, to the disadvantage of Muslims. Election of senators by region would require a constitutional amendment, and many Muslims and members of other groups underrepresented in the national legislature favored such an amendment. There were no Muslim cabinet members and no Muslim senators. There were 12 Muslim members in the 236-seat House of Representatives, including some elected from Christian majority districts.

Government Corruption and Transparency.—A justifiable public perception of corruption in the judicial, executive, and legislative branches remained high. Both the government and the private sector have established a number of anticorruption bodies including an Ombudsman’s Office and an anticorruption court. Cases were opened against high-ranking military officers and against officials in the Department of Public Works and Highways, the Bureau of Customs, and the Department

of Transportation and Communication. Nonetheless, the perception remains of a “very high” and “steady” level of corruption in public agencies.

The law provides for a right to information on matters of public concern, and the Supreme Court has affirmed this provision. However, denial of such information often occurred when the information related to an anomaly or irregularity in government transactions. Much government information was not available electronically and was difficult to retrieve.

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

A large and active group of human rights NGOs generally operated without government interference, investigating and publishing their findings on human rights cases. Most government officials were responsive to NGO views. Many domestic NGOs were critical of the government’s human rights record. While acknowledging that respect for human rights has improved under President Arroyo, many NGOs criticized the government for being overzealous in its efforts to defeat the various insurgencies in the country. These groups cited indiscriminate arrests, torture of suspects, and the shelling of civilian areas the AFP suspected of harboring insurgents.

Some NGOs expressed concern over what they perceived as hostile government rhetoric toward human rights activists. NGOs also expressed concerns over statements by local government officials that condoned extrajudicial killings as an acceptable means to fight crime. Human rights activists were the victims of apparent extrajudicial killings (see section 1.a.).

On June 16, two unidentified assailants shot and wounded a board member of the TFDP in Tacloban City, Leyte. Officials of the TFDP accused members of the Eighth Infantry Division in eastern Visayas of the attack.

Member organizations of the Philippine Alliance of Human Rights Advocates, a leading NGO network, monitored human rights problems and sought redress through their contacts with government agencies, the Congress, and the CHR. Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from the area in which incidents under investigation took place.

The CHR is an independent agency mandated to protect and promote human rights. It is empowered to investigate all human rights violations and to monitor the government’s compliance with international human rights treaty obligations. The CHR has nonbinding authority to clear on military promotions. The commission has a chairperson and four members. CHR monitoring and investigating continued to be hamstrung by insufficient resources. Approximately one-third of the country’s 42 thousand barangays had Human Rights Action Centers, which coordinated with CHR regional offices; however, the CHR’s regional and subregional offices remained understaffed and underfunded. The CHR budget for the year was \$3.59 million (P197.38 million), down 6 percent in peso value from 2004.

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

The law prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

Women.—Violence against women, both in and out of the home, remained a serious problem. The 2004 Anti-Violence Against Women and their Children Act criminalized physical, sexual, and psychological harm or abuse to women and their children committed by their spouses or partners. During the year the PNP reported 818 cases under the new law and 2,015 other cases of wife battering and physical injuries under older laws. This number likely underreported significantly the level of violence against women in the country. A 2003 survey by the NGO Social Weather Station found that 12 percent of men admitted having physically harmed women (39 percent of these respondents indicated violence against their wife, 15 percent against their girlfriend, and 4 percent against their partner). Women in the same survey cited the following reasons for not reporting violence: embarrassment; not knowing how or to whom to report; belief that nothing would be done; and believing it was too small of a thing.

The PNP and DSWD both maintained women’s help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Approximately 7 to 8 percent of PNP officers were women.

Rape continued to be a serious problem. During the year the PNP reported 784 rape cases. There were reports of rape and sexual abuse of women in police or pro-

tective custody—often women from marginalized groups, such as suspected prostitutes, drug users, and lower income individuals arrested for minor crimes.

The law provides for the death penalty in cases of rape, and as of year's end there were a total of 968 prison inmates who had been sentenced to death for this crime. Spousal rape and abuse are also illegal, but enforcement was ineffective. Some NGOs argued that courts' imposition of death sentences for rape convictions inhibited some victims, particularly relatives of the accused, from pressing charges.

Prostitution is illegal but was a widespread problem. Many women suffered exposure to violence through their recruitment, often through deception, into prostitution (see section 5, Trafficking). Penalties for prostitution are light, but detained prostitutes were subjected to administrative indignities and extortion. The DSWD continued to provide temporary shelter and counseling to women engaged in prostitution. This helped only a small percentage of victims. From January to September, DSWD provided temporary shelter and counseling to 108 women who were victims of involuntary prostitution. Some local officials condoned a climate of impunity for those who exploited prostitutes. There were no convictions under the provision of the law criminalizing the act of engaging the services of a prostitute.

Sex tourism and trafficking in persons for sexual exploitation and forced labor were serious problems. A 2003 antitrafficking law outlawed a number of activities specifically related to trafficking and provided stiff penalties for convicted offenders (see section 5, Trafficking).

The law prohibits sexual harassment. However, sexual harassment in the workplace was thought to be widespread and underreported due to victims' fear of losing their jobs. Female employees in special economic zones (SEZs) were particularly at risk; most were economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry worked on three- to five-month contracts and were reluctant to report sexual harassment for fear their contracts would not be renewed.

The law does not provide for divorce, although the courts generally recognize the legality of divorces obtained in other countries if one of the parties is a foreign national. The government recognizes religious annulment, but the process can be costly, which precludes annulment as an option for many women. Many lower-income couples simply separated informally without severing their marital ties. The family code provides that in child custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of seven are placed in the care of the mother unless there is a court order to the contrary. Children over the age of seven normally also remained with the mother, although the father could dispute custody through the courts.

In law, but not always in practice, women have most of the rights and protections accorded to men. Women continued to face some discrimination in employment, despite the fact that more women than men entered secondary and higher education. Unemployment rates for women remained higher than for men.

The National Commission on the Role of Filipino Women, composed of 10 government officials and 13 NGO leaders appointed by the president, acted as an oversight body whose goal is to press for effective implementation of programs benefiting women.

Children.—The government devoted considerable resources to the education, welfare, and development of children. The Department of Education (DOE) had the largest budget of any cabinet department: 12.3 percent of the national budget. Nevertheless, children faced serious problems.

Elementary and secondary education is free and is compulsory through age 11, but the quality of education remained poor due in part to inadequate resources. During the year, according to DOE figures, the estimated annual per pupil expenditure for basic education was \$106 (P5,729). The DOE received a budget of \$2.04 billion (P112.04 billion) for the year. The public school enrollment rate for 2004–05 was 76 percent, down from 94 percent for the 2002–03 school year. According to UN Children's Fund (UNICEF) statistics, girls and boys attend school in approximately equal numbers.

According to government reports, 68.3 percent of children were well nourished, and 64 percent were fully immunized. The child mortality rate was 36 out of 1,000 children under age five. Most of the malnourished children were in villages in Maguindanao, Lanao del Sur, and Tawi-Tawi provinces. According to UNICEF data from 1995 to 2003, 31 percent of children under age five were moderately or severely underweight.

Child abuse remained a problem. DSWD offices served 6,904 victims of child abuse from January to September, of whom 69 percent were girls. Approximately 50 percent of the girls were victims of sexual abuse, while 4 percent (199 girls) were victims of sexual exploitation. The majority of the boys had been abandoned or ne-

glected. Several cities ran crisis centers for abused women and children. The problem of foreign pedophiles continued, and the government continued to prosecute accused pedophiles. Children also were victims of police abuse while in detention for committing minor crimes. In March the University of the Philippines Center for Integrative and Development Studies released a report highlighting child pornography as a significant problem in the country.

Child prostitution continued to be a serious problem (see section 5, Trafficking). During the year the Department of Labor and Employment (DOLE) ordered the closure of at least one establishment for allegedly prostituting minors. The trial was on-going at year's end.

Children were targeted for recruitment as combatants and noncombatants by the NPA and ASG. There were an estimated two thousand child soldiers in the country. By mid-year an International Labor Organization (ILO)-led program demobilized and reintegrated into society three hundred children. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombatant duties; however, there were reports that the NPA continued to use minors in combat. In a July 2004 report the Council for Welfare of Children estimated that children constituted between 13 to 18 percent of armed rebel combatants. In the last several years, the AFP on numerous occasions captured or killed NPA fighters who turned out to be minors.

The ASG also recruited teenagers to fight and participate in its activities. There were reports that a significant number of ASG members staffing the groups' camps were teenagers. The AFP stated that some Islamic schools in Mindanao served as fronts to indoctrinate children and that the ASG used children as couriers and spies.

According to UNICEF and ILO studies, approximately 2.4 million children were exposed to hazardous working environments, such as in quarries, mines, and at docksides (see section 6.d.). Since 1995, only four persons have been convicted of violating the child labor law.

The government estimated that there were at least 22 thousand street children nationwide. UNICEF estimated that there were approximately 250 thousand street children. Welfare officials believed that the number increased as a result of widespread unemployment in rural areas. Many street children appeared to be abandoned and engaged in scavenging or begging.

A variety of national executive orders and laws provide for the welfare and protection of children. Police stations have child and youth relations officers to ensure that child suspects are treated appropriately. However, the procedural safeguards were often ignored in practice. According to UNICEF, approximately 28 children were arrested every day. The BJMP stated that approximately 1,700 minors were in jail; at least 7 had been sentenced to death, while 21 were serving life sentences. Many child suspects were detained for extended periods without access to social workers and lawyers, and were not segregated from adult criminals. NGOs said that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other ill treatment. There were also reports that many children detained in jails appeared to have been arrested without warrants.

In April Justice Secretary Raul Gonzalez ordered a nationwide review of cases of juvenile offenders. During the year government agencies and NGOs worked to segregate juvenile offenders, secure the release of minors wrongfully imprisoned, and transfer others to rehabilitation centers. DSWD ran 11 regional youth rehabilitation centers for children in conflict with the law. There were three detention centers for children in Manila.

A number of NGOs actively promoted children's rights.

Trafficking in Persons.—Trafficking in persons is prohibited under a comprehensive 2003 antitrafficking law, which defines several activities related to trafficking as illegal and imposes stiff penalties—up to life imprisonment—for convicted offenders. Nonetheless, trafficking remained a problem in the country. During the year, five persons were convicted and sentenced to life imprisonment under the antitrafficking law; three other convicted persons received light sentences as a result of plea bargains.

Although the government investigated trafficking-related cases under the new law as well as old laws, its efforts were hampered by resource constraints. In January the Department of Justice assigned an additional 10 prosecutors to handle the preliminary investigation and prosecution of trafficking cases at the national level, bringing the total to 14, in addition to other prosecutors in the regional trial courts. The principal investigative agencies were the National Bureau of Intelligence, the Bureau of Immigration, and the PNP's Criminal Investigation and Detection Group. The government cooperated with international investigations of trafficking.

The country was a source, transit, and destination country for internationally trafficked persons. Internal trafficking was also a problem. NGOs and government agencies estimated that from 300 to 400 thousand women and from 60 to 100 thousand children were trafficked annually. The most serious problem appeared to be the trafficking of women across international borders for purposes of sexual exploitation. Organized criminal gangs typically trafficked persons from China through the country to other destinations, although occasionally the country was the final destination.

On June 2, the NGO International Justice Mission filed trafficking charges against a police officer, the first public official to be charged under the antitrafficking law. In July DOLE ordered the permanent closure of a bar owned by the police officer.

In August Malaysian authorities rescued and expatriated four Filipino women who were allegedly victims of trafficking. The four were recruited in Davao del Norte Province to work as entertainers in Brunei but were taken instead to Malaysia. A case was filed under the antitrafficking law against the suspected traffickers at the municipal court in Carmen, Davao Del Norte. An arrest warrant was issued but the accused managed to elude arrest.

Both adults and children were trafficked domestically from poor, rural areas in the southern and central parts of the country to major urban centers, especially Metro Manila and Cebu, but also increasingly to cities in Mindanao. A significant percentage of the victims of internal trafficking were from Mindanao and were fleeing the poverty and violence in their home areas. Approximately 75 percent of the trafficking victims provided with temporary shelter and counseling by the NGO Visayan Forum Foundation were from Mindanao. The Visayan islands were also a source of trafficking victims. Women and girls were far more at risk of becoming victims of trafficking than men and boys.

The Virilanie Foundation, a local child protection NGO, estimated that there were at least 20 thousand child prostitutes in the country, most in the Metro Manila area. Other NGOs estimated that as many as 100 thousand children were involved in the commercial sex industry. Most of these children were girls, and nearly all had dropped out of school. These children come from very poor families with unemployed or irregularly employed parents.

The Virilanie Foundation offered housing, training, and counseling services to child prostitutes. An ILO program resulted in more than six thousand children being removed or prevented from engaging in the worst forms of child labor, including the commercial sex industry.

Traffickers targeted persons seeking overseas employment. Most recruits were females ages 13 to 30 from poor farming families. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted persons from their own hometowns, promising a respectable and lucrative job.

There was anecdotal evidence that some lower-level officials (such as customs officers, border guards, immigration officials, local police, or others) received bribes from traffickers or otherwise facilitated trafficking.

Victims faced exposure to sexually transmitted or other infectious diseases, and were vulnerable to beatings, sexual abuse, and humiliation.

The government devoted significant resources to assist and protect victims. The concept of a trafficked person as a victim rather than a perpetrator was strong. The government, in conjunction with NGO partners, assisted victims by providing temporary residency status and relief from deportation; shelter; and access to legal, medical, and psychological services. As of September, DSWD had provided temporary shelter and social services to 67 female and 88 juvenile victims of trafficking. In 2004 DSWD provided services to 162 women victims of illegal recruitment, 85 victims of involuntary prostitution, and 85 victims of trafficking.

DSWD and many private groups have established shelters and rehabilitation centers. DSWD provided economic aid to victims, including residential care. Additional protective services included hot lines for reporting cases and the operation of 24-hour halfway houses in 13 regions of the country to respond to victims. Although the government provided some funding to domestic and foreign NGOs for services to victims, religious groups, multinational donor agencies, and private foundations typically funded most of the budgets for these NGOs.

The government rarely deported or charged victims of trafficking with crimes; however, police sometimes charged alleged prostitutes with vagrancy. No reliable statistics indicating whether these individuals were victims of trafficking were available.

Victims may file civil suits or seek legal action against traffickers. Most victims who chose to do so filed charges of illegal recruitment. However, the government lacked the resources to pursue these cases effectively.

Numerous government agencies and officials, as well as NGOs and international organizations, continued to support public information campaigns against trafficking. The government supported programs to prevent trafficking, such as the promotion of women's participation in economic decision making and efforts to keep children in school. The government provided skills training to women, lessening the need for them to go to urban centers or overseas for employment. However, funding remained limited.

Persons with Disabilities.—The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments and for “the rehabilitation, self-development, and self-reliance of disabled persons and their integration into the mainstream of society.” The DOLE’s Bureau of Local Employment (BLE) maintained registers of persons with disabilities indicating their skills and abilities. BLE monitored private and public places of employment for violations of labor standards regarding persons with disabilities and also promoted the establishment of cooperatives and self-employment projects for persons with disabilities.

Estimates of the number of persons with disabilities in the country varied significantly. The National Council for the Welfare of Disabled Persons estimated that persons with disabilities make up 10 percent of the population. The 2000 census registered 992 thousand persons with disabilities; however, only 580 thousand were registered with the Department of Health as of July. Advocates suspected the data were incomplete due to the social stigma attached to persons with disabilities. It was estimated that most persons with disabilities were less than 65 years of age and lived at home with their families. Assisted living centers were understaffed and underfunded. DSWD operated two assisted living centers in Metro Manila, and five community-based vocational centers for persons with disabilities nationwide.

Advocates for persons with disabilities contended that equal-access laws were ineffective because implementing regulations were weak, funding was inadequate, and government programs 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 have been halting. Only one of Manila’s light rail lines was wheelchair-accessible, and many stops had out-of-service elevators. Buses lacked wheelchair lifts, and there were reports of drivers who failed to stop for passengers in wheelchairs. A small number of sidewalks had wheelchair ramps, but garbage cans and street vendors often blocked access. Many of the sidewalk wheelchair ramps were crumbling or too steep. The situation was worse in many smaller cities and towns.

Indigenous People.—Indigenous people lived throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They accounted for approximately 14 percent of the national population, with over 60 percent of the total in Mindanao. 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 suffered from lack of health, education, and other basic services. NGOs estimated that up to 70 percent of indigenous youth leave or never attend school because of the discrimination they experienced.

Indigenous people suffered disproportionately from armed conflict, including displacement from their homes, because they often inhabit mountainous areas also favored by guerrillas. Their lands were often the sites of armed encounters, and various parties to the fighting have recruited many indigenous people.

The 1997 Indigenous Peoples’ Rights Act established a National Commission on Indigenous People (NCIP), staffed by tribal members, to implement constitutional provisions to protect indigenous people. During the year, NCIP had a budget of \$7.37 million (P405 million), a decrease from \$9.56 million (P536 million) in 2004. By the end of 2004, the NPIC had awarded Certificates of Ancestral Land Title covering over 1.49 million acres of land claimed by indigenous persons in the country. It awarded such “ancestral domain lands” on the basis of communal ownership, impeding sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands, and assigns indigenous groups the responsibility to preserve their domains from environmentally inappropriate development. The government was slow to implement the legislation, primarily because of opposition from mining and agribusiness interests, but some limited progress was made.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the government. Unions have the right to form or join federations or other labor groups.

The Bureau of Labor Relations reported 139 registered labor federations and more than 24 thousand private sector unions. The 1.6 million union members represented 4.6 percent of the total workforce of 35.1 million. The number of firms using contractual labor, primarily large employers, continued to grow. There were 1,400 public sector unions, slightly fewer than in 2004, with a total membership of over 272 thousand.

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. However, unions maintained that widespread ignorance of basic standards and rights was a major obstacle to union organization. Before disputes reach the NLRC, the DOLE provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. The DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

The International Confederation of Free Trade Unions (ICFTU) alleged that a new union may be registered only if it represents at least 20 percent of workers in a bargaining unit, and that the law requires an excessively high number of unions—10—before a federation can be formed. The ICFTU currently has two complaints pending before the ILO regarding these requirements.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively. The labor code provides for this right for employees both in the private sector and in government-owned or controlled corporations. A similar right is afforded to most government workers. Approximately 5 percent of the work force was organized. Collective bargaining was practiced; however, it is subject to hindrance and union leaders may be subject to reprisal. Moreover, an ICFTU report in June noted that collective bargaining in the public sector is limited, and that the right to strike is banned outright for public sector workers. The number of workers covered by collective bargaining agreements rose to approximately 296 thousand or about 16 percent of union members, from 271 thousand in 2004. There are no special laws or exemptions from regular labor laws in special economic zones (SEZs).

Subject to certain procedural restrictions, strikes in the private sector are legal; however, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must have been exhausted. The secretary of labor and employment may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the secretary decides that the industry involved in the strike is vital to national security. From January to November, DOLE reported that there were 26 strikes involving 8,496 workers; in 2004 there were 25 strikes involving approximately 11 thousand workers.

Although the labor code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to three years, there never has been a conviction under this provision.

Trade union officials reported that underpayment of the minimum wage and the use of contract employees to avoid the payment of required benefits were common practices, including in the government-designated SEZs, where tax benefits were used to encourage the growth of export industries. Dismissal or threatened dismissal of union members also was common. Labor groups alleged that companies in the SEZs have used frivolous lawsuits as a means of harassing union leaders.

Labor law applies uniformly throughout the country, including the SEZs; however, local political leaders and officials who govern the SEZs have attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection created further obstacles to the enforcement of workers' rights to organize. DOLE can conduct inspections of local SEZ establishments, although local SEZ directors claimed authority to conduct their own inspections as part of the zones' privileges intended by Congress. Hiring often was controlled tightly through SEZ labor centers. Union successes in organizing in the SEZs have been few and marginal. In the Subic SEZ, only one firm was unionized. Some mainstream unions declined to mount a major unionizing effort in the lower-wage SEZ industries, such as the garment industry.

They considered it unpromising in view of both the organizers' restricted access to the closely guarded zones and the rapid turnover of the young, mainly female staff who worked on short-term contracts in the zones' many electronics and garment factories.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced labor, including forced and compulsory labor by children; however, despite the government's efforts, there were some reports of forced and compulsory labor, particularly by children, mainly in prostitution, drug trafficking, and other areas of the informal sector (see sections 5 and 6.d.). The legal minimum age for employment as a domestic worker is 15. However, an estimated 4 million children 17 years of age or younger, including many under 15, were employed. Some recruiters reportedly brought children to work in Manila or other cities under terms that involved a "loan" advanced to their parents that the children were obliged to repay through their work. The DOLE continued to address the problem of underage workers in family work settings by prosecutions and fines of violators (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians, or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 and 18 for such hours and periods of the day as are determined by the secretary of labor but forbids the employment of persons less than 18 years of age in hazardous or dangerous work. However, child labor remained a common problem, and a significant number of children were employed in the informal sector of the urban economy or as unpaid family workers in rural areas—some as bonded laborers (see section 6.c.). The most recent government survey reported approximately 4 million working children, approximately 2.4 million of whom were exposed to hazardous working environments, such as quarries and mines, docksides, and fishing boats, which are defined in the nation's laws as among the worst forms of child labor. Striking union workers at Macabalan Port in Cagayan de Oro City alleged that laborers hired by the port management company in October to replace the strikers included minors under the age of 17. DOLE's initial inspection did not corroborate the allegation; at year's end DOLE was still investigating.

Most child labor occurred in the informal economy, often in family settings. The government rarely sought to prosecute a poor family because it had a working child. Nevertheless, the government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop other, safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the government made attempts to devote more resources to child labor programs, resources remained inadequate.

The government and NGOs implemented programs to prevent the engagement of children in exploitative child labor; they educated communities on child labor and provided counseling and other activities for children. The DOLE and the DOE worked with NGOs, UNICEF, and the ILO International Program on the Elimination of Child Labor to assist children to return to school. The government also imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. Between January and June, the DOLE continued its efforts to rescue exploited child workers, rescuing 71 minors in 24 different operations, compared with 73 operations involving 195 minors in 2004. The Employers Confederation of the Philippines pursued an active and highly visible program against child labor.

e. Acceptable Conditions of Work.—The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards set minimum wages and in June implemented wage increases in most regions of the country. The highest rates were in the National Capital Region (NCR), where the minimum daily wage for nonagricultural workers was \$5.90 (P325). Although this represents an increase of 25 pesos over last year, it still did not provide a decent standard of living for a worker and family in the NCR. The lowest minimum wages were in the ARMM, where the daily agricultural wage was \$3.27 (P180). The regional wage board orders covered all private sector workers except domestic servants and others employed in the personal service of another person. Boards exempted some employers because of factors such as business size, industry sector, export intensity, financial distress, and level of capitalization. These exemptions excluded substantial additional numbers of workers from coverage under the law. Over 80 businesses in Metro Manila requested exemptions from the minimum wage order issued in June. The regional wage boards approved 251 out of 335 employer applica-

tions for exemptions during 2003–04. Unions have filed complaints about the minimum wage exemption policies.

Violation of minimum wage standards was common. Many firms hired employees for less than the minimum apprentice rates, even if there was no approved training in their production-line work. During the first quarter of the year, 62 percent of commercial establishments inspected by DOLE were out of compliance with the prevailing minimum wage. The DOLE acknowledged that the shortage of inspectors made the law difficult to enforce. In addition to fines, the government also made use of administrative procedures and moral suasion to encourage employers to voluntarily rectify violations. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

By law the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an 8-hour per day limit. The government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates one day of rest each week. However, there is no legal limit on the number of overtime hours that an employer may require. The DOLE conducted only sporadic inspections to enforce limits on workweek hours. The DOLE's 208 labor inspectors made nearly 21 thousand inspections last year to check on companies' compliance with general labor and working standards.

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with too few inspectors nationwide, local authorities often must carry out enforcement. The DOLE continued a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The government and several NGOs worked to protect the rights of the country's 8.02 million overseas citizens, most of whom were temporary or contract workers. The government placed financial sanctions on and criminal charges against domestic recruiting agencies found guilty of unfair labor practices. Although the POEA registered and supervised domestic recruiters' practices successfully, the authorities sometimes lacked sufficient resources to ensure workers' protection overseas. It sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens.

SAMOA

Samoa is a parliamentary democracy that incorporates certain traditional practices into its governmental system. The country has a population of approximately 177 thousand. Executive authority is vested in the head of state, Malietoa Tanumafili II, who holds the position for life. The cabinet consists of the prime minister and 12 ministers chosen by the prime minister. Parliament, elected by universal suffrage, is composed primarily of the heads of extended families, or "matai." All laws passed by Parliament need the approval of the head of state. The most recent elections, held in March 2001, were marred by charges of bribery. As a result of election challenges filed by losing candidates, the supreme court ordered four by-elections. The Human Rights Protection Party (HRPP) has dominated Parliament as the majority party for the past six terms. The civilian authorities generally maintained effective control of the national police force.

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

- deteriorated prison conditions for male inmates
- unfair parliamentary proceedings
- violence against women and children
- discrimination against women and non-matai

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the government or its agents. On February 25, police officer Tupou AINU’U was found not guilty of manslaughter in the death of a man in police custody.

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 deteriorated significantly for male inmates but remained fairly basic with respect to food, water, and sanitation. Diplomatic observers reported that each concrete cell held approximately 15 inmates. Most of the cells had gravel floors, no toilets, poor ventilation, and almost no lighting. Meals were served through the cell bars. During the year toilets and concrete floors were added to approximately 10 percent of the cells. It was unclear if all cells would receive the same refurbishment.

There were no known requests by independent human rights observers to visit prisons; however, the government indicated that it would allow such visits. The government permitted family members and church representatives to visit prisons every two weeks.

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 country has a small national police force and no external defense force. Enforcement of rules and security within individual villages is vested in the “fono” (Council of Matai). Judgments by the fono usually involved fines or, more rarely, banishment from the village.

The country’s police, prison guards, and firefighters all belong to one consolidated national service. A commissioner appointed to a three-year term heads this service. He is assisted by four assistant commissioners and reports to the minister of police. Corruption and impunity were not significant problems among the police; however, a lack of resources limited police effectiveness.

Arrest and Detention.—The supreme court issues arrest warrants based on sufficient evidence. The law provides for the right to a prompt judicial determination regarding the legality of detention, and the authorities generally respected this right in practice. Detainees are informed within 24 hours of the charges against them, or they are released. There was a functioning system of bail. Detainees were allowed prompt access to family members and a lawyer of their choice. If the detainee is indigent, the government provides a lawyer.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary consists of the district court, the lands and titles court, the supreme court, and the Court of Appeal. The district court has jurisdiction over matters involving values less than \$4 thousand (WST\$10 thousand) and criminal offences with penalties less than five years. The lands and titles court has jurisdiction over all lands and titles cases. The supreme court has jurisdiction over matters of more than \$4 thousand (WST\$10 thousand) and criminal offences with penalties of more than five years. The Court of Appeal is the highest court. It has appellate jurisdiction only and can review the rulings of any other court. It is composed of a panel of retired New Zealand judges and sits once a year for several weeks.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The accused person must be charged within 24 hours. A trial judge examines evidence and determines if there are grounds to proceed. Defendants have the presumption of innocence until proven guilty. Trials are public, and juries are used. Defendants have the right to be present and to timely consultation with an attorney, at public expense if 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 law 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 determines which court receives an appeal. For all lands and titles

appeals, the lands and titles court first uses its own appellate court presided by the president, after which appeals may be taken up to the supreme court and Court of Appeal if necessary. For other civil and criminal disputes, appeals may be taken first to the supreme court and later to the Court of Appeal if necessary. According to a 2000 supreme court ruling, fono may not infringe upon villagers' freedom of religion, speech, assembly, or association (see section 2.c.).

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. However, there is little or no privacy in villages, where there can be substantial societal pressure on the resident to grant village officials access without a warrant.

In accordance with traditional law, village fono may impose a punishment of banishment (see section 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. In general the independent media were active and expressed a wide variety of views without restriction. The law stipulates imprisonment for any journalist who refuses to reveal a confidential source despite the issuance of a court order upon request from any member of the public at large. However, there has been no court case invoking this law.

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

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The constitution acknowledges an “independent state based on Christian principles and Samoan custom and traditions”; however, there is no official or state denomination. The law grants each person the right to change religion or belief and to worship or teach religion alone or with others, but in practice the matai often choose the religious denomination of the extended family. During the year there were no cases of individuals being banished by villages due to their practicing religion differently from that practiced by village majority.

Societal Abuses and Discrimination.—There were no documented statistics of a Jewish population in the country, and there were no reports of anti-Semitic acts.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Nevertheless, 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. In some cases civil courts have overruled banishment orders (see section 1.e.).

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

Protection of Refugees.—The country is a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government has not enacted enabling legislation or established a system for providing protection to refugees. The government was prepared to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees, but the need did not arise during the year.

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

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

Elections and Political Participation.—The most recent elections were in March 2001, but they were marred by charges of bribery. As a result of election challenges filed by losing candidates, the supreme court ordered four by-elections; the HRPP won all four. The HRPP has dominated the political process, winning six consecutive elections since 1982.

The law does not prohibit the formation of opposition parties, and there were a few such parties; however, in April the country became a one-party state when the Speaker of the House ruled that the Samoa Democratic United Party (SDUP) could

not be recognized as a political party, due to a 1997 standing order that members of Parliament (MPs) are required to remain members of the same party throughout their parliamentary term and that new political parties are not allowed to form between an old political party and other independent members. The SDUP deputy leader, who had been leading a campaign against the HRPP, was suspended from Parliament for four months. The opposition lodged a report with the Inter-Parliamentary Union (IPU) addressing these alleged unfair practices, and the IPU submitted a report to the government providing recommendations for better parliamentary practices. The government condemned the IPU report.

While the constitution gives all citizens above the age of 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 25 thousand matai. Matai are selected by family agreement; there is no age qualification. Although women sometimes are selected, 95 percent of matai were men. Matai control local government through the village fono, which are open to them alone.

There were 3 women in the 49-member Parliament and 1 in the 13-member cabinet.

The political rights of citizens who are not of ethnic Samoan heritage are addressed by the reservation of two parliamentary seats for "at large" voters. One cabinet minister was an at large MP of mixed European-Samoan heritage. Citizens of mixed European-Samoan or Chinese-Samoan heritage were well represented in the civil service.

Government Corruption and Transparency.—Government corruption was not widespread, although there were some instances of corrupt practices involving misuse of public funds. During 2004 and 2005, charges were brought against several current and former employees from the Ministry of Health and the Department of Customs for theft of government funds, and the chief executive officer of the Ministry of Health was suspended. At year's end the cases were pending.

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.

Under the law, government information is subject to disclosure in civil proceedings involving the government, unless the information is considered privileged or its disclosure would harm the public interest.

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

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

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

The law prohibits discrimination based on race, sex, disability, language, or social status, and the government generally respected this in practice. However, politics and culture reflected a heritage of matai privilege and power, and members of certain families had some advantages. While there was discrimination against women and non-matai, who only occasionally reached high office, women (and particularly the few female matai) played an important role in society.

Women.—The law prohibits abuse of women, but social custom tolerated their physical abuse within the home, and such abuse was common. The role and rights of the village fono and tradition prevented police from interfering in domestic violence. Domestic abuses typically went unreported due to social pressure and fear of reprisal. Village fono typically punished domestic violence offenders, but only if the abuse was considered extreme (that is, there are visible signs of physical abuse). Village religious leaders also may intervene in domestic disputes. When police received complaints from abused women, the government punished the offender, including by imprisonment. The government did not keep statistics on domestic abuse cases but acknowledged the problem to be one of considerable concern.

Many cases of rape went unreported because tradition and custom discourage such reporting; spousal rape is not illegal. Nonetheless, in recent years the authorities noted a considerable number of reported cases of rape, as women slowly became more forthcoming with the police. Rape cases that reached the courts were treated seriously. Convicted offenders often received sentences of several years' imprisonment.

Prostitution is illegal, and it existed but was not a major problem. The law does not address sex tourism specifically; however, it was not a problem. The law pro-

hibits sexual harassment; it was not a widespread problem but was believed to be underreported.

Women have equal rights under the constitution and statutory law, and the traditional subordinate role of women is changing, albeit slowly, particularly in the more conservative parts of society. The Ministry of Women, Community, and Social Development oversees and helps secure the rights of women. To integrate women into the economic mainstream, the government sponsored literacy programs and training programs for those who did not complete high school.

Children.—The government made a strong commitment to the welfare of children through the implementation of various youth programs by the Ministries of Education and Health. Education is compulsory through age 14; however, the government did not enforce this law, and the children of families that could not pay the required school fees were unable to attend. All children at every level are required to pay school fees for tuition and books. Boys and girls were treated equally and attended school in approximately equal percentages. Most children attended school through junior high school.

The government provided health care for children at public hospitals for minimal charge. Law and tradition prohibit severe abuse of children, but both tolerate corporal punishment. Police noted an increase in reported cases in 2004 of child abuse, attributing the rise to citizens' increased awareness of the need to report physical, emotional, and sexual abuse of children. The government aggressively prosecuted such cases. There were no reports of commercial sexual exploitation of children.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons. While there was no national assessment of the scope of the problem, there was one isolated incident in 2003 in which 40 women were trafficked into prostitution to American Samoa. There were no reports that persons were trafficked to, from, or within the country during the year.

A transnational crimes unit monitored crimes related to trafficking in persons.

Persons with Disabilities.—There is no law pertaining specifically to the status of persons with disabilities or regarding accessibility for them. Tradition dictates that families care for persons with disabilities, and this custom was observed widely in practice. There were no reports of discrimination against persons with disabilities in the areas of employment, education, access to health care, or in 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 elevators in most multistory buildings.

The Ministry of Women, Community, and Social Development has responsibility for protecting the rights of persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—Workers legally have unrestricted rights to establish and join organizations of their own choosing. There were no practical limitations to union membership, and approximately 20 percent of the private sector workforce was unionized. The Public Service Association (PSA) functioned as a union for all government workers, who comprised approximately 80 percent of the paid workforce, excluding the self-employed.

b. The Right to Organize and Bargain Collectively.—The law provides workers with the right to organize and bargain collectively, and workers exercised this right in practice. The PSA engages in collective bargaining on behalf of government workers, including bargaining on wages. Under the law, arbitration and mediation procedures are in place to resolve labor disputes, although such disputes rarely arise.

The supreme court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety, and workers have exercised this right. On September 9, government doctors began a strike for more pay and better working conditions. The attorney general deemed the strike illegal, and the Ministry of Health ordered them to return to work; however, the doctors defied the order. The government set up a commission of inquiry to examine the doctors' complaints and submitted a report to the cabinet on October 28. The cabinet approved the report, but the doctors on strike rejected it, claiming that the government had not met all of their demands. At year's end only a few doctors had returned to work, and the Ministry of Health was advertising vacancies for the doctors who had left. These same doctors were offered the opportunity to reapply if they wished to return to work for the ministry.

Workers in the private sector have the right to strike, but there were no strikes in the sector during the year. There are no special laws or exemptions from regular labor laws in the sole export-processing zone.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but persons, including minors, frequently were called upon to work for their villages. Most persons did so willingly; however, the matai may compel those who do not.

d. Prohibition of Child Labor and Minimum Age for Employment.—It is illegal to employ children under the age of 15 except in “safe and light work.” The Ministry of Labor refers complaints of illegal child labor to the attorney general for enforcement; however, no cases were prosecuted during the year. Children frequently were seen vending goods and food on Apia street corners. The government has not made a definitive determination as to whether this practice violates the country’s labor laws, which cover only persons who have a place of employment. Although the practice may constitute a violation of the law, local officials mostly tolerated it. There were no reports of compulsory labor by children; however, the law does not apply to service rendered to the matai, some of whom required children to work for the village, primarily on village farms (see section 6.c.). The extent of this practice varied by village, but it generally did not significantly disrupt children’s education.

e. Acceptable Conditions of Work.—The law establishes for the private sector a 40-hour workweek and an hourly minimum wage. In September the minimum wage was increased to \$0.72 (WST\$2.00) per hour, which did not provide a decent standard of living for a worker and family. An advisory commission to the minister of labor sets minimum wages. Wages in the private sector are determined by competitive demand for the required skills. Minimum wage rates were sufficient only when supplemented by subsistence farming and fishing.

The law also establishes certain rudimentary safety and health standards, which the attorney general is responsible for enforcing. However, independent observers reported that safety laws were not enforced strictly, except when accidents highlighted noncompliance. 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 for adequate protection from pesticides and other dangers to health. Safety laws do not apply to agricultural service rendered to the matai. While the law does not address specifically the right of workers to remove themselves from dangerous work situations, the commissioner of labor investigates such cases, without jeopardy to continued employment. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.

SINGAPORE

Singapore is a parliamentary republic in which politics is dominated overwhelmingly by the People’s Action Party (PAP), which has been in power since 1959. The population was approximately 4.2 million, with foreign workers accounting for nearly one-seventh of the total. Opposition parties exist, and parliamentary elections take place at regular, constitutionally mandated intervals (most recently in November 2001); however, the PAP holds 82 of 84 elected parliamentary seats and all ministerial positions. The government maintained effective control over all security activities.

The government generally respected the human rights of its citizens; however, there were significant problems in some areas. The government has broad powers to limit citizens’ rights and to handicap political opposition, which it used in practice. Caning was an allowable punishment for numerous offenses. The following human rights problems were reported:

- preventive detention
- executive influence over the judiciary
- infringement of citizens’ privacy rights
- restriction of speech and press freedom, and the practice of self-censorship by journalists
- restriction of freedom of assembly and freedom of association
- some restriction on freedom of religion
- some trafficking in persons

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected these prohibitions. In March 2004 a detainee claimed that in 2003 police officers used physical means to force him to confess and threatened to arrest his wife. The trial judge ruled that the confession was involuntary, refused to allow it into evidence, and subsequently acquitted the man of all charges. In August 2004 the High Court sustained the ruling that the confession was involuntary and disallowed it. It nonetheless found the accused guilty and sentenced him to two years' imprisonment. The police force took no action against the officers accused of using "physical means" because the detainee had not lodged a complaint prior to the trial.

In previous years there were some cases of alleged police mistreatment of detainees. Persons alleging mistreatment were permitted to bring criminal charges against government officials suspected of involvement. The media reported fully on allegations of police abuse, and the government took action against abusers.

The penal code 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, and anyone determined medically unfit are exempt from punishment by caning. Although statistics for the year were not available, caning was a regularly administered punishment.

Prison and Detention Center Conditions.—Prison conditions, while Spartan, generally met international standards.

The government did not allow human rights monitors to visit prisons; however, diplomatic representatives were given consular access to citizens of their countries.

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

Role of the Police and Security Apparatus.—The police are responsible for routine security within the country and for border protection, including action against illegal immigrants. The Internal Security Act (ISA) authorizes the Internal Security Department in the Ministry of Home Affairs to counter perceived threats to the nation's security such as espionage, international terrorism, threats to racial and religious harmony, and subversion. The police force was well trained and highly disciplined. Corruption was not a problem, and the police effectively maintained internal law and order. The Corrupt Practices Investigation Bureau, an independent agency under the Prime Minister's Office, investigates all allegations of corruption including police corruption. Allegations of criminal offences by police officers are investigated either by a police division other than the unit to which the accused are assigned or, in cases involving complaints of serious misconduct, by the Internal Investigation Division at police headquarters.

Arrest and 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, but no commercial bail bond services were available. Those who face criminal charges are allowed counsel; however, there was no access to counsel during the initial arrest and investigation before charges were filed. Legal experts in and out of government debated the merits of allowing potential criminal defendants access to counsel during the arrest and investigation phase. The Law Society administered a legal aid plan for those who could not afford to hire an attorney. In death penalty cases, the Supreme Court appoints two attorneys for defendants who are unable to afford their own counsel.

Some laws—the ISA, the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (MDA), and the Undesirable Publications Act (UPA)—have provisions for arrest and detention without a warrant or judicial review. The ISA has been employed primarily against suspected security threats. In the past, these threats were Communist related; however, in recent years, the ISA has been em-

ployed against suspected terrorists. The CLA has been employed primarily against suspected organized crime and drug trafficking.

The ISA and the CLA permit preventive detention without trial for the protection of public security, safety, or the maintenance of public order. The ISA gives broad discretion to the minister for home affairs, at the direction 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 may be renewed without limitation for additional periods of up to two years at a time. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead, detainees may make representations to an advisory board, headed by a supreme court justice, which reviews each detainee's case periodically and must make a recommendation to the president within three months of the initial detention. The president may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order, but he is not obligated to do so.

At year's end, 36 detainees were being held under the ISA as suspected terrorists. Of these detainees, 33 were suspected of belonging to the terrorist group Jemaah Islamiyah, and 3 were suspected of membership in the Philippines-based Moro Islamic Liberation Front. The first arrests of suspected terrorists occurred in 2001; another group was arrested in 2002, additional arrests took place in 2003 and 2004, and on August 5, a suspected Jemaah Islamiyah terrorist was arrested. Some of those detained have been released under restriction orders (ROs). A person subject to an RO must seek official approval for a change of address or occupation and for overseas travel and participation in any public organization or activity. Approximately 19 persons were under ROs as of mid-October; this number included both released detainees and suspected terrorists who were never arrested but who have been placed under ROs.

There were no reports of political detainees.

The CLA comes up for renewal every five years, and when parliament renewed it in September 2004, it also amended it to allow taking DNA samples. 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. However, 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 is used almost exclusively in cases involving narcotics or criminal organizations and has not been used for political purposes. According to the most recent available official figures, 211 persons were in detention under the provisions of the CLA in 2003, down from 463 in 1998 and 1,263 in 1988. Persons who allege mistreatment while in detention may bring criminal charges against government officials alleged to have committed such acts.

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 MDA permits detention without trial. Under the MDA, the director of the Central Narcotics Bureau (CNB) also may commit—without trial—suspected drug abusers 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. As of September, 150 persons were held in drug rehabilitation centers, down from 225 persons in 2003. Under the Intoxicating Substances Act, the CNB director may order the treatment of a person believed to be an inhalant drug abuser for up to six months. Other sections of the MDA allow for capital punishment or incarceration of persons found guilty of narcotics trafficking offenses (see section 1.e.).

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected this provision; however, in practice laws that limit judicial review permit restrictions on constitutional rights. Some ju-

dicial officials, especially supreme court judges, have ties to the ruling party and its leaders. The president appoints judges to the Supreme Court on the recommendation of the prime minister and in consultation with the chief justice. The president also appoints subordinate court judges on the recommendation of the chief justice. The term of appointment is determined by the Legal Service Commission, of which the chief justice is the chairman. Under the ISA and the CLA, the president and the minister for home affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) excludes normal judicial review. These laws provide the government with the power to limit, on vaguely defined national security grounds, the scope of certain fundamental liberties that otherwise are provided for in the constitution.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics (see sections 2.a. and 3). Both this practice and consistent awards in favor of government plaintiffs raised questions about the relationship between the government and the judiciary and led to a perception that the judiciary reflected the views of the ruling party in politically sensitive cases. On January 6, the High Court awarded former prime minister Goh Chok Tong and former senior minister Lee Kuan Yew \$300 thousand (S\$500 thousand) in damages for comments made by opposition leader Chee Soon Juan the 2001 election campaign.

The judicial system has two levels of courts: the Supreme Court, which includes the High Court and the Court of Appeal; and the subordinate courts. Subordinate court judges and magistrates as well as public prosecutors are civil servants whose specific assignments are determined by the Legal Service Commission, which can decide on job transfers to any of several legal service departments. The subordinate courts handle the great majority of civil and criminal cases in the first instance. The High Court may hear any civil or criminal case, although it generally limits itself to civil matters involving substantial claims and criminal matters carrying the death penalty or imprisonment of more than 10 years. The Court of Appeal is the highest and final court of review for matters decided in the subordinate courts or the High Court. In addition, the law provides for Islamic courts whose authority is limited to Islamic family law, which is applicable only to Muslims. Supreme court justices may choose to remain in office until the mandatory retirement age of 65, after which they may continue to serve at the government's discretion for brief, renewable terms at full salary.

Trial Procedures.—The judicial system provides citizens with an efficient judicial process. In normal cases the criminal procedures 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. Defendants enjoy a presumption of innocence and the right of appeal in most cases. They 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. Defendants also have the right to question opposing witnesses, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Trials are public and heard by a judge; there are no jury trials. Despite the general presumption of innocence, the MDA stipulates that a person who the prosecution proves has illegal narcotics in his possession, custody, or control shall be assumed to be aware of the substance, and places the burden on the defendant to prove otherwise. The same law also stipulates that, if the amount of the narcotic is above set low limits, it is the defendant's burden to prove he 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 charged with a capital offense under the MDA have the right to a public trial and to appeal conviction.

The constitution extends these rights to all citizens; however, persons detained under the ISA or CLA are not entitled to a public trial. In addition, proceedings of the advisory board under the ISA and CLA are not public (see section 1.d.).

A two-tier military court system has jurisdiction over all military personnel, civilians in the service of the armed forces, and volunteers when they are ordered to report for service. The system handles approximately 450 cases each year. The Military Court of Appeal has the jurisdiction to examine an appeal from a person convicted by a subordinate military court. Trials are public and the defendants have the right to be present. An accused individual also has the right to defense representation.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution does not address privacy rights; remedies for infringement of some as-

pects of privacy rights are available under statutory or common law. The government generally respected the privacy of homes and families; however, it had a pervasive influence over civic and economic life and sometimes used its broad discretionary powers to infringe on these rights. Normally the police must have a warrant issued by a court to conduct a search; however, they may search a person, home, or a property without a warrant if they decide that such a search is necessary to preserve evidence. The government has wide-ranging discretionary powers under the ISA, CLA, MDA, and UPA to conduct searches without a warrant if it determines that national security, public safety and order, or the public interest is at risk. Defendants may request judicial review of such searches.

Law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, have 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. The law permits government monitoring of Internet use. It was believed that the authorities routinely monitored telephone conversations and the use of the Internet. The government brought charges against three individuals for allegedly racist comments made on Internet web logs (blogs) (see section 2.a.). It is widely believed that the authorities routinely conducted surveillance on some opposition politicians and other government critics.

The government enforced ethnic ratios for publicly subsidized housing, where the majority of citizens live and own their own units. The policy was designed to prevent ethnic/racial ghettos (see section 5). When a housing development is at or near the limit for a particular ethnic group, the policy could make it difficult for owners to sell their apartments and require them to sell to a person of an underrepresented group, potentially at a price below market value.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law 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 freedom of the press. The government's authoritarian style fostered an atmosphere inimical to free speech and a free press. Government intimidation and pressure to conform resulted in self-censorship among journalists; however, there continued to be some limited progress towards greater openness during the year, including a moderate level of ongoing debate in newspapers and on the Internet on various public issues.

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. While the ISA has not been invoked in recent years against political opponents of the government, political opposition and criticism remained restricted by the government's authority to define these powers broadly. In the past, occasional government references to speech that it considered "out-of-bounds" were understood to be implicit threats to invoke the ISA.

Government leaders urged that news media support the goals of the elected leadership and help maintain social and religious harmony. In addition, strict defamation and press laws and the government's demonstrated willingness to respond vigorously to what it considered personal attacks on officials sometimes led journalists and editors to moderate or limit what was published.

In August 2004 the government relaxed the Public Entertainment and Meetings Act (PEMA), which requires a permit for virtually any form of public speech or entertainment (see section 2.b.). 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. Nevertheless, police continued to invoke the PEMA for minor public protests. On August 28, eight cardboard cutout white elephants were placed outside a subway station to coincide with the visit of a government minister. Area residents complained that the station remained unopened despite being completed and thus was a "white elephant." Police initiated an investigation under the PEMA to determine the identity of the perpetrators, who could have been fined up to \$6 thousand (S\$10 thousand) for violation of the PEMA.

Government restrictions limit the ability to speak freely at the Speakers' Corner in a public park. Prospective speakers must be citizens, must show their identification cards, and must register in advance with the police. While it was not necessary to declare speech topics in advance, government 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." In 2002, opposition figure Chee Soon Juan was fined \$1,715 (S\$3 thousand) for a speech criticizing the government ban on schoolgirls wearing

the *tudung*, a headscarf that some Muslims consider a religious requirement (see section 2.c.); under the law anyone fined more than \$1,140 (S\$2 thousand) cannot run for parliament for 5 years.

In April the government allowed a foreign researcher from Amnesty International to attend a public forum on the death penalty but not to speak. Plainclothes police who were present at the forum demanded to see the forum moderator's identity card to verify that she was a citizen. In May the government denied entry to a foreign national, Yeshua Moser-Puangsuwan, who had been invited by the opposition Singapore Democratic Party (SDP) to speak at a public workshop on nonviolent action. The Ministry of Home Affairs noted that foreigners were not allowed to interfere in domestic politics. The government also reportedly banned the workshop on non-violence that he was scheduled to attend.

The government strongly influenced both the print and electronic media. Two companies, Singapore Press Holdings Ltd. (SPH) and MediaCorp, own all general circulation newspapers in the four official languages—English, Chinese, Malay, and Tamil. MediaCorp is wholly owned by the government investment company. SPH is 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 issues usually closely reflected government policies and the opinions of government leaders. The government sets formal and informal constraints on the media; for example, a visiting academic whose views on religion the government considered unconventional was allowed to speak; the media reportedly was restricted with regard to coverage of the speech. Columnists' opinions and letters to the editor expressed a moderate range of opinions on public issues. The international nongovernmental organization (NGO) Reporters Without Borders noted strong government and ruling party influence over the media as well as continued censorship and self-censorship.

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 can be received, but satellite dishes are banned, with few exceptions. Cable subscribers had access to seven foreign television news channels and many entertainment channels, including some with news programs; these were not censored.

A substantial number of foreign media operations were located within the country. The law 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 \$114,286 (S\$200 thousand) bond, and name a person in the country to accept legal service. The government has granted exemptions to 19 of the 24 publications to which these requirements could apply. Nonetheless, these requirements strengthen the government's control over foreign media. Under the Newspaper and Printing Presses Act, the government may limit the circulation of foreign publications that it determines interfere with domestic politics. Although a wide range of international magazines and newspapers can be purchased uncensored, the importation of some publications is barred. Newspapers printed in Malaysia cannot be imported. In 2004 the circulation of the *Wall Street Journal Asia* and the *Far Eastern Economic Review*, both foreign publications, was limited (or "gazetted"), although the government raised the allowed circulation to correspond more or less to actual demand. 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 can be fined up to \$57 thousand (S\$100 thousand) for failing to comply with this provision.

Under the country's defamation laws, some plaintiffs can relatively easily win substantial judgments for damages and legal costs. Conviction on criminal defamation charges can result in a prison sentence of up to two years, a fine, or both. Threats of defamation actions often persuaded newspapers and others to apologize and pay damages for perceived slights. On September 13, a regional financial magazine, *FinanceAsia*, apologized to top national leaders for an article that described Temasek Holdings, the government's key state investment entity, as "the Lee family trust." The magazine also agreed to pay undisclosed damages to Prime Minister Lee

Hsien Loong, Senior Minister Goh Chok Tong, Minister Mentor Lee Kuan Yew, and Temasek and its board members. Similarly, in September 2004 the *Economist* magazine announced that it had agreed to pay damages to Prime Minister Lee Hsien Loong and Minister Mentor Lee Kuan Yew for an *Economist* article taken to imply that nepotism had played a part in the appointment of Ho Ching, the prime minister's wife, to head Temasek Holdings. Newspaper accounts reported that the amount paid was \$229 thousand (S\$380 thousand) plus legal costs.

The government has extended the threat of defamation actions to comments made in cyberspace. On May 5, the Agency for Science, Technology and Research (A*STAR—a government agency that supports scientific research) warned a Singapore student in a foreign country that he could suffer legal consequences for allegedly defamatory remarks he made about A*STAR in his Internet web log. The student apologized for his remarks and shut down his blog.

Critics charged that government leaders used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. The unbroken success of government leaders' suits in the last decade has fostered public caution about political speech, prompted a culture of self-censorship within the news media, and inhibited opposition politics. During the last decade, ruling party leaders have sued opposition politicians for defamation of individual government leaders. For example, in 2001, then senior minister Lee Kuan Yew and then prime minister Goh Chok Tong sued opposition leader Chee Soon Juan for defamation and on January 3, were awarded damages of \$300 thousand (S\$500 thousand) (see section 1.e.).

The Media Development Authority (MDA), a statutory board under the Ministry of Information, Communications and the Arts (MICA), continued to censor broadcast media and Internet sites and all other media, including movies, video materials, computer games, and music. Banned publications consisted primarily of sexually oriented materials but also included some religious and political publications. Both 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 by these agencies if they 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 Films Act bans political advertising using films or videos as well as films directed towards any political purpose. The act does not apply to any film sponsored by the government, and the act allows the MICA minister, subject to such conditions as he sees fit, to exempt any film from the act. Under government pressure a local filmmaker withdrew his film *Singapore Rebel*, about opposition leader Dr. Chee Soon Juan, from the Singapore International Film Festival in March. Police questioned the filmmaker about his film on May 16 and August 29. They ordered him to surrender his video camera, courier invoices, and tapes of his film. Although no criminal charges have been filed against him, authorities claimed that his film violated the Films Act, which prohibits films "directed towards any domestic political end." If charged and convicted, the filmmaker could be jailed for up to two years or fined up to \$60 thousand (S\$100 thousand). In protest of this investigation, an activist filed a complaint against the national broadcaster, MediaCorp, for screening two programs about the ruling People's Action Party leaders. The activist claimed that the Films Act is politically biased in favor of the ruling party. Other restrictions tightly control the types of campaign materials that can be distributed by or about candidates and parties during an election.

The MDA has the power to sanction broadcasters for airing what it believes to be inappropriate content. All content airing between 6:00 a.m. and 10:00 p.m. must be suitable for viewers of all ages. A list of banned films was available on the MDA website. Certain films that have been barred from general release may be allowed limited showings, either censored or uncensored, with a special rating. In practice censorship standards have been significantly relaxed in recent years for live theater performances. Plays with overtly sexual or anti-ruling party themes have been permitted.

Using a framework of Web site licenses, the MDA regulates access to material on the Internet. Internet service providers (ISPs) are required to ensure that content complies with the MDA's Internet code of conduct. The MDA also regulates Internet material by licensing the ISPs through which local users are required to route their Internet connections. 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, and public morals. Although the MDA ordered ISPs to block 100 specific Web sites that the government considered pornographic, the government actually focused on blocking only a small number of sites.

The government prosecuted three individuals for allegedly racist remarks they made on the Internet, accusing all three of violating the Sedition Act. The court sentenced one to one month in jail, another to one day. The third individual, who was 17 years old, was placed on probation and ordered to do 180 hours of community service in Malay welfare organizations.

Political and religious Web sites must register with the MDA.

All public institutions of higher education and political research have limited autonomy from the government. Although faculty members are not technically government employees, in practice they were subject to potential government influence. Academics spoke and 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 that 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.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law 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 of five or more persons, including political meetings and rallies, require police permission; however, in 2004 the government relaxed rules (see section 2.a.) so that citizens no longer need permits for some indoor speaking events. Spontaneous public gatherings or demonstrations were virtually unknown. On August 11, four protestors assembled outside the Central Provident Fund building to demand greater transparency and accountability in the state-managed pension fund and other government agencies. After more than a dozen antiriot police and several other officers warned the protestors they could be charged with “public nuisance” and ordered them to disperse, the protestors left. On September 30, three of the protestors petitioned the High Court asking that it declare the police dispersal “unconstitutional”; on December 7, the court dismissed the action.

The government closely monitored political gatherings regardless of the number of persons present. Plainclothes police officers attended and videotaped a July 9 book launch by opposition figure Chee Soon Juan. After his presentation, the police questioned Chee and seized a video of protests by Hong Kong residents that had been playing in the background. The police claimed that Chee did not have a certificate for public display of the video. Persons who wished to speak at a public function, excluding functions provided by or under the auspices of the government, needed to obtain a public entertainment license from the police; however, regulations exempt some cultural events (such as Chinese operas or lion dances), requiring seven-days advance notice to the police in lieu of a permit.

In August police allowed a concert opposing the death penalty on condition that the photograph of a drug trafficker executed in May be removed from all publicity and information materials about the concert. In July police disapproved the permit for the fourth annual gay and lesbian beach festival, after having approved the festival in prior years. On April 27, two female practitioners of Falun Gong were fined \$12 thousand (S\$20 thousand) and \$14,400 (S\$24 thousand) respectively for unlawful assembly and distribution of video compact discs about the group. In April police rejected the application of former opposition leader J.B. Jeyaretnam to demonstrate against the decision to license the city’s first casino. In March the MICA minister upheld an MDA decision not to allow a concert organized by a gay group to raise money for HIV/AIDs.

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. From 1999 to 2003, authorities denied registration to 16 of 1,864 groups seeking registration. The government has absolute discretion in applying criteria to register or dissolve societies. The government prohibits organized political activities except by groups registered as political parties or political organizations. This prohibition limits opposition activities and contributes to restricting the scope of unofficial political expression and action (see section 3). The prohibition affected the PAP less because of its long domination of the government and its overwhelming parliamentary majority; the PAP traditionally has been able to use nonpolitical organizations such as residential committees and neighborhood groups for political purposes far more extensively than

opposition political parties. Political parties and organizations are subject to strict financial regulations, including a ban on receiving foreign donations. Due to laws regulating the formation of publicly active organizations, there were few NGOs apart from nonpolitical organizations such as religious groups, ethnically oriented organizations, and providers of welfare services.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, the government banned some religious groups. The constitution provides that every citizen or person in the country has the right to profess, practice, or propagate his religious belief so long as such activities do not breach any other laws relating to public order, public health, or morality.

All religious groups were subject to government scrutiny. These groups must be registered under the Societies Act. The Maintenance of Religious Harmony Act (MRHA) gives the government the power to restrain leaders and members of religious groups and institutions from carrying out political activities, “exciting disaffection against” the government, creating “ill will” between religious groups, or carrying out subversive activities. The act was prompted by activities that the government perceived as threats to religious harmony, including aggressive and “insensitive” proselytizing and the “mixing of religion and politics.” Violation of a restraining order issued under the MRHA is a criminal offense. The act also prohibits judicial review of its enforcement or of any possible denial of rights arising from its implementation.

The government played an active but limited role in religious affairs. It did not tolerate speech or actions, including those of a religious nature that it interpreted as adversely affecting racial and religious harmony. The government accused three individuals of violating the Sedition Act by making allegedly anti-Muslim remarks on the Internet (see section 2.a.). The government may issue restraining orders barring participation in activities adversely affecting religious harmony. The Presidential Council for Religious Harmony reviews such orders and makes recommendations to the president on whether to confirm, cancel, or alter a restraining order. The Presidential Council for Minority Rights examines all pending legislation to ensure it is not disadvantageous to a particular group, reports to the government on matters that affect any racial or religious community, and investigates complaints. The government maintains a relationship with the Muslim community through the Islamic Religious Council (MUIS), which was established under the Administration of Muslim Law Act. The MUIS advises the government on the Muslim community’s concerns, maintains regulatory authority over Muslim religious matters, and oversees a fund financed by voluntary payroll deductions and used for mosque-building and social and educational purposes.

Under the Societies Act, the government banned meetings of Jehovah’s Witnesses and the Unification Church. The government deregistered and banned Jehovah’s Witnesses in 1972 on the grounds that its approximately 200 members refused to perform obligatory military service, salute the flag, or swear oaths of allegiance to the state. The government regarded such refusals as prejudicial to public welfare and order. While the government did not outlaw the profession or propagation of the beliefs of Jehovah’s Witnesses and does not arrest members merely for being believers, the result of deregistration was to make meetings of Jehovah’s Witnesses illegal. The community numbered approximately two thousand in the country, and Jehovah’s Witnesses continued to refuse to perform national military service. The government also banned all written materials published by the Jehovah’s Witnesses’ publishing affiliates, the International Bible Students Association and the Watch Tower Bible and Tract Society. A person in possession of banned literature can be fined up to \$1,140 (S\$2 thousand), and for holding a meeting, the fine can be as high as \$2,285 (S\$4 thousand). In 2004 the authorities briefly detained 11 persons for attempting to bring Jehovah’s Witnesses publications into the country, although only one case was referred by police to the Media Development Authority, and the individual received a warning from the police in December 2004. The authorities made no such detentions during the year.

In 2004 the Ministry of Education indefinitely suspended four children for failing to sing the national anthem and participate in the flag ceremony, down from eight suspensions in 2003. No such suspensions were reported during the year. There have been 34 such cases since 2000. All 34 students made alternate schooling arrangements; none has returned to public school. The students can return if they are prepared to sing the anthem, salute the flag, and say the pledge of allegiance.

Missionaries, with the exception of members of Jehovah’s Witnesses and representatives of the Unification Church, were permitted to work, publish, and distribute religious texts. However, while the government did not prohibit evangelical

activities in practice, it discouraged activities that could upset inter-communal relations, such as unsolicited public proselytizing.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides citizens the right to move freely throughout the country; however, while the government generally respected this right in practice, it limited this right in a few respects. For example, 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 great majority of citizens lived (see sections 1.f. and 5). The government required all citizens and permanent residents over the age of 15 to register and to carry identification cards. The government may refuse to issue a passport and did so in the case of former ISA detainees. Under the ISA a person's movement may be restricted (see section 1.d.). According to official press releases, at year's end there were 19 suspected terrorists subject to such restrictions.

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

The right of voluntary repatriation was extended to holders of national passports. The government actively encouraged citizens living overseas to return home or at least to maintain active ties with the country. A provision of law allows for the loss of citizenship by citizens who resided outside the country for more than 10 consecutive years, but it was not known to have been used.

Men are required to serve 24 months of national service upon turning 18 years of age. They also are required to undergo reserve training up to the age of 40 (for enlisted men) or 50 (for officers). Male citizens with national service reserve obligations are required to advise the Ministry of Defense if they plan to travel abroad. Boys age 11 to 16½ years are issued passports that are valid for 2 years and are no longer required to obtain exit permits. From the age of 16½ until the age of enlistment, male citizens are granted 1-year passports and are required to apply for exit permits for travel that exceeds 3 months.

The law stipulates that former members of the Communist Party of Malaya (CPM) residing outside the country must apply to the government to be allowed to return. They must renounce communism, sever all organizational ties with the CPM, and pledge not to engage in activities prejudicial to the country's internal security. In addition, the law requires them to submit to an interview by the Internal Security Department and to accept any restrictive conditions imposed on them.

Protection of Refugees.—The law does not provide for the granting of refugee status or asylum to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol. In practice the government provides protection against *refoulement*, the return of persons to a country where they feared persecution, but does not grant refugee or asylum 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. Opposition parties are free to 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 more than four decades, has used the government's extensive powers to place formidable obstacles in the path of political opponents.

Elections and Political Parties.—Following the 2001 elections, the PAP held 82 of 84 elected seats; the opposition Singapore People's Party and the Workers' Party each held 1 seat. 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 developing voter support through effective administration and its record in bringing economic prosperity to the country, and in part by manipulating the electoral framework, intimidating organized political opposition, and circumscribing the bounds of legitimate political discourse and action. The belief that the government might directly or indirectly harm the employment prospects of opposition supporters inhibited opposition political activity; however, there were no confirmed cases of such retaliation. As a result of these and other factors, opposition parties were unable to seriously challenge the ruling party. The PAP claimed that the lack of an effective opposition was due to disorganization, weak leadership, and a lack of persuasive alternative policies.

The country has a parliamentary system in which the majority party in Parliament has the authority to constitute the government, which is headed by a prime minister. The parliamentary term is for no more than five years after the first sit-

ting of parliament following a general election. Parliament may be dissolved early by presidential proclamation, which normally follows a request by the prime minister. Elections must be held within three months of Parliament's dissolution. The constitution allows a parliamentary committee to select and the president to appoint nominated members of parliament (MPs) to serve 2½-year terms without facing election. A constitutional amendment requires at least three opposition MPs. Therefore, if fewer than three are elected, the government will appoint a "nonconstituency MP" who is the opposition candidate who obtains the highest share of the vote without winning a seat. Nonconstituency MPs and nominated MPs can participate in parliamentary debate and can vote on some, but not all, types of legislation.

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) has further strengthened the PAP's position. The CDCs promote community development and cohesion and provide welfare and other assistance services. The PAP dominates the CDCs even in opposition-held constituencies and has threatened to withdraw publicly funded benefits.

The PAP completely controlled key positions in and out of government, influenced the press and courts, and limited opposition political activities. Often the means were fully consistent with the law and the normal prerogatives of the government, but the overall effect (and many argued the ultimate purpose) was to disadvantage and weaken political opposition. For example, the government dramatically altered the boundaries of election districts only 17 days before the 2001 general election. Since 1988 it has changed all but nine single-seat constituencies into group representational constituencies (GRCs) of three 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 Malay, Indian, or other ethnic minority candidate. These changes made it more difficult for opposition parties, all of which had very limited memberships, to fill multimember candidate lists.

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 (see section 2.b.). There were 24 registered political parties in the country; however, only 6 of these were active. Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hindered attempts by opposition parties to rent office space in government housing or to establish community foundations. In addition, government influence extended in varying degrees to academic, community service, and other NGOs.

The Films Act bans political films and recorded televised programs, which further puts opposition parties at a disadvantage since they received less coverage in the government-influenced press and media. A filmmaker was being investigated for a film about opposition leader Dr. Chee Soon Juan that allegedly violated the Films Act (see section 2.a.). The ban, which ostensibly exists to prevent the sensationalist or emotional effect that video or film productions could have on political issues, applies to the PAP as well as to the opposition parties. An activist filed a lawsuit claiming that the Films Act was interpreted with bias in favor of the PAP (see section 2.a.). The law regulates the use of the Internet by political parties and others for political purposes during election campaigns (see section 2.a.).

The threat of civil libel or slander suits, which government leaders have often used against political opponents and critics and consistently won, had a stifling effect on the full expression of political opinion and disadvantaged the political opposition (see section 2.a.). Large judgments in libel suits can lead to bankruptcy, and, under the law, bankrupt persons are ineligible to sit in Parliament. The law also provides for criminal defamation offenses.

In the past, the government used parliamentary censure or the threat of censure to humiliate or intimidate opposition leaders.

The duties of the president are largely ceremonial. Nonetheless, the president has significant budget oversight powers, as well as some powers over civil service appointments and internal security affairs. The law provides for a popularly elected president to be elected for a six-year term from among candidates who are approved by a constitutionally prescribed committee selected by the government. On August 13, the committee decided that the PAP-endorsed incumbent, President S.R. Nathan, was the only qualified candidate out of four applicants. The election was cancelled and Nathan was inaugurated for a second term on September 1. The government placed significant obstacles in the way of opposition political figures' presidential candidacies. For example, opposition members were much less likely to satisfy the requirement that candidates have experience in managing the financial af-

fairs of a large institution, since many of the country's large institutions are government run or linked to the government.

Voting is compulsory, and women and minorities voted at approximately 95 percent in contested constituencies. There is no legal bar to the participation of women in political life; women held only 10 of the 84 elected parliamentary seats, an increase from 6 female MPs in the previous parliament. After an August 2004 cabinet reshuffle, there were two female ministers of state, although none of cabinet rank. Three of the 14 Supreme Court justices were women.

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 14 percent of the general population and hold approximately the same percentage of elected seats in Parliament. Indians made up approximately 7 percent of the general population and held approximately 10 percent of the elected seats in Parliament. Minority representation in Parliament is, in part, the result of a legal requirement that candidate slates in every multi-seat constituency have at least one minority representative. There was one ethnic Malay minister and three ethnic Indian ministers. Two of the 14 members of the Supreme Court were ethnic Indian; there were no Malays on the court.

Government Corruption and Transparency.—There were no reports of government corruption during the year, and the government actively prosecutes officials involved in corruption.

There are no laws that specifically provide for public access to government information; however, significant amounts of information was available on government Web sites.

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

Efforts by independent organizations to investigate and evaluate government human rights policies faced the same obstacles as those faced by opposition political parties. NGOs were subject to registration under the Societies Act (see section 2.b.). Some domestic NGOs criticized restrictions on human rights or suggested changes that would relax or remove restrictions.

There is a Presidential Council on Minority Rights that monitors pending legislation for anything possibly disadvantageous to minorities (see section 5).

The government permitted international human rights organizations to observe human-rights-related court cases.

Section 5. 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 for women and minorities. Mindful of the country's history of intercommunal tension, the government took measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or sex. Men do not have the right to seek alimony from their wives in cases of divorce or separation.

Women.—The law criminalizes domestic violence and sexual or physical harassment; however, violence or abuse against women occurred. A victim of domestic violence can obtain court orders barring the spouse from the home until the court is satisfied that the spouse ceased aggressive behavior. The number of court orders for protection against violent family members has increased in recent years, in part because the definition of violence includes intimidation, continual harassment, or restraint against one's will. 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. There were several organizations that provided assistance to abused women. The Association of Women for Action and Research ran a hot line that offered counseling and legal advice. The Family Protection and Welfare Service, an office of the Ministry of Community Development, Youth, and Sports, documented physical and psychological abuse, and provided counseling and other support services to abused women. The Star Shelter accepted children, women, and men, and can accommodate up to 30 persons. 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 only be committed by a man, and spousal rape is not a crime; however, husbands who force their wives to have intercourse can be prosecuted for other offenses, such as assault. During the year 12 persons were prosecuted for rape; 2 were convicted, 9 were awaiting trial, and 1 case resulted in

a discharge not amounting to acquittal. The Ministry of Education and the police both carried out programs aimed at preventing rapes.

The country's laws neither ban nor authorize prostitution; however, public solicitation, living on the earnings of a prostitute, and maintaining a brothel are illegal. The authorities periodically carried out crackdowns on solicitation for prostitution and arrested and deported foreign prostitutes, particularly when their activities took place outside informally designated red light areas. In practice police unofficially tolerated and monitored a limited number of brothels; prostitutes (the great majority of whom were foreign and working illegally) in such establishments were required to undergo periodic health checks and carry a health card.

There were no specific laws prohibiting stalking or sexual harassment; however, the Miscellaneous Offenses Act and laws prohibiting insults to modesty were used successfully to prosecute these offenses. Sexual harassment was not considered a significant issue.

Women accounted for 55 percent of civil service employees. They enjoyed the same legal rights as men, including civil liberties, employment, commercial activity, and education. The Women's Charter gives women, among other rights, the right to own property, conduct trade, and receive divorce settlements. Muslim women enjoyed most of the rights and protections of the Women's Charter. For the most part Muslim marriage law falls under the administration of the Muslim Law Act, which empowers the Shari'a (Islamic law) court to oversee such matters. The laws allow 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. There were 450 applications for polygynous marriage from 1999 to 2003; 122 were approved, approximately 0.5 percent of all Muslim marriages during that period. From 2003 to 2005, there were 142 applications for polygynous marriage and 50 applications were approved. Both men and women have the right to initiate divorce proceedings; however, in practice women faced significant difficulties that often prevented them from pursuing proceedings. This included the lack of financial resources to obtain legal counsel.

In 2004 women constituted 44.9 percent of the labor force and were well represented in many professions, but, with several prominent exceptions, they held few leadership positions in the private sector and no ministerial positions in the government. They were overrepresented in low-wage jobs such as clerks and secretaries; however, there were some women who held senior corporate leadership positions. Salaries for women ranged between 62 and 100 percent of men's salaries depending on the occupational grouping. The wage gap has narrowed in recent years; in some specific occupations women earned more than their male counterparts. Observers noted that the wage differential was smaller in professional jobs and that wage disparities could be attributed in part to differences in average educational levels and work experience.

In April Parliament amended the constitution to eliminate the inequality whereby female citizens could not automatically transmit citizenship to their children born abroad, but male citizens could.

Children.—The government demonstrated a strong commitment to children's rights and welfare through well-funded systems of public education and medical care, and access was equal for all children. Six years of public (or government-recognized private) education is compulsory for all children. Virtually 100 percent of children were enrolled through grade 6, and the dropout rate for secondary school was low. The Children and Young Persons Act established protective services for orphaned, abused, "troubled," and children with disabilities, and created a juvenile court system. The Ministry of Community Development, Youth, and Sports 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 from 50 to 100 percent of living expenses and overhead, as well as expenses for special schooling, health care, or supervisory needs.

Some child prostitution occurred. In 2004, 35 of the more than 5,239 foreign women arrested for prostitution were believed to be under the age of 18. Sexual intercourse with girls under the age of 16 is illegal, but there is no legal prohibition on commercial sex with "consenting" partners ages 16 and 17. The authorities have the power to detain persons under the age of 21 who are believed to be engaged in prostitution, as well as to prosecute those who organize or profit from prostitution, who bring women or girls to the country for prostitution, or who coerce or deceive women or girls into prostitution.

The Ministry for Community Development, Youth, and Sports sponsored activities promoting children's causes, including family stability. This agency and several

NGOs focused on keeping fathers involved in their children's lives and on preventing child abuse.

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking in persons occurred.

The three major laws that govern trafficking and prostitution are the Women's Charter, the Children and Young Person's Act, and the penal code. Trafficking in women and children, whether or not it is related to prostitution, is punishable by up to 5-years' imprisonment, a \$5,881 (S\$10 thousand) fine, and caning. Traffickers could be prosecuted under provisions governing kidnapping, abduction, slavery, and forced labor, which carry maximum punishments of 10 years' imprisonment and a fine. Convicted traffickers could be found guilty of violating more than one law. There was no specific campaign to combat or prevent the use of fraud or coercion to recruit foreign women as prostitutes, although some persons were prosecuted and punished for crimes involving such acts.

In 2004 there were three prosecutions, two of which involved forced prostitution, and one of which involved bringing a woman into the country under false pretenses for the purpose of prostitution. The latter case involved a Sri Lankan woman, who was recruited in Sri Lanka and told she would be a maid, but was forced into prostitution. Her two "vice abettors" were each fined \$15,476 (S\$26 thousand).

The police and other elements of the government were widely recognized to be both effective and among the least corrupt such institutions to be found. There were no reports of any official involvement in trafficking in persons.

In practice successful investigation and prosecution of trafficking in persons required that victims remain in or return to the country to testify. Victims were urged by police to remain in the country until a case was prosecuted, and generally they did; however, some abused domestics left and were brought back to testify. Victims did not receive government assistance during this period or at other times and indicated they sometimes were not granted permission for alternative employment and were dependent on support from their embassy. Laws prohibiting the harboring, aiding, or abetting of illegal immigrants could hamper assistance to trafficking victims by putting NGOs in the position of harboring a victim who has no legal status; however, the authorities did not appear to investigate or prosecute such assistance. The authorities notified embassies of the arrest of nationals, including for prostitution-related offenses, and allowed consular access. Prostitutes rarely contacted embassies voluntarily, unless detained for solicitation or immigration offenses during police sweeps. However, victims of crimes, including domestics alleging abuse, sometimes requested and received assistance from their embassies.

Persons with Disabilities.—The government maintained a comprehensive code on barrier-free accessibility; this established standards for facilities for persons with physical disabilities in all new buildings and mandated the progressive upgrading of older structures. There was no legislation addressing equal opportunities for persons with disabilities in education or employment; however, the National Council of Social Services, in conjunction with various voluntary associations, provided an extensive job training and placement program for persons with disabilities. The government also ran vigorous campaigns to raise public awareness of issues confronting persons with disabilities and the services available to them. A tax deduction of up to \$58,800 (S\$100 thousand) was available to employers to defray building modifications to benefit employees with disabilities. Informal provisions in education have permitted university matriculation for the visually impaired, deaf, and for students with physical disabilities. There were 20 special education schools that enrolled more than 4 thousand students. It is expected that upon completion of retrofitting, one out of every eight schools will be accessible to handicapped students. The government provided funds for 6 childcare centers to take in 60 children with special needs.

The government allowed a tax deduction of up to \$2 thousand (S\$3,500) per individual for families caring for a sibling, spouse, or child with a disability. Mental and physical disabilities were treated in the same way. Press coverage of the activities and achievements of persons with disabilities was extensive, and discrimination or abuse of persons with disabilities did not appear to be a problem.

National/Racial/Ethnic Minorities.—Ethnic Malays constituted approximately 14 percent of the population. The constitution acknowledges them as the indigenous people of the country and charges the government to support and to promote their political, educational, religious, economic, social, cultural, and language interests. The government took steps to encourage greater educational achievement among Malay students as a key to economic advancement. However, ethnic Malays have not yet reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays re-

mained underrepresented at senior corporate levels, and, some assert, 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. The government has issued guidelines that call for eliminating language referring to age, gender, or ethnicity in employment advertisements; restrictive language pertinent to job requirements, such as “Chinese speaker” or “physically strong” remains 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 and investigated complaints.

The government enforced ethnic ratios for publicly subsidized housing, where the majority of citizens lived and owned their own units, a policy designed to achieve an ethnic mix more or less in proportion to that of society at large.

Other Societal Abuses and Discrimination.—Some individuals with HIV/AIDS claimed that they were socially marginalized and faced employment discrimination if they revealed they were suffering from the disease. The government discouraged discrimination, supported initiatives that countered misperceptions about HIV/AIDS, and praised employers that welcomed workers with HIV/AIDS. In July police disapproved the permit for the fourth annual gay and lesbian beach festival, after having approved the festival in prior years. In March the MICA minister upheld an MDA decision not to allow a concert organized by a gay group to raise money for HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The law provides all citizens the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act, and by labor and education laws and regulations. Under these laws any group of 10 or more persons is required to register with the government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel or government employees. The Amalgamated Union of Public Employees was declared exempt from these provisions, and its scope of representation was expanded over the years to cover all public sector employees except the most senior civil servants.

The Trade Unions Act restricts the right of trade unions to elect their officers and 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 could grant exemptions. The Trade Unions Act limits the objectives on which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes. In 2004 the national labor force was made up of approximately 2.18 million workers, nearly 420 thousand of whom were represented by 68 unions. Almost all of the unions (which represented virtually all of the union members) were affiliated with the National Trade Union Congress (NTUC), an umbrella organization with a close relationship with the government.

The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. The NTUC's Secretary General, Lim Boon Heng, a PAP MP, was a member of the cabinet as minister in the prime minister's office. Young PAP MPs with no union experience were often elected to leadership positions in the NTUC or a member union. The NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. While the NTUC is financially independent of the PAP, the two share a common ideology and work closely with management in support of nonconfrontational labor relations. The NTUC is free to associate regionally and internationally.

b. The Right to Organize and Bargain Collectively.—Collective bargaining was a normal part of labor-management relations in the industrial sector. Collective agreements must be certified by the tripartite Industrial Arbitration Court (IAC) before going into effect. The IAC could refuse certification at its discretion on the ground of public interest. Transfers and layoffs were 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. Disputes could be settled through discussions with the Ministry of Manpower. If conciliation fails, the parties may submit their cases to the IAC. In limited situations, the law provides for compulsory arbitration, which has not been used since 1980. Agreements between management and labor were renewed every two to three years, although wage increases were negotiated annually.

The National Wages Council (NWC), a group composed of labor, management, and government representatives, issues yearly guidelines on raises and bonus pay that serve 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.

Workers in “essential services” are required to give 14 days’ notice to an employer before striking, and there is a prohibition on strikes by workers in the water, gas, and electricity sectors. Other workers have the legal right to strike but rarely did so. There were no specific laws that prohibited retaliation against strikers. The law provides that before striking, unionized workers must vote in favor of the strike by secret ballot.

Most disagreements are resolved through informal consultations with the Ministry of Manpower. If conciliation fails, the disputing parties usually submit their case to the IAC, which is composed of representatives from labor and management, and chaired by a judge. Besides these labor dispute mechanisms and the close working relationship and shared views among labor, management, and the government, the maintenance of labor peace has been a product of high economic growth rates, regular wage increases, and a high degree of job mobility in a virtual full-employment economy.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government enforced the Employment Act, which prohibits employment of children under the age of 12. Restrictions on the employment of children between the ages of 12 and 16 are rigorous and fully enforced. Children under the age of 14 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 of 12 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 14 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 14 and 16 to no more than 7 hours a day, including the hours spent in school. Children may not work on commercial vessels, with moving machinery, on live electrical apparatus lacking effective insulation, or in any underground job. The minister of manpower effectively enforced these laws and regulations.

e. Acceptable Conditions of Work.—There are no laws or regulations on minimum wages or unemployment compensation; however, the NWC monitored the economy and made annual recommendations to the government concerning wage guidelines. The labor market offered good working conditions and relatively high wages, which provided a decent standard of living for a worker and family.

The Employment Act sets the standard legal workweek at 44 hours and provides for 1 rest day each week. In 2004 the government moved to a 5-day, 42-hour workweek.

The Ministry of Manpower effectively enforces laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, were implemented to reduce the frequency of job-related accidents. While workers have the right under the Employment Act to remove themselves from a dangerous work situation, their right to continued employment depended upon an investigation of the circumstances by the Ministry of Manpower.

Because of a domestic labor shortage, approximately 600 thousand foreign workers were employed legally, constituting approximately 30 percent of the total work force. 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. Foreign workers faced no legal wage discrimination; however, they were concentrated in low-wage, low-skill jobs and were often required to work long hours. Most foreign construction workers live on worksites in substandard conditions.

Although the great majority of the approximately 150 thousand maids (mainly from the Philippines, Indonesia, and Sri Lanka) worked under clearly outlined contracts, their low wages, dependence on their employers for food and lodging, and relative isolation made them vulnerable to mistreatment and abuse. The authorities

fined or imprisoned employers who abused maids. On June 1, a woman who assaulted her maid over an 18-month period was sentenced to 5 months in jail. Debate on how to prevent abuse of maids was ongoing. Effective January 1, the Ministry of Manpower raised the minimum age for maids from 18 to 23 years, and required all maids to show that they had 8 years of formal education before allowing them to enter. All new maids and new employers of maids must undergo mandatory training on maids' rights and responsibilities. Since April it has been mandatory that maids take a written entrance exam that covers topics such as safety and English comprehension.

Most maids worked six days per week from early morning until late in the evening. Many contracts allowed only one day off per month. Contracts often stipulated that, even when not working, a maid was required to remain on the premises unless on official duties or on her day off. Maids often had to set aside most or all of their wages for the first several months of employment to reimburse their placement agents. Work permits for low-wage foreign workers could be cancelled if a worker applied to marry or married a citizen or permanent resident.

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. However, the Ministry of Manpower offered conciliation services for all employees, foreign or local. The Foreign Workers Unit of the Ministry of Manpower provided free advisory and mediation services to foreign workers experiencing problems with employers. The government allowed complainants to seek legal redress. The government also established a hot line for maids.

On December 6, the international NGO Human Rights Watch (HRW) issued a detailed report on actual and potential abuses of foreign domestic workers and recommended remedial actions. On December 7, the Ministry of Manpower issued a press statement citing its efforts over the past few years to address the concerns highlighted in the HRW report and reiterating that it does not tolerate abuse or exploitation of foreign domestic workers.

SOLOMON ISLANDS

The Solomon Islands is a multiparty parliamentary democracy with a population of approximately 480 thousand. Citizens elect a single-chamber parliament of 50 members. Executive authority is vested in the prime minister, who is elected by a majority vote of Parliament, and his cabinet. A new parliament was elected in 2001 with Sir Allan Kemakeza of the People's Alliance party as prime minister; the elections were considered generally free and fair. Between 1998 and 2003, conflict between two of the main ethnic groups in the country—the Malaitans and the Guadalcanalense—led to a serious deterioration in the human rights situation. In 2003 the Regional Assistance Mission for Solomon Islands (RAMSI), a multinational police-centered force organized by Australia, arrived in the country at the government's invitation to assist in restoring law and order and rebuilding the country's institutions. By the end of 2004 law and order largely had been restored. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- lengthy pretrial detention
- government corruption
- violence and discrimination against women

RESPECT FOR HUMAN RIGHTS

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

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

Since 2003 RAMSI has investigated and arrested a number of police officers and militants who allegedly had committed murder and other criminal acts, and brought them to trial (see sections 1.c. and 1.d.). At year's end prosecutions were ongoing. Arrests have included senior political figures, one of whom was a former cabinet minister charged, among other things, with being an accomplice to murder. He remained in custody awaiting trial at year's end.

At year's end a former police sergeant arrested for murder in the 2003 killing of retired police commissioner Sir Frederick Soaki, and who subsequently escaped from custody, remained at large.

In July a former police officer was convicted of murder in the 2000 death of an arson suspect detained in Rove Prison. The detainee was shot in the prison and died en route to a hospital. A former militia commander was convicted of inflicting grievous bodily harm on another suspect in the same arson case (see section 1.c.). A second former police officer was acquitted in the case.

In December 2004 an Australian Federal Police (AFP) officer attached to RAMSI was shot and killed while on patrol in Honiara. Police arrested four suspects and charged them with murder in the case; at year's end they were detained awaiting trial.

In October a Honiara court convicted three former members of the Guadalcanal Liberation Front of the 2003 murders of six members of the Melanesian Brotherhood, an Anglican religious order, and sentenced them to life imprisonment. A fourth suspect, a juvenile, was scheduled to be tried separately in 2006. In March former Guadalcanal Liberation Front leader Harold Ke'ke and two codefendants were convicted of the 2002 murder of cabinet minister Father Augustine Geve and sentenced to life imprisonment. At year's end Ke'ke faced charges on 14 additional counts of murder, scheduled for trial in 2006.

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 by the police during the year. There were a few allegations by detainees that they were mistreated by police during questioning. In October a court acquitted two RAMSI officers of wrongdoing against a local citizen. The citizen alleged that the officers mistreated him during a police search for the killer of an AFP officer (see section 1.a.).

During the year one person was sentenced to prison for burning down at least 30 houses at Marassa on the Weathercoast of Guadalcanal and committing other acts of violence against Guadalcanal residents in August 2004. Thirteen others charged in the case were in jail awaiting trial at year's end. An additional eight suspects were freed on bail and were in hiding at year's end.

Since its arrival in 2003, RAMSI apprehended and charged persons allegedly responsible for human rights abuses and other criminal acts. More than 240 persons, including approximately 40 police officers and Ke'ke and other militants, were arrested. More than 600 charges were lodged against them. Some of those arrested were tried and convicted during the year, while others were awaiting trial at year's end.

In July a former leader of the militant group Malaita Eagle Force was convicted of inflicting grievous bodily harm in the beating of a suspect in a 2000 arson case.

Prison and Detention Center Conditions.—Prison conditions generally met international standards.

In 2002 the national ombudsman found conditions at the provincial jail in Gizo to be in violation of human rights standards. In 2003 RAMSI began renovations at the provincial jails in Gizo and Auki; rehabilitation of those jails continued at year's end. Overcrowding at those facilities was alleviated by transferring persons jailed for serious offenses to the newly renovated Rove Prison in Honiara, where more space was available.

On October 14, approximately 200 inmates at Rove Prison staged a protest, reportedly demanding that the authorities provide them with television sets and more privacy for spousal visits. Violence broke out when the inmates refused to return to their cells and some attacked prison officials and police; police used pepper spray to subdue the inmates and no serious injuries were reported. In August 2004 between 100 and 200 inmates broke out of their cells at Rove Prison, occupied part of the compound, and reportedly threw stones at police. During the year the government and RAMSI completed an inquiry into the incident, but the resulting report's findings and recommendations were not made public.

Rove Prison had separate facilities for juveniles. Provincial jails did not have separate facilities for juveniles, but juveniles in long-term custody were sent to Rove Prison.

The government permitted prison visits by human rights observers, including the International Committee of the Red Cross (ICRC). The ICRC also facilitated visits to Rove Prison by family members of some prisoners.

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.—A commissioner, who reports to the minister of police, heads the police force of approximately 1,100 members. During the year an Australian police official served as commissioner on a contract funded by the Australian government.

Prior to RAMSI's arrival, the police were largely ineffectual. Corruption was a problem, and there was a lack of accountability for police officers involved in abuses. The situation improved after RAMSI's arrival. By late 2003 nearly 40 police officers, including some of senior rank, had been arrested on more than 90 charges, including murder, assault, intimidation, robbery, and inappropriate use of firearms. During the year some of the arrested officers, including two former deputy commissioners, were tried and convicted of criminal offenses and received prison terms. By year's end RAMSI had re-established 20 police stations throughout the country. The police service has an inspection unit to monitor police discipline and performance.

Arrest and Detention.—The law provides for a judicial determination of the legality of arrests. Detainees generally were informed promptly of the charges against them. Detainees have the right to counsel. The public solicitor's office provided legal assistance to indigent defendants. Detainees had prompt access to family members and to counsel. Officials found to have violated civil liberties are subject to fines and jail sentences. There was a functioning system of bail. However, delays in adjudication of the large number of cases before the courts resulted in lengthy pretrial detention for some prisoners.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial system consists of the High Court, the Court of Appeals, and magistrates' courts. RAMSI expanded the public solicitor's staff to 16, of whom 10 were foreign nationals. The number of public prosecutors increased to 10, including 7 foreign nationals. During the year four additional courtrooms were completed for the High Court and two additional High Court judges were hired.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trial procedures normally operated in accordance with British common law, with a presumption of innocence, access to attorneys, and the right to access government-held evidence, confront witnesses, and appeal convictions. Judges conduct trials and render verdicts; there are no juries. Accused persons are entitled to counsel.

Backlogs in the investigation and prosecution of cases remained a problem at year's end (see section 1.d.), but all persons in custody prior to September had initial trial dates assigned.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet.

Given the high rate of illiteracy, radio broadcasting was more influential than the print media.

In April eight secondary school students in Central Province were suspended for alleged violation of school regulations after the students complained about a lack of adequate resources at their school. A member of Parliament (MP) from the province criticized the suspension, and the students later were reinstated.

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. Demonstrators must obtain permits, which the government generally granted.

Freedom of Association.—The law provides for freedom of association, but at times the government restricted this right. The government has outlawed the principal militant groups. Other groups associated freely, and a good governance oversight group, the Civil Society Network, continued to raise issues of concern with the government.

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

The public school curriculum included 30 minutes daily of religious instruction, the content of which was agreed upon by the Christian churches; students whose

parents did not wish them to attend the class were excused. However, the government did not subsidize church schools that did not align their curriculums with governmental criteria. Although non-Christian religions theoretically can be taught in the schools, there was no such instruction in practice.

Societal Abuses and Discrimination.—The Jewish community was very small, and there were no reports of anti-Semitic acts.

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

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

The law prohibits forced exile, and the government did not use it. Native-born citizens may not be deprived of citizenship on any grounds.

Protection of Refugees.—Although a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a system for providing protection to refugees. The government cooperated with the Office of the UN High Commissioner for Refugees and the Red Cross in assisting refugees and asylum seekers, and has not returned persons to a country where they feared persecution.

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

The law provides citizens 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 persons 18 years of age and older.

Elections and Political Participation.—The 2001 national parliamentary elections were regarded as generally free and fair, although there was evidence of vote buying and of coercion by armed persons in a number of constituencies. On several occasions since independence, changes of government resulted from either parliamentary votes of no confidence or the resignation of the prime minister.

Traditional male dominance limited the role of women in government. There were no women in the 50-member Parliament. Three women served as permanent secretaries in the government.

There were three members of minorities (non-Melanesians) in Parliament, two of whom were in the cabinet. In addition, one of the prime minister's advisors was a member of a minority group. During the year an indigenous chief in Gela criticized other local leaders for supporting the candidacy of an ethnic Chinese for Parliament in the 2006 national elections rather than an indigenous candidate. However, in response, another chief in Gela supported the right of ethnic minorities to run for Parliament.

Government Corruption and Transparency.—Government corruption and impunity in both the executive and legislative branches were serious problems, compounded by the breakdown in law and order that resulted from the ethnic conflict. During the year RAMSI continued to work with the government and nongovernmental organizations (NGOs) to reform the public service, including financial support and administrative reorganization of existing "watchdog" agencies such as the auditor general and the ombudsman's office. Despite this progress the government declined to implement a RAMSI proposal to establish an independent leadership integrity commission. During the year a number of provincial officials and community leaders attended workshops on good governance.

During the year corruption-related charges were lodged against a number of current and former government officials. In February the prime minister replaced two cabinet ministers charged with corruption-related offenses, including the minister of police. In October the minister of health was charged with theft of development aid funds and was released on bail pending trial. During the year a former East Honiara MP and a former cabinet minister charged, respectively, in October 2004 and in January with official corruption involving the granting of certificates of naturalization to Chinese nationals were acquitted due to lack of sufficient evidence. The government appealed the cases to the High Court; a hearing was scheduled for early 2006.

According to an audit performed by the auditor general and reported to Parliament in November, nearly \$800 thousand (SI\$6 million) of a loan from the Taiwan export-import bank for compensation payments to persons whose property was damaged during the period of ethnic tensions was unaccounted for, and many of the claims submitted were either excessive or entirely false. The auditor general stated that the then finance minister was informed of the audit results in 2004 but took

no action on them; the former finance minister asserted that action on the matter would have been divisive.

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

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

The law provides for an ombudsman, with the power to subpoena and to investigate complaints of official abuse, mistreatment, or unfair treatment. While the ombudsman's office has potentially far-ranging powers, it was limited by a shortage of resources. It organized occasional workshops and undertook a few tours during the year.

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

The constitution provides that no person—regardless of race, place of origin, political opinion, color, creed, 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 this tradition-based society. Unemployment was high, and there were limited job opportunities for persons with disabilities.

Women.—Although statistics were unavailable, incidents of domestic violence appeared to be common. The law does not address domestic violence; however, there are provisions against common assault and rape. In the rare cases of domestic abuse that were reported, charges often were dropped by the victims before the court appearance or the case was settled out of court. The magistrates' courts dealt with physical abuse of women as with any other assault, although prosecutions were rare. In part due to the breakdown in law and order and the lack of an effective, functioning police force after June 2000, women and teenage girls in particular were vulnerable to abuse, including rape. Following RAMSI's arrival rape charges were brought against a number of persons. As part of a new police curriculum, officers were given specialized training on how to work with victims of rape.

According to a 2004 study by Amnesty International, violence against women, including rape and domestic abuse, remained a serious problem, with nearly 200 rapes reported to police in the first 6 months of 2004. 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. To combat the problem, in May the police established a sexual assault unit, staffed mostly by female officers, and NGOs conducted awareness campaigns on family violence during the year. There were two church-run facilities for abused women and an NGO-supported family center that provided counseling, legal assistance and other support services for women.

Prostitution is illegal, but the statutes were not enforced. There is no law against sex tourism specifically, although such offenses could be prosecuted under laws against prostitution. There were some press reports of sex tourism during the year, but no specific cases were reported to the police.

Sexual harassment is not prohibited by law and was a problem.

The law accords women equal legal rights, including the right to own property. However, in this traditional society, men are dominant and women are limited to customary family roles. This situation has prevented women from taking more active roles in economic and political life. A shortage of jobs also inhibited the entry of women into the work force. The majority of women were illiterate; this was attributed in large part to cultural barriers. The National Council of Women and other NGOs attempted to make women more aware of their legal rights through seminars, workshops, and other activities. The government's Women's Development Division also addressed women's issues.

Children.—Within the limits of its resources, the government was committed to the welfare and protection of children. During the year major foreign assistance helped to bolster the educational system, which had languished over the previous several years. With foreign assistance, all of the country's schools were operating at year's end, and an additional 200 classrooms were being built. However, education was not compulsory, and high school fees severely limited attendance at secondary and tertiary institutions. A higher percentage of boys than girls attended

school. During the year primary school fees were eliminated, and reports indicated that most children at the primary school level were attending school, a significant improvement compared with past years, when less than 60 percent were enrolled. All medical care for children was free; however, the lack of resources seriously reduced the quality and availability of medical care.

The law grants children the same general rights and protections as adults. Existing laws are designed to protect children from sexual abuse, child labor, and neglect. Children generally were respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services, although some cases of child abuse were reported. Virtually no children were homeless or abandoned.

Both boys and girls may legally marry at age 15, and the law permits marriage at age 14 with parental and village consent. Marriage at such young ages did not appear to be common; however, a church worker reported cohabitation and sometimes marriage between young girls and foreign loggers on Makira island. Reportedly the loggers often abandoned the girls when they moved on to another village.

Several hundred children (generally boys) under the age of 18 were active combatants during the ethnic conflict or assisted in militants' camps. Many of these underage militants joined criminal gangs immediately following the conflict, but most have returned to their villages and reentered civil society. However, some unemployed youth in urban areas were involved in petty crime.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There is no law or national policy on persons with disabilities, and no legislation mandates access to buildings for such individuals. Their protection and care are left to the traditional extended family and NGOs. 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.

The Ministry of Home Affairs is responsible for protecting the rights of persons with disabilities.

The country had one educational facility for children with disabilities, which was supported almost entirely by the Red Cross. An education unit at the College of Higher Education, staffed by Australian volunteers, trained teachers in the education of persons with disabilities. Such training was compulsory for all student teachers at the college. Persons with mental disabilities were cared for within the family structure; there were very limited government facilities for such persons. In late 2004 the Kilufi Hospital in Malaita opened a 10-bed ward for the treatment of psychiatric patients.

National/Racial/Ethnic Minorities.—The country is composed of more than 27 islands with approximately 70 language groups. In the precolonial era these groups existed in a state of continual warfare with one another, and even today 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. Over the past century, and particularly since World War II, many persons from the poor, heavily populated island of Malaita settled on Guadalcanal, the island on which the capital of Honiara is located. The tensions and resentment between the Guadalcanalese and the Malaitans on Guadalcanal culminated in violence beginning in 1998, when Guadalcanalese militants began a campaign of threats and intimidation against Malaitans on Guadalcanal. Civilians were the victims of abuses by both sides. Ethnic tension between Malaitans and Guadalcanalese was greatly reduced with the presence of RAMSI in the country, although underlying problems between the two groups remained to be addressed, including issues related to jobs and land rights.

There was occasional societal discrimination against ethnic Chinese.

Other Societal Abuses and Discrimination.—Same-sex relationships are illegal, and persons engaged in same-sex relationships are often the subject of societal discrimination.

Section 6. Worker Rights

a. The Right of Association.—The law implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights, and workers exercised them in practice. Only about 10 to 15 percent of the population participated in the formal sector of the economy. Approximately 60 to 70 percent of wage earners were organized (approximately 90 percent of employees in the public sector and 50 percent of those in the private sector).

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and to bargain collectively, and unions exercised these rights. Wages and conditions of employment are 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. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

The law permits strikes. Private sector disputes usually were referred quickly to the TDP for arbitration, either before or during a strike. In practice the small percentage of the work force in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating.

During most of the year the longstanding standoff continued between the National Union of Workers and the Russell Islands Plantation Estate, Limited (RIPEL), and the TDP had the dispute under review. In December the workers' strike ended after an agreement was reached with RIPEL's owners. Approximately 12 persons were charged with willful destruction of company property and were awaiting trial at year's end.

The law protects workers against antiunion activity, and there were no areas where union activity was officially discouraged.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and normally, except as part of a court sentence or order, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law forbids labor by children under the age of 12, except light agricultural or domestic work performed in the company of parents. Children under age 15 are barred from work in industry or on ships; those under age 18 may not work underground or in mines. The commissioner of labor is responsible for enforcing child labor laws, but few resources were devoted to investigating child labor cases. Given low wages and high unemployment, there was little incentive to employ child labor.

e. Acceptable Conditions of Work.—The minimum wage rate is US \$0.20 (SI\$1.50) per hour for all workers except those in the fishing and agricultural sectors, who receive \$0.17 (SI\$1.25). The legal minimum wage did not provide a decent standard of living for an urban family living entirely on the cash economy. However, most families were not dependent solely on wages for their livelihoods.

The law regulates premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to 6 days per week. There are provisions for maternity leave and for premium pay for overtime and holiday work.

Both an active labor movement and an independent judiciary provided enforcement of labor laws in major state and private enterprises. The commissioner of labor, the public prosecutor, and the police are responsible for enforcing labor laws; however, they usually reacted to complaints rather than routinely monitoring adherence to the law. The extent to which the law was enforced in smaller establishments and in the subsistence sector was unclear. Safety and health laws appeared to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

THAILAND

Thailand is a democratically governed constitutional monarchy, with a population of more than 65 million. The king exerts strong informal influence but has never used his constitutionally mandated power to veto legislation or dissolve the elected bicameral parliament. On February 6, there were multi-party elections for the lower house of parliament. Incumbent Prime Minister Thaksin Shinawatra's party, Thai Rak Thai, won an overwhelming victory, and following October by-elections held 375 of the 500 seats. The election process was viewed as generally free and fair, but marred by widespread vote buying. The civilian authorities generally maintained effective control of the security forces; however, there were instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were significant problems in some areas. Separatist violence against government authorities and civilians continued in the southern provinces of Narathiwat, Yala, Pattani, and Songkhla. Martial law was in effect in some or all of these provinces until July 16, when it was replaced by the emergency decree, which gave the government significant powers to restrict certain basic rights and delegates certain internal security powers to the armed forces. The violence and increased security measures led to occasional clashes with the police and to growing resentment among the local populace in the affected region. The media, while still vigorous, continued to be targeted by lawsuits both against individuals and against media outlets. A significant number of court rulings were seen as positive developments for the protection of fundamental human rights. The following human rights problems were reported:

- arbitrary and unlawful killings by both security force personnel and insurgents as well as deaths in police custody
- torture and excessive use of force by police
- poor conditions in some prisons and immigrant detention facilities
- arbitrary arrest and prolonged detention without charge
- impunity for human rights abusers
- intimidation of the press leading to self-censorship
- widespread corruption
- violence and discrimination against women
- trafficking in persons
- discrimination against hill tribes and other minorities
- inadequate protection of worker rights
- forced labor and child labor
- mistreatment of foreign migrant workers

Violence by ethnic Malay separatist insurgents in the southern part of the country against symbols and representatives of government authority as well as against civilians resulted in hundreds of killings in the provinces of Narathiwat, Yala, Pattani, and Songkhla.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports of politically motivated killings by the government or its agents; however, security forces continued to use excessive, lethal force against criminal suspects and committed or were connected to numerous extrajudicial, arbitrary, and unlawful killings.

On June 17, Phra Supoj Suwajano, an environmental advocate, was stabbed to death, after he exposed a log-poaching network in Chiang Mai Province. Phra Supoj and other local monks had received death threats. Nobody has yet been held responsible for Phra Supoj's murder. Police said the investigation was ongoing. Nongovernment organizations (NGOs) criticized the police for ignoring a number of leads and possible connections to a government official.

On August 29, Satopa Yushoh, an imam in Narathiwat Province was shot and killed by unknown attackers. Before dying, Satopa reportedly said he had been shot by government soldiers.

On October 3, three ethnic Karen suspects who had been arrested for amphetamine possession were found dead, hung by their shoelaces, in their jail in Chiang Mai Province. Police ruled the deaths suicides, although NGOs argued this was physically impossible. On November 19, another detainee allegedly hanged himself in the same prison.

In April 2004 elements of the police and military killed more than 100 persons while repelling multiple attacks in Yala, Pattani, and Narathiwat provinces by unnamed separatist Muslim men. Of this total, 32 were killed at Krue Se mosque in Pattani, when security forces stormed the mosque after a nine-hour standoff. According to an official independent commission report on the Krue Se mosque incident, the commander on the scene ordered the raid after failed negotiations and the deaths of three soldiers. Civilian authorities in Bangkok, including the deputy prime minister in charge of security, claimed that the raid was conducted without their approval. The commission concluded that force was used when negotiations would have been more appropriate and that the level of force employed was excessive.

In September 2004 Iimin Nehlae reportedly was shot and killed while under control of paramilitary rangers. Four paramilitary soldiers were charged with murder. At year's end the case was being prosecuted in the Yala Provincial Court.

In October 2004 78 Muslim detainees being transported to an army camp after a violent demonstration in Tak Bai, Narathiwat Province, died from asphyxiation after police and military forces stacked them horizontally onto truck beds for transport. In December 2004 an independent commission reported that three senior security officials, including the 4th Army commanding general, failed to properly perform their duty and responsibility to monitor their subordinates in transporting detainees in a humane manner. The commission stated that seven persons remained missing. The commission suggested no legal action or punitive measures, but the government directed the Ministry of Defense to conduct a military disciplinary investigation of the three senior officers cited in the report, and it also directed the police to conduct a criminal investigation. Three generals were placed in inactive status, but no police or military personnel were prosecuted for these actions. The government paid compensation to the families of the Tak Bai victims.

There were approximately 1,300 extrajudicial killings of suspected drug traffickers during the government's "War on Drugs" campaign in 2003, and more than one thousand investigations into these cases. By year's end most were closed, due to "a lack of evidence." Many cases were settled out of court, with officers paying compensation to the family of the deceased. The government maintained that the deaths resulted from disputes between those involved in the drug trade. Local and international human rights groups, including the National Human Rights Commission (NHRC), disputed this claim. In addition senior prosecutors and NGO legal associations claimed that most cases against police or military officers accused of extrajudicial killings eventually were dismissed because regulations outlined in the criminal code require public prosecutors to rely exclusively upon the recommendations of the police when determining whether to bring a case for criminal prosecution.

Procedures for investigating suspicious deaths, including deaths occurring in police custody, required among other things that the prosecutor, a forensic pathologist, and a local administrator participate in the investigation and that family members have legal representation at the inquests. However, these procedures often were not followed. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrest.

According to the Ministry of Interior's Investigation and Legal Affairs Bureau, during the first 9 months of 2004, 1,632 persons died in prison or police custody, 131 due to the actions of police officers (see section 1.c.). Authorities attributed most of these deaths to natural causes. Following an investigation into the 2003 death of a detainee at the Kanchanaburi police station, the provincial public prosecutor charged a police corporal with murder; the trial continued at year's end.

No one was charged in the 2003 deaths of detainees in the Muang Surathani police station, despite an aggressive investigation by the NHRC, which suspected that the victims died from beatings by policemen. The victims' cellmates were charged with murder; their case was referred to the criminal court, but no progress was made during the year.

No further action was taken in the in June 2004 case of environmental activist Charoen Wataksorn, who was shot and killed while returning home after testifying in parliament. Five persons were charged in connection with his killing, including a provincial official. All charges were dropped except for those against the gunmen who remained in custody at year's end.

During the year, 10 political canvassers were killed in the period before the February parliamentary elections. At least three others were killed in the period prior to subdistrict (*tambon*) elections in August. Police investigations indicated that many of incidents were "politically motivated," but in some cases personal or business disputes were the suspected motive.

A number of journalists were killed during the year. On February 2, unknown person(s) killed Phruttiphong Marohabut, a cameraman for iTV in Pattani Province. On February 14, Kiat Saetang, the outspoken managing editor of the local *Hat Yai Post* was shot and killed by two unknown gunmen in Pattani Province. On June 1, Manop Ratanajaroongporn, a stringer for *Matichon*, was shot by unknown gunmen in Phang Nga Province. On November 2, Santi Lamaneenil, owner of the *Pattaya Post* and freelance reporter, was found dead, blindfolded, and bound (see section 2.a.).

In September 2004 three gunmen shot and killed Pattani provincial court judge Rapin Ruankaew on his way to work. Police arrested a student of a local *pondok* Islamic school. Three other alleged accomplices remained at large. In January police

claimed they had broken up a "cell" responsible for the killing. By year's end no further developments in the case were announced.

On September 29, a former village headman and four subordinates were sentenced to death for the 2003 killings of six Burmese migrant workers in Mae Sot. The defendants appealed the sentence.

Separatist violence against government and religious representatives, including teachers, monks, and court officials occurred throughout the year. Among the most notable incidents were the detonation of a car bomb on February 17th, and a train derailment on October 24th. Bombings and targeted killings, sometimes in public areas, resulted in death and injury.

On September 20, ethnic Malay villagers in Narathiwat Province took two marines, whom they believed had been involved in the murder of two civilians earlier that day, hostage. While women and children prevented security forces from entering the village, the two marines were tortured and killed. A total of 34 persons were arrested in connection with the killing, although a number subsequently were released.

According to the Thailand Mine Action Center, through August 31, 3 persons were reported killed and 21 injured by landmines in border areas. Some of these incidents were caused by landmines from former conflicts on the Laotian and Cambodian borders, while others were attributed to recent conflicts on the Burmese border.

b. Disappearance.—NGOs expressed great concern over reported disappearances in the southern provinces. In many cases the persons disappeared allegedly after being questioned by security officials. Estimates of the number of disappeared varied widely but appeared to be more than 50, mostly Muslim men.

On March 21, the trial of five police officers charged in the March 2004 robbery and abduction of Muslim attorney and human rights activist, Somchai Neelapaijit, began. Somchai had represented a number of Muslim defendants accused of antigovernment activities. Following their arrest in connection with the disappearance the five officers were placed on administrative leave. However, at least one of the five resumed active duty during the trial, and there were allegations that the defendants had access to information compiled by the police investigation. There were allegations that witnesses were intimidated, and Somchai's wife also received threats. The trial concluded in December, and a verdict was scheduled to be announced in early 2006. Somchai was presumed dead.

There were no developments in the June 2004 abduction of Sukip-li Asae in Narathiwat, allegedly by five police officers.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, NGOs and legal organizations continued to report that some members of the police occasionally tortured and beat suspects to obtain confessions. During the year there were newspaper reports of numerous cases in which citizens accused police of using brutality, threatening false charges, and extorting bribes. Investigations were undertaken in most of the cases, including several in which the accused police officers were suspended pending the results of internal investigations.

A Thai senator, testifying as a character witness at the trial of four Muslim suspects accused of membership in Jemaah Islamiya, said that while in police custody bags were put over the suspects' heads, and they were beaten on the back and the abdomen. The four were acquitted by the criminal court in June and released from custody. Police opened an internal investigation, but at year's end no criminal charges had been filed.

On October 15, in Tak Province, a police officer said to be drunk at the time forced his way into a home, threatened and beat an older woman, and allegedly tried to rape an 18-year-old Burmese migrant worker. The policeman reportedly had previously extorted money from the girl. The two women returned to Burma, but a complaint was lodged on their behalf with the NHRC.

In March 2004 five suspects in the 2004 Narathiwat military camp raid alleged that police beat and administered electric shocks to them in order to obtain confessions. The suspects filed a formal complaint with the Ministry of Justice through their lawyer, Somchai Neelapaichjit, who subsequently disappeared and was presumed dead (see section 1.b.). Police opened an internal investigation of the officers suspected of abuse, but at year's end no criminal charges had been filed.

There were no reported developments in the internal police investigation into the November 2004 claim by a married couple that they were beaten and robbed while under detention for 102 days without charge at the Lumpini police station in Bangkok.

In November 2004 police in Ayutthaya Province reportedly beat and applied electric shock to a man's genitals to coerce a confession after arresting him for sus-

pected robbery; 23 members of the police were transferred to Bangkok in connection with the incident, pending an internal police investigation. In December the complainant reportedly withdrew his complaint following an out-of-court settlement.

Prison and Detention Center Conditions.—Prison conditions were poor and severely overcrowded. The prison population of approximately 168 thousand inmates was held in 139 prisons and detention centers designed for 111 thousand prisoners. Sleeping accommodations were insufficient. Medical care was inadequate and communicable diseases were widespread in some prisons. The number of full-time medical professionals increased significantly in 2004. The corrections department employed 17 full-time doctors, 309 full-time nurses, and 6 full-time dentists. There were also a small number of part-time doctors to supplement the permanent medical staff. Prisoners who are seriously ill now may be transferred to provincial or state hospitals. A 500-bed hospital at Klong Prem Prison opened during the year.

Prison authorities sometimes used solitary confinement of not more than three months to punish difficult male prisoners who consistently violated prison rules or regulations. They also used heavy leg irons to control prisoners who were deemed escape risks and often for prisoners serving life sentences or on death row. There were unconfirmed reports that in some institutions designated prisoners were authorized to discipline other prisoners.

Approximately 23 percent of the total prison population were pretrial detainees, who were not segregated from the general prison population. Men, women, and children often were held together in police station cells pending indictment. During the year the government opened a number of juvenile detention centers, and at year's end separate facilities for juvenile offenders were available in 64 of the country's 76 provinces; but in some regions of the country, juveniles were detained with adults. An additional 12 facilities were scheduled to be opened in 2006.

Conditions in Bangkok's Suan Phlu immigration detention center met minimum international standards; however, conditions in nine provincial detention centers remained poor. Immigration detention facilities were administered by the Immigration Police Bureau, which reported to the Office of the Prime Minister and were not subject to many of the regulations that governed the regular prison system. There were credible reports that guards physically abused detainees in some detention centers. Overcrowding and a lack of basic medical care continued to be serious problems.

Access to prisons was not restricted, and the government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC).

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily.

Role of the Police and Security Apparatus.—The Royal Thai Police (RTP) is under the direct supervision of the prime minister and a 20-member police commission. The RTP consisted of approximately 213 thousand officers in 10 geographic regions. The police commissioner-general is appointed by the prime minister and subject to cabinet and royal approval. The border patrol police have special authority and responsibility in border areas to combat insurgent or separatist movements.

Corruption remained widespread among police officers. Police officials complained that low pay made them susceptible to bribes. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. Complaints of police abuse can be filed directly with the superior of the accused police officer, the Office of Inspector General, or the police commissioner-general. The NHRC, the Law Society of Thailand, the National Counter-Corruption Commission (NCCC), and the Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsmen. When the police department receives a petition, an internal investigation committee first takes up the matter and may temporarily suspend the officer during the investigation. Various administrative penalties exist, and serious cases can be referred to the criminal court. In 2004 the police inspector general received 77 petitions alleging police abuse or corruption. In nine cases officers were found guilty, and disciplinary or administrative punishments were applied. In 2004 the NCCC received 157 petitions alleging police abuse or corruption. No figures were available on actions taken by the NCCC on these complaints. The RTP increased professional training at the main branch of the Police Cadet Academy and at provincial police training schools.

Some police officers were involved in prostitution and trafficking in women and children (see section 5). In August 2004 after an internal investigation, the police department reinstated four police colonels who had been removed from active duty in 2003 for allegedly accepting financial and sexual bribes. The status of approximately 40 other officers involved in this case remained publicly unknown.

Arrest and Detention.—In practice the system for issuing arrest warrants was subject to misuse by police officers who provided false evidence to courts to obtain arrest warrants. By law persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. The law provides for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that local police often ignored this and conducted interrogations without providing access to an attorney. Foreign prisoners sometimes were pressured to sign confessions without the benefit of a competent translator.

Under normal conditions the law requires the police to submit criminal cases to prosecutors for the filing of court charges within 48 hours of arrest, with extensions of up to three days permitted. Police may seek court permission to hold suspects for additional periods (up to a maximum of 82 days for the most serious offenses) to conduct investigations. 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. Lawyers reported that police rarely brought cases to court within the 48-hour period. As in previous years, several Burmese activists were arrested and held, generally on immigration violation charges. In January three Burmese workers for NGO World Visions' Burma branch were rounded up, beaten, and detained in an iron cage by armed vigilante groups, including a village chief. A fourth worker (a Thai national) was beaten while trying to negotiate their release. The three were eventually released.

The law provides defendants the right to bail, and the government generally respected this right. However, some human rights groups reported that police frequently did not inform detained suspects of their right to bail or refused to recommend bail after a request for bail was submitted.

Pretrial detention of criminal suspects for up to 60 days was common. Some persons from countries without diplomatic representatives in the country faced trial delays of many months.

The emergency decree in effect in Yala, Narathiwat, and Pattani provinces, plus parts of Songkhla, allowed authorities to arrest and detain suspects for up to 30 days without charge. After the expiration of these 30 days, authorities could begin holding suspects under normal criminal law. Unlike martial law, these detentions required the consent of a court of law. According to newspaper reports, 60 persons were arrested under these provisions as of October, of whom 19 were indicted.

Amnesty.—In December in honor of the king's birthday the government released 442 prisoners. In August 2004 in honor of the Queen's birthday, 12 thousand prisoners were released and 30 thousand more were released over the next two months. The freed prisoners were nonviolent offenders with less than a year remaining on their sentences.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, while the judiciary generally was regarded as independent, it was subject to corruption and outside influences. The legal system has made progress in recent years, particularly with regards to civil and commercial disputes, and outside observers increasingly see the judiciary as impartial, fair, and neutral.

In addition to an independent constitutional court, the civilian judicial system has three levels of courts: courts of first instance, courts of appeal, and the Supreme Court. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law. The constitutional court is charged with interpreting the constitution. Islamic (Shari'a) courts hear only civil cases concerning members of the Muslim minority. The law provides for access to courts or administrative bodies to seek redress, and the government generally respected this right.

Trial Procedures.—There is no trial by jury. A single judge decides trials for misdemeanors; two or more judges are required for more serious cases. New court procedures enacted in January 2004 have alleviated delays somewhat. However, a large backlog of cases remained, and trials could still drag on for months or even years. 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. Justices nominated to the constitutional court or Supreme Administrative Court must be confirmed by the Senate; all other judges are career civil servants whose appointments are not subject to parliamentary review.

The law provides for the presumption of innocence. In ordinary criminal courts, defendants enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program provided free legal advice to the poor, but indigent defendants were not provided with counsel at public expense automatically. The court was required to appoint an attorney in cases where the defendant was a minor

and in cases where possible punishment was imprisonment. Most free legal aid came from private groups, including the Law Society of Thailand and the Thai Women Lawyers Association. There is no discovery process, so lawyers and defendants do not have access to evidence against them prior to the trial.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—With limited exceptions, the law prohibits such actions, and the government generally respected these prohibitions in practice. With a few exceptions, including crimes in progress, police are required to obtain a warrant from a court prior to conducting a search. The law provides standardized procedures for issuing warrants.

Police continued to conduct warrantless searches for narcotics in villages in the northern provinces. Such operations are permitted in cases in which there is reasonable suspicion and an urgent search is deemed necessary. Some academic groups claimed that the searches were arbitrary and violated civil rights.

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

Members of indigenous hill tribes continued to face forced evictions and relocation. Due to lack of proof of citizenship and land ownership, they were forced to move from areas they had cultivated for decades. Conflicts occurred when the land on which they lived was converted to forest conservation areas. In July 2004 200 armed forestry and border patrol police officers raided Palong Pang Daeng Village in Ching Dao District and arrested at least 48 residents for encroachment on a forest conservation area. The villagers lodged a complaint with the NHRC and the Law Society of Thailand. According to a member of the law society, the village was established more than 20 years ago and had a waterworks, electricity, and primary school. The law society bailed out all 48 detainees in September 2004. Court hearings in the case are scheduled to begin in 2007.

According to the Asian Centre for Human Rights, in July and August 2004 the government embarked on a “New Model of Forested Villages” project covering approximately 10,866 villages in 70 provinces. Under this project land that tribal villagers had cultivated for more than a hundred years was declared state land, and the indigenous hill tribes became illegal trespassers and faced forcible eviction and other penalties.

Following the December 2004 tsunami, there were numerous attempts by private parties to evict persons from land that they had been occupying for decades. Within days after the tsunami, some returning residents found their land had been occupied by companies or marked with signs declaring it illegal to rebuild or repair damaged homes. Local authorities and companies maintained that the residents had never officially acquired ownership of the land. In December the NHRC released a statement that the residents of three villages in Phang Nga Province should be allowed to return to their homes and that the claims of a private company to the land were invalid.

The government ordered the “Urban Burmese,” illegal Burmese migrants working in cities, to relocate to refugee camps on the Thai-Burma border, or face arrest and deportation (see section 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law, with some exceptions, provides for freedom of speech and of the press, and, while individuals could criticize the government publicly and privately without official reprisal, the government continued to pressure those in the media with dissenting views. Threats of libel suits encouraged self-censorship. The government and its allies owned all the major broadcast media, and large shares of the newspaper sector. A prominent community radio station critical of the government had its transmitter confiscated and its staff threatened with arrest. Two political Internet sites were shut down as part of the nation’s Internet censorship efforts. The courts continued to issue rulings that helped protect press freedoms.

By law the government may restrict freedom of speech and freedom of the press to preserve national security, maintain public order, preserve the rights of others, protect public morals, and prevent criticism of the royal family and insults to Buddhism.

The government may restrict print or broadcast media by specific legislation in times of crisis, such as the emergency decree imposed in July. 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.” The emergency decree also authorizes the government to censor newspapers and ban publications, although these powers have not been used.

Print media criticism of political parties, public figures, and the government was common and vigorous. Journalists generally were free to comment on government activities without fear of official reprisal. However, beginning on October 3, the prime minister filed a series of six civil and criminal libel suits against the *Manager* newspaper, its founder, Sondhi Limthongkul, an outspoken critic of the government, and his associates. Total damages sought were more than \$50 million (two billion baht). The lawsuits were withdrawn on December 6, following disapproving remarks by the king. On November 3, a bomb exploded outside the compound of Manager Media Group, publisher of the *Manager*. Police stated that the attack could have been an attempt to threaten Sondhi Limthongkul. At year's end the identity of the bomber remained unknown. The Shin Corporation, owned by the prime minister's family, had a separate libel suit against media activist Supinya Kangnarong that was still pending at year's end.

The media routinely practiced self-censorship, particularly with regard to the monarchy and issues involving national security. Self-censorship, particularly in the broadcast media, was also evident due to fear of political or economic repercussions, such as reassignment to other duties in a publication, termination of a broadcast program, loss of advertising, politically motivated libel suits, or removal from a role in the production or presentation of a broadcast program. There were credible reports that the political opposition had difficulty getting broadcast time due to fears of offending the government.

There were concerns regarding the independence of the press. In October the executive director of the Southeast Asian Press Alliance said that the prime minister was making the country one where the press was suddenly under a "dark cloud." In November the international NGO Asian Human Rights Commission said that "threats to emerging independent media have increased dramatically." In December Human Rights Watch said that "intimidation, fear, and censorship still permeate the Thai media." According to NGOs, including the Thai Journalists Association, the government used various means to increase control over the media, including direct control through ownership, the threat of withdrawing financial support and advertisements, constraints on the flow of information, and direct pressure on critical journalists and activists.

The government and its allies continued to own large stakes in many prominent newspapers.

State entities controlled and owned almost all radio and television stations. The government owned and controlled 524 officially registered "regular" AM and FM stations while the military and police services retained ownership of 230 radio stations, ostensibly for national security purposes. Other owners of national broadcast media included the government's Public Relations Department (PRD). Almost all of the stations were leased to commercial companies.

Television and radio stations must renew their licenses every year, and radio signals were broadcast via government transmitters. Stations are required by law to broadcast 30-minute government-produced newscasts twice daily. Community radio stations operated under somewhat different regulations. The Shin Corporation, which belonged to Prime Minister Thaksin's family, owned iTV, which continued to be the country's only nonstate-owned television station. On March 9, the Supreme Court ordered iTV to rehire and provide back pay to 21 newsroom staff fired in 2001 for protesting alleged government interference at the station.

The seven-member National Broadcast Commission tasked with reallocating all broadcast frequencies and regulating the broadcast media remained in limbo. On November 23, the Central Administrative Court ruled that conflicts of interest and the lack of qualifications of one of the designated commissioners made the selection process illegal. The government appealed the ruling.

Between two thousand to three thousand community radio stations also operated in Thailand. Because broadcast regulations restrict radio frequencies to government entities, these stations technically operated outside the law. A 2003 state community radio policy allowed the stations to continue "extralegal" operations until laws and regulations were amended. However, in December 2004 the PRD warned that all unregistered community radio operators could be arrested after February. As of May only 1,793 had registered; most however have been allowed to continue broadcasting.

During the year the government closed 17 community radio stations including one that was notably critical of the government. In May the PRD ordered community radio station FM 92.25 to lower its broadcast antenna and reduce its signal to conform to national broadcasting laws. Other community radio stations with similar signals were not so ordered. Anchalee Paireerak, a prominent political commentator and a host at the station, believed the station was targeted because of its criticism of the government. On June 20, the government closed the station's Web site. On

June 23, Anchalee announced she was quitting the station, citing government harassment and threats to her personal safety from unknown individuals. On August 9, 30 officers from 3 government agencies raided the radio station and confiscated its transmitter, asserting that the station continued to violate broadcast regulations. Later that month, the station resumed broadcasting over the Internet, and allied stations rebroadcast the programming over the FM 92.25 frequency.

On February 2, Phruttiphong Marohabut, a cameraman for iTV was killed in Pattani Province. No motive was known. On February 14, Kiat Saetang, the outspoken managing editor of the local *Hat Yai Post* was shot and killed by two unknown gunmen in Pattani Province. His family and the Thai Journalists Association believed he was killed because he had exposed a number of corrupt politicians. On June 1, Manop Ratanajaroongporn, a stringer for *Matichon*, who had reported on corruption, including illegal logging in the region, was shot by unknown gunmen in Phang Nga Province. There have been a number of indictments in connection with the logging scandal; however, no one has been charged with the shooting. On November 2, Santi Lammaneevil, owner of the *Pattaya Post* and freelance reporter, was found dead, blindfolded and bound. He had recently reported on illegal operations in late-night entertainment venues, which police told reporters, may have been a contributing factor in his death. The case was still under investigation at year's end.

The police Special Branch informally requested media outlets to be cautious when reporting sensitive political or social issues, including news that could affect national security negatively. Although these requests had no legal standing, they may have inspired self-censorship. In September television channel 9 received an official letter from the police Special Branch instructing it to cancel a popular politically oriented program ostensibly because the program had mischaracterized the view of the monarchy. The government denied direct involvement in the show's cancellation. The show's host, Sondhi Limthongkul, moved his program to a satellite television station with a limited audience. Opposition members of parliament (MPs) filed a petition with the national ombudsman regarding this incident.

The law permits police closure of newspapers or printing presses in times of war or national emergency, but only with a court order. The law and the emergency decree also allow police to restrict or confiscate publications and other materials for disturbing the peace, interfering with public safety, or offending public morals. No such closures or seizures occurred during the year, nor did the police Special Branch issue any official warnings. Police have the authority to ban the importation of publications but did not exercise it.

In November the Ministry of Culture reportedly ordered bookstores to stop selling a popular travel guide and warned that anyone selling the book could be subject to fine or imprisonment. By year's end some bookstores reportedly had resumed selling the book.

Self-censorship appeared to have increased. Media and NGOs continued to point to a February 2004 case in which the management of the respected English-language *Bangkok Post* removed its editor via promotion. While the *Post* insisted the change was motivated by business concerns, many media insiders believed the move was occasioned by the editor's sometimes critical stance towards the administration.

There were reports that the government attempted to intervene with the editorial departments of other newspapers via pressure on the newspapers' advertisers or allies to end their support if the newspapers continued to be critical of the government. Advertisers reportedly received phone calls from "persons in power" questioning why they would choose to advertise in newspapers critical of the government, and advertising revenue considerations were believed to have compromised editorial independence. One newspaper reported attempted intimidation through frequent and intrusive inspections by revenue officials. In 2004 the Thai Journalists' Association claimed some newspapers reconsidered criticism of government figures who purchased advertising or controlled the advertising placements of large government-owned entities.

The Shin Corporation's libel suit against Supinya Klangnarong, secretary general of the NGO Campaign for Popular Media Reform, for a story Supinya wrote in 2003 that claimed the corporation benefited financially from the policies of the prime minister went to trial in July. In August two foreign defense witnesses were prevented from testifying when the prosecution said it did not trust the interpreter. The trial phase concluded on December 21, and a verdict was expected in 2006. The Shin Corporation also filed a \$10 million (400 million baht) civil suit against the *Thai Post* newspaper and its three editors alleging that the newspaper hurt the company's reputation.

In December 2004 a criminal court found Prasong Soonsiri, a former foreign minister and opposition columnist, not guilty of defaming four constitutional court

judges for criticizing their 2001 verdict acquitting Prime Minister Thaksin of asset concealment.

Cultural events were censored, usually for reasons of public decency. Under the 1930 Film Act, theater owners and broadcasters must submit films they plan to show to the film censorship board for review. The board may ban a film if offending portions are not deleted. Reasons for censoring films include violating moral or cultural norms and disturbing the public order or national security. Theater owners and broadcasters frequently censored films themselves before submitting them to the board. According to the board, no films have been banned since 2003, when four films were banned. Officers at the censorship board cited sexual situations and nudity as the main reasons for banning the four films. Some songs with offensive lyrics were banned from radio and television, although not from live performances.

On June 21, the government closed the Web sites of anticorruption activist Ekkayuth Anchanbutr and of community radio station FM 92.25. Both were notably critical of the prime minister and the government. On December 15, Ekkayuth's Web site was briefly shut down a second time after it featured an apparently false rumor regarding the personal life of a political figure.

Government censorship of the Internet began in 2003. Most banned Web sites featured pornography or offered illegal products. The cyber inspector team, which is under the information and communications technology ministry, is responsible for censorship. The government distributed a blacklist of approximately four thousand Web sites, both domestic and foreign, to government and private internet service providers (ISPs) to be blocked. Compliance by the ISPs in blocking routine access to these Web sites was universal.

Following violence in the south, the government enhanced efforts to block Web sites viewed as threatening to national security. In August 2004 a press report said authorities blocked access to the Pattani United Liberation Organization Web site, which advocated Muslim separatist ideas and violence. Internet providers enforced the ban, informing their customers that they had blocked access to the Web site.

The government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The emergency decree allows the government to limit freedom of assembly, but this provision was not used during the year.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, it restricted the activities of some groups. The constitution requires that the monarch be a Buddhist. The state religion in effect is Theravada Buddhism; however, it is not designated as such.

The government played an active role in religious affairs. The religious affairs department, which is located in the Ministry of Culture, registered religious organizations. Under the Religious Organizations Act, a new religion can be registered if a national census shows that it has at least five thousand adherents, represents a recognizable unique theology, and is not politically active. To register, a religious organization also is required to be accepted into one of the five officially recognized ecclesiastical groups: Buddhist, Muslim, Catholic (which includes four Protestant subgroups), Brahmin-Hindu, and Sikh. Since 1984 the government has not recognized any new religious groups. Government registration conferred some benefits, including access to state subsidies, tax-exempt status, and preferential allocation of resident visas for organization officials. Unregistered religious organizations did not receive these benefits but operated freely in practice.

The constitution requires the government “to patronize and protect Buddhism and other religions.” The government subsidized the five officially recognized religious communities by allocating approximately \$42.2 million (1.7 billion baht) during the fiscal year. These funds supported Buddhist and Muslim institutes of higher education, religious education programs in public and private schools, daily allowances for monks and Muslim clerics who held administrative and senior ecclesiastical posts, travel and healthcare for monks and Muslim clerics, renovation and repair of Buddhist temples and Muslim mosques, maintenance of historic Buddhist sites, and the daily upkeep of the Central Mosque in Pattani. The government provided nominal funding to the other three faiths to support social welfare projects. Catholic and Protestant groups could request government support for renovation and repair work but did not receive a regular budget to maintain church buildings, nor did they receive government assistance to support their clergy. Private donations to registered religious organizations are tax deductible.

Religious instruction is required in public schools at both the primary and secondary education levels. Students in each grade took a course called “Social, Religion, and Culture Studies.” The course contained information on all five of the rec-

ognized religions in the country. Students who wished to pursue in-depth studies of any religion could study at a religious school and transfer credits to a public school.

In the past, traditional Islamic *pondok* schools were not required to register with the government and had no government oversight or funding. Following the outbreak of violence in the southern provinces, registration with the government was made mandatory. By July the government had registered 309 *pondok* schools in the provinces of Yala, Pattani, and Narathiwat. It is believed there could be as many as one thousand *pondok* schools operating in the South.

Muslims, who represented between 5 and 10 percent of the population nationwide and constituted the majority in four of the five southernmost provinces, experienced some economic discrimination. The government attempted to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities. However, these efforts were often resisted amid charges of forced assimilation. Muslims outside of the southern provinces were much better integrated into society.

Under the 1935 Civil Servant Uniform Act, Muslim female civil servants were not permitted to wear headscarves when in uniforms. In practice most female civil servants were permitted to wear headscarves if they wished to do so, particularly in the southernmost provinces.

The 1962 Sangha Act specifically prohibits the defamation or insult of Buddhism and the Buddhist clergy. The penal code prohibits the insult or disturbance of religious places or services of all of the recognized religions in the country. Followers of the Santi Asoke sect of Buddhism were unable to legally refer to themselves as Buddhists because of theological disagreements with the *sangha* council, but they were able to practice their faith without restriction.

The government stationed troops to protect religious practitioners and structures in communities where the potential for violence existed and provided armed escort for Buddhist monks where necessary. The government promised compensation to the families of 106 Islamic militants killed in April 2004 while attacking security forces and allocated funds for the restoration of the Krue Se Mosque, which soldiers damaged during the fighting (see section 1.a.). The mosque has been restored, and 27 victims have received government compensation.

Government officials reportedly continued to monitor Falun Gong members. The Falun Gong's long-pending application for official registration was denied in October. The Falun Gong group's application to the police to print and distribute a weekly magazine apparently was still pending at year's end. Although members were briefly detained on several occasions for distributing materials, the group was generally able to print and distribute religious materials both in Thai and Chinese on an informal basis. On December 15, eight Falun Gong practitioners were arrested following a week of peaceful protests outside the Chinese embassy. Of the eight, the five adults remained in detention at year's end. There were no reports of any restrictions on Falun Gong members meeting privately.

Societal Abuses and Discrimination.—Violence committed by suspected Islamic militants in the southern provinces of Narathiwat, Pattani, Songkhla, and Yala affected the ability of some Buddhists in this predominantly Muslim region to undertake the full range of their traditional religious practices. In October unknown assailants hacked to death a monk and shot two of his acolytes in and around their Buddhist temple in Pattani Province. Four other monks were injured in two separate incidents in March and June. In 2004 unknown assailants killed at least four Buddhist monks and attacked several Buddhist temples and one Chinese shrine. During the year nine Buddhist laypersons were beheaded compared with three in 2004. Several of the bodies were found with notes warning that other Buddhists might share the same fate. A number of monks reported that they no longer were able to travel freely through southern communities. Monks also claimed that, due to fear of being targeted by militants, laypersons sometimes declined to assist them in their daily activities.

During the year militants targeted and killed government officials, such as teachers and railway employees, in the southern part of the country. Many persons presumed that the killing of Buddhist monks and laypersons was intended to increase interfaith tensions, which varied greatly from district to district, and, in some locales, even from village to village. The violence contributed to an atmosphere of fear and suspicion in the southern provinces; however, it did not result in open communal conflict (see section 5).

The indigenous Jewish community is small, and there were no reports of anti-Semitic incidents.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for the right of citizens to change their residence or workplace, and the authorities generally respected this right in practice; however, there were some exceptions. Longstanding written restrictions remained in effect on the travel and domicile of certain Vietnamese resident aliens who immigrated to the country in 1945 and 1946 and on Chinese who immigrated between 1953 and 1961. A large number of these Chinese and Vietnamese and their descendants received full citizenship in recent years (see section 5).

Other longtime noncitizen residents, including hundreds of thousands of ethnic Shan and tens of thousands of members of other tribes, were required to seek permission from local authorities or the army for foreign and domestic travel. Registered resident aliens moved freely within the country.

Members of hill tribes who have not been granted citizenship were issued color coded identity cards which reflect restrictions on their freedom of movement as well as other restrictions. The cards often prohibit travel outside their province or district without permission from the district head. Offenders are subject to heavy fines and jail terms. Persons with no card may not travel at all (see section 5).

Migrant workers may only work in certain provinces. The government continued to offer illegal migrants the opportunity to be legally registered. Approximately 700 thousand migrants, three-fourths from Burma, registered through August. Approximately 1.2 million migrants registered in 2004.

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

On August 30, 131 ethnic Malay Muslims from Narathiwat Province entered Malaysia and told authorities there they were seeking asylum. One member of the group was extradited to Thailand for insurgency-related crimes committed in 2004. The remaining 130 remained in immigration detention in Malaysia.

Protection of Refugees.—The law does not provide for granting asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol; however, the government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

During the year, asylum seekers of many nationalities, including many Burmese, received temporary protection. The government continued to allow the UNHCR to monitor the conditions of the approximately 135 thousand Burmese refugees living in nine camps along the Burmese border but prohibited the UNHCR from maintaining a permanent presence in the border camps. During the year the UNHCR conducted a registration including photographs, fingerprints, and family trees of refugees in the camps, including those who had not yet received formal government approval to reside in the camps. NGOs provided basic needs assistance in the camps.

On October 17, provincial admission boards (PAB) were established. These boards, with UNHCR participation, were intended to carry out a refugee status determination process. At year's end the PABs were functional and formally admitted refugees into camps where they previously had been living without permission. The government agreed to permit third-country resettlement of camp refugees, and there was some resettlement from the camps during the year.

The government allowed NGOs to provide food, medical services, housing, and other services to Burmese refugees who may have valid refugee claims but who reside outside the camps. Government officials periodically arrested Burmese outside designated camps as illegal aliens, including some recognized as "persons of concern" by the UNHCR. Those arrested generally were taken to the border and released without being turned over to Burmese authorities.

In March the authorities ordered the so-called urban Burmese to relocate to refugee camps near the border by March 31 or face arrest and deportation for being in the country illegally and loss of their chance for third-country resettlement. NGOs protested that conditions in the camp were difficult and would be exacerbated by the influx of new refugees. Others protested that Burmese journalists and activists who were working in urban areas would be unable to continue their work. Many in this group later departed for resettlement in third countries.

The government indicated it would be willing to permit additional educational and vocational training for camp refugees, and the possibility of their working in the country legally. Many details remained unclear.

The government decided not to seek the expulsion of approximately 6,500 Hmong who congregated in Phetchabun Province, some of whom appeared to have valid refugee claims. The government reserved the right to repatriate the group to Laos and did not grant the UNHCR permission to interview them to determine their refugee status. In November, 29 Hmong from this group, including 27 minors, were picked up by local Thai authorities and deported to Laos. Lao authorities denied the group was deported and at year's end the whereabouts of the group remained unknown.

In June the government repatriated to Burma approximately 450 Shan refugees who had originally left Burma in 1992, fleeing the effects of forced relocation by the Burmese government, grave human rights violations, and sporadic fighting. The government declared that fighting in the region was no longer a problem and ordered the Shan to cross into Burma. The government said they would allow them to return if fighting resumed. The government continued to allow the refugees access to a temple and an orphanage located on the Thai side of the border.

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.—Since 1992 there have been six national multiparty elections, which transferred power to successive governments through peaceful, democratic processes. As a constitutional monarchy, the king exerts strong informal influence but has never used his constitutionally mandated power to veto legislation or dissolve the elected bicameral parliament. Voting is compulsory. Eligible voters who fail to exercise their franchise, except for those excused, are subject to the loss of certain rights, including the right to be a candidate in future elections. The law prohibits Buddhist monks and nuns from seeking public office.

Parliamentary elections were held in February. Local *tambon* elections were held in August, in which voters for the first time were able to vote for members of their local administrative organizations and the heads of their *tambon* administrative organizations. The election process generally was viewed as free and fair; however, it was marred by widespread vote buying, a recurrent problem, especially in the northeast of the country. Due to “election irregularities,” the election commission exercised its mandate to prevent election fraud and dismissed the results and held re-votes in four parliamentary constituencies. One of the four original winners was barred from running for office for 10 years for slandering his opponents during the election campaign. The other three were allowed to run in the October 30 re-votes. During the February campaign, there were approximately 10 killings of political canvassers, at least some of which were motivated politically (see section 1.a.). Additionally, there were three canvassers killed in the period before the *tambon* elections. The pre-election violence was considerably less than before the 2001 elections. Having won an absolute majority of 377 seats in the 500-seat lower house, the incumbent Prime Minister Thaksin Shinawatra’s Thai Rak Thai Party formed a government without entering into a coalition.

There were 52 women in the 500-member House of Representatives and 21 women in the 200-member Senate. There were 2 women in the 35-member cabinet. Although half of civil service employees were women, women held only 15 percent of senior positions.

Few ethnic minorities held positions of authority in national politics. Muslims from the south held significant elected positions, although they continued to be underrepresented in appointed local and provincial government positions. There were 8 Muslim and 2 Christian senators, and 24 Muslim and 6 Christian members of the House of Representatives. One MP was a hill tribesman.

Government Corruption and Transparency.—Corruption in the executive branch was widely acknowledged by the public. The acceptance of bribes by police and local government authorities for routine services was common. In August 2004 the prime minister announced a “war on corruption.” However, anticorruption efforts did not appear to have been effective and the campaign was hampered when, in May, the entire membership of the NCCC resigned following a Supreme Court ruling that the commissioners had wrongfully and dishonestly abused their office by intentionally skirting the law and awarding themselves a pay raise.

Anticorruption efforts were also hampered by a court ruling against the procedures used in appointing the auditor-general, Khunying Jaruvan Maintaka. Some senators attempted to remove her from this office. Others claimed that attempts to dismiss her were politically motivated, due to her effective investigations into government corruption. She has effectively been out of office since July 2004, and at year’s end efforts to reinstate her or name a successor have been unsuccessful.

There were a number of high-profile allegations of corruption during the year. An attempt to censure Transport Minister Suriya Jungrungreangkit, based on allegations that he was involved in a procurement scandal to buy bomb scanners for the new Suvarnabhumi Airport, failed. There were also allegations of corruption in contracts for catering facilities and the carpark of the new airport.

The NCCC recorded that through June 2004, more than 6 thousand investigations of official corruption were pending, of which 1,122 had been reported in the pre-

ceding 12 months. However, with the May resignation of the NCCC commissioners the work of the commission was effectively moribund at year's end.

There were reports that corruption among local officials and a lack of transparency marred the distribution of aid in areas affected by the December 2004 tsunami.

The law provides access to public information. If a government agency denies a citizen's request for information, a petition may be made to the official information commission. In 2004 approximately 99 percent of the petitions were approved. Requests for public information may be denied for reasons of national security, law enforcement, and public safety.

Section 4. 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. Government officials often were cooperative and responsive to their views.

However, NGOs that dealt with sensitive political issues, such as the Burmese democracy movement and opposition to government-sponsored development projects, faced periodic harassment. Very few NGOs were accorded tax-exempt status, which sometimes hampered the ability of domestic human rights organizations to secure adequate funding.

On August 18, a grenade was thrown at the parked car of Wiwat Thamee, a human rights advocate on behalf of hill tribe peoples in Chiang Rai Province. No one was held responsible for the attack.

Some members of the domestic NGO Assembly of the Poor reported that the government had filed charges of treason and otherwise intimidated them because of their activities. The threat of arrest hindered their work.

On September 1, Mr. Chatopa "Mustafa" Awae, a human rights advocate and former journalist who had worked as a researcher for the National Reconciliation Commission (NRC), was shot and wounded while riding his motorcycle in Pattani Province. Mustafa believes he was targeted because of his human rights activities.

Government officials met and cooperated with visitors from the ICRC and the UN Commission on Human Rights throughout the year. In March the government welcomed a delegation from the moderate Indonesian Islamic group Nahdlatul Ulama to observe the living conditions of Muslims in the south. In March the foreign minister met with the secretary-general of the Organization of the Islamic Conference (OIC) to discuss the situation in the South. In June the government cooperated with an OIC fact-finding mission, which visited the Muslim-majority provinces. The OIC released a statement asserting that the violence was not a religious conflict and offered suggestions for the government. In October in response to a more strongly worded statement from the OIC expressing deep concern about violence against Muslims, the foreign minister emphasized that the government was willing to continue working with the OIC.

In July the government responded to questions regarding its human rights record from the Human Rights Committee, as part of its obligations under the International Covenant on Civil and Political Rights. The committee welcomed the establishment of the NHRC and the NRC, although it expressed concern about "persistent allegations" of serious human rights violations including widespread instances of extrajudicial killings and ill-treatment by police and armed forces, the emergency decree, the excessive use of force by law enforcement officials, intimidation and harassment against journalists, human trafficking, child labor, as well as concern about the rights of hill tribe peoples, Burmese migrant workers, and other problems.

In November 2004 the UNCHR special rapporteur on extrajudicial, summary or arbitrary killings requested permission to visit the country following the incident in Tak Bai in October (see section 1.a.). Although the country provided a detailed response to the inquiry by the special rapporteur, the visit did not take place.

The NHRC was active during the year. As an independent government entity, it submitted an annual evaluation of the human rights situation to the National Assembly, proposed policies and recommendations for amending laws to the National Assembly, promoted measures to educate citizens on human rights, and investigated human rights abuses. Modest staffing and resources, as well as the lack of power to prosecute or to punish violators, hampered the NHRC's ability to carry out its mandate. In May in a report on the Tak Bai incident, the NHRC concluded that officials had violated the human rights of the Tak Bai detainees and called on the government to compensate victims and their families and to review its southern pol-

icy. In July the NHRC publicly appealed to the prime minister to do away with the emergency decree.

In February the prime minister established the 50-member National Reconciliation Commission to build “peace and reconciliation” in the South. In April the NRC released a report on the Tak Bai incident, which assigned fault to both sides and found that while officials had reason to disperse the demonstrations, which had become violent, it was clear that the arrests were handled in a disorganized and chaotic manner. The report named three high-ranking officers who should take responsibility for the violent response. The NRC released an April report on the Krue Se mosque incident. The majority of commission members felt that the military had handled the matter poorly and had not exhausted all possible peaceful solutions before raiding the mosque. Other commissioners felt that it was impossible to tell whether the force had in fact been excessive. The NRC was scheduled to release its final report and recommendations in 2006.

Both houses of Parliament maintained subcommittees on human rights. The Senate subcommittee was active in investigating allegations of human rights abuses in the South.

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

The law provides for equal treatment without respect to race, gender, religion, disability, language, or social status; however, in practice, some discrimination existed, and government enforcement of equal protection statutes was uneven.

Women.—Domestic violence against women was a significant problem, and there were no specific laws addressing the problem. A few domestic violence crimes were prosecuted under provisions for assault or violence against a person. Domestic violence often went unreported, and the police often were reluctant to pursue reports of domestic violence. Reliable statistics on rates of domestic violence were difficult to obtain but there were 60 thousand reported cases in 2004, double that of 2003. On November 28, the public health minister noted that the number of reported cases of abuse had increased from 5 per day in 2002 to 28 per day in during the year. Approximately half of these cases involved sexual abuse. It was unclear whether the increase reflected an increase in violence or an increased public awareness of the problem and an increased willingness on the part of battered women to report it to authorities. A 2003 study by the Institute for Population and Social Research at Mahidol University found that up to 41 percent of the women surveyed in Bangkok had experienced some type of physical or sexual violence. In April a survey by a Bangkok psychiatrist reported that more than 25 percent of the sampled Bangkok households had experienced domestic violence. NGO-supported programs included emergency hot lines, temporary shelters, counseling services, and a television program to increase awareness of domestic violence, HIV/AIDS, and other issues involving women. The government’s “one-stop” crisis centers, located in state-run hospitals, continued to care for abused women and children but faced budget difficulties.

Rape is illegal. Through November the police reported 4,693 rape cases nationwide, including 5 cases where the victim was killed. Suspects were arrested in 1,897 of these cases. There were 5,041 reported rapes in 2004. There are no provisions for prosecuting spousal rape. According to academics and women’s rights activists, rapes and domestic assaults were underreported, in part because law enforcement agencies were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of female police officers in metropolitan Bangkok and in three other provinces. The law specifies a range of penalties for rape or forcible sexual assault, depending on the age of the victim, the degree of assault, and the physical and mental condition of the victim after the assault. The minimum penalty is from 4 to 20 years’ imprisonment and a fine of \$200 to \$1 thousand (8 thousand to 40 thousand baht). If firearms or explosive are used, or if it is a gang rape, the penalty increases to 15 to 20 years’ imprisonment and a fine of \$750 to \$1 thousand (30 thousand to 40 thousand baht). Life imprisonment or execution is possible for cases in which the victim is injured or killed. A sentence of 4 to 20 years’ imprisonment and a fine ranging from \$200 to \$1 thousand (8 thousand to 40 thousand baht) is imposed for statutory rape of a child less than 15 years of age. If the victim is less than 13, the jail term ranges from 7 years’ to life imprisonment. The law also provides that any individual convicted for a second time for the same criminal offense within two years is liable to increased penalties for recidivism. Police officials increasingly used these powers, and the government reported 211 persons arrested (in 103 cases) in 2003; 86 cases were referred for prosecution. There were 11 convictions, mostly from arrest cases dating to 2002 and 2003. Victims of sexual abuse were eligible to receive state financial aid of up to \$750 (30 thousand baht).

Prostitution is illegal, although it is practiced fairly openly throughout the country. Local officials with commercial interest often protected prostitution (see sections 1.d. and 5, Trafficking). Trafficking in women and children for prostitution was a serious problem (see section 5, Trafficking). Government and NGO estimates of the number of women and children engaged in prostitution varied widely. Government figures claimed there were an estimated 62 thousand prostitutes working in the country. However, NGOs reported between 200 thousand and 300 thousand prostitutes. Some groups claimed the real number was significantly higher. The illegal nature of the work and the high incidence of part-time prostitutes made precise numbers difficult to assess. In 2000 the Commission on Women's Affairs estimated that approximately 20 percent of prostitutes were children. There were reports that women were forced into prostitution in border areas, but the number of such cases was difficult to determine. Most prostitutes were not kept under physical constraint, but a large number worked under debt bondage (see section 5, Trafficking). The law makes child prostitution illegal and subjects customers who patronize child prostitutes to criminal sanctions (see section 5, Children). NGOs and government agencies provided shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry.

Sex tourism was a problem (see section 5, Trafficking).

The law makes sexual harassment illegal but covers only persons working in the formal sector. NGOs claimed that the legal definition of harassment was vague and made the prosecution of harassment claims difficult. During the year, the Civil Service Commission's sexual harassment and bullying hot line received 448 complaints during a 4-month period. All complaints were investigated, but none were brought to court during the year. Some complaints may have been settled out of court. Initiation rites and hazing of incoming college students, including instances of possible sexual harassment, became a major national issue during the year. A nationwide, government-sponsored poll of high school students found that 5 percent of boys and 3 percent of girls had encountered sexual harassment.

The law provides for the equality of all citizens; however, some inequalities in the law remained. For example, a man may sue for divorce on the grounds that his wife committed adultery, but a woman faces the additional legal burden of proving that her husband publicly has acknowledged another woman as his wife.

Women had equal access to higher education, and more than half of university graduates were women. However, police and military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. Women constituted 48 percent of the labor force and held an increasing share of professional positions. Women composed 52 percent of professional and technical workers but only 26 percent of administrators and managers. Women also were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and women were concentrated in lower-paying jobs. In practice women received lower pay for equal work in virtually all sectors of the economy.

The National Human Rights Commission Act specifies that at least one-third of the members of the NHRC be women; during the year, 5 of the 11 commissioners were women. The Women and Constitution Network, a league of more than 50 women's organizations, advocated legal reforms to address inequities in the treatment of women. The organization actively campaigned for gender-equality clauses in legislation and for the implementation of a new law on domestic violence.

Children.—The constitution provides children equal protection under the law. Education is compulsory for 9 years, and school tuition is free for 12 years. In general girls and boys attended primary and secondary schools in equal numbers. An estimated 96 percent of children completed grade 6, 80 percent completed grade 9, and 79 percent completed grade 12. There has been a sharp increase in graduation rates from junior and senior high school in the past two years. Girls are prohibited by religious practice from enrolling in religious schools restricted to Buddhist monks or novices.

Children were tried in the same courts as adults and detained with adults in some regions of the country. There were 82 Juvenile Observation and Protection Centers for underage offenders located in 64 of the country's 76 provinces. An additional 12 centers were scheduled to be opened in 2006.

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. During the year police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse difficult. The law is designed to protect witnesses, victims, and offenders under the age of 18, and procedures allow children to testify on videotape in private surroundings in the presence of a psychologist, psychiatrist, or other social

worker with a judge's consent. However, many judges declined to use videotaped testimony, citing technical problems and the inability to question accusers and defendants directly in court. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Trafficking in children, including for commercial sexual exploitation, remained a serious problem (see section 5, Trafficking). Pedophilia continued, both by citizens and by foreign sex tourists. The government, university researchers, and NGOs estimated that there were as many as 30 thousand to 40 thousand prostitutes under 18 years of age, not including foreign migrants. The Prostitution Prevention and Suppression Act makes child prostitution illegal and provides for criminal punishment for those who use prostitutes under 18. Parents who allow a child to enter into prostitution also are punishable. During the year there were a few arrests and no prosecutions of parents who allowed a child to enter into prostitution. Custom and tradition made it rare for children to accuse their parents in court proceedings.

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

There were believed to be approximately 20 thousand street children in major urban centers. The government implemented new guidelines to improve the processing of child trafficking victims from Cambodia and Burma, including child beggars. The children were referred to government-provided shelters, but many reportedly avoided the shelters due to fear of being detained and expelled from the country. Street children were repatriated to Cambodia during the year. According to the government, citizen children were sent to their home provinces and placed in occupational training centers.

Street children were often left out of national reports on child labor issues and national statistics on street children often included only citizens, although the majority were noncitizens.

Street children were often exploited by organized gangs as beggars or to sell flowers or other items. Many of these children were forced to turn over their daily earnings to the gang and were paid less than a dollar a day. There were reports of street children who were bought, rented, or forcibly "borrowed" from their parents or guardians in order to beg alongside women on sidewalks and overpasses. This was particularly true in areas of the capital frequented by tourists. Working conditions for these children were poor, leaving them exposed to the elements for long periods of time and open to further exploitation.

There were many local NGOs that worked to promote children's rights. Employers' organizations, such as the Employers' Confederation of Thailand, also were involved in child labor issues. These organizations received good working support from the government.

Trafficking in Persons.—The law prohibits trafficking in persons; however, the country was a source, transit, and destination for trafficking in women and children for a variety of purposes, including indentured servitude, forced labor, and prostitution. Some local officials, immigration officers, and police reportedly either were involved in trafficking directly or took bribes to ignore it. Penalties vary according to the age of the victim and the method of trafficking. In general the law provides for imprisonment of a year to life and fines of \$50 to \$1 thousand (2 thousand to 40 thousand baht). For offenses against children between 15 and 18 years of age, the potential punishment is 3 to 15 years of imprisonment and a fine of \$150 to \$1 thousand (6 thousand to 40 thousand baht). For offenses against children under 15 years of age, the penalty ranges from 5 to 20 years' imprisonment and a fine of \$250 to \$1 thousand (10 thousand to 40 thousand baht). If the offense is committed with deceit, threat, physical assault, immoral influence, or other mental coercion, the sentences and fines may be increased by one-third.

In general the government cooperated with governments of other countries in the investigation of transnational crimes, including trafficking. The country has signed bilateral antitrafficking memorandums of understanding (MOUs) with Cambodia and Laos. Receiving countries generally initiated trafficking case investigations. The government continued to investigate rings associated with smuggling female citizens abroad. During the year a low-ranking policeman was sentenced to 10 years in prison for his role in trafficking a 14-year-old girl to Malaysia for sexual exploitation. In another case a Cambodian woman was sentenced to 85 years in prison for her part in trafficking eight women to a prostitution venue in Malaysia.

The law allows for extradition of citizens; however, no citizens were extradited for trafficking-related offenses. Requesting-country nationals charged with trafficking-related crimes, including pedophilia, were extradited to Japan, Australia, Germany, and the United States.

Some portion (thought by the UN, NGOs, and the government to be a minority) of the estimated 200 thousand to 300 thousand sex industry workers in the country

were either underage or in involuntary servitude or debt bondage. Women and children (particularly girls) tended to be the most frequent trafficking victims. Anecdotal evidence suggested that the trafficking of men, women, and children into such fields as commercial fisheries or sweatshop work was significant. Young migrant women and girls, particularly from Laos, were found employed in indentured servitude and under physical constraint in sweatshops that restricted their freedom. NGOs assisted some victims to obtain back wages from abusive employers.

Within the country women were trafficked from the impoverished Northeast and the North to Bangkok for sexual exploitation. However, internal trafficking of women appeared to be on the decline, due to prevention programs and better economic opportunities. Women also were trafficked to Japan, Malaysia, Bahrain, Australia, South Africa, Europe, and the United States chiefly for sexual exploitation but also for sweatshop labor. Men were trafficked into the country for commercial fisheries and farm, industrial, and construction labor. Prosecution of traffickers of men was complicated by the lack of coverage in the law.

Women and men were trafficked from Burma, Cambodia, the People's Republic of China (PRC), and Laos for labor and sexual exploitation. Boys and girls were trafficked chiefly from Burma and Cambodia primarily for sexual exploitation and to work in begging gangs. The government improved the screening of trafficking victims from Cambodia and Burma through cooperation between the Royal Thai Police and the International Organization for Migration. Law enforcement officials identified victims of trafficking and referred them to one of six regional government shelters.

Entire families occasionally were trafficked for labor in sweatshops. Underage boys reportedly were brought into the country for specialized work in which small size was an advantage. According to domestic NGOs, girls between the ages of 12 and 18 continued to be trafficked from Burma, southern PRC, and Laos to work in the commercial sex industry. Social workers noted that young girls were prized because clients believed that they were free of sexually transmitted diseases. Persons trafficked from the PRC often were in transit to other countries, although women and girls from Yunnan Province generally were destined for brothels in the North. Victims of trafficking were often lured into the country or for transit to other countries, with promises of restaurant or household work and then were pressured or physically forced into prostitution.

The UN Economic and Social Council and NGOs believed that the lack of citizenship status for some hill tribe women and children was a strong risk factor for becoming victims of trafficking. Although members of this group were not a large percentage of trafficking victims, they were found in disproportionately large numbers in situations entailing severe forms of trafficking. At least 10 hill tribe women lacking citizenship were found among a group of more than 90 women and girls trafficked to Malaysia for prostitution, including several who were coerced. In June the government agreed in principle to repatriate the women if they could prove their prior residency in the country. Although the government reportedly received such proof, it has not initiated repatriation procedures and the women remained incarcerated in Malaysia.

Trafficking within the country and from neighboring countries into the country tended to be carried out by loosely organized small groups that often had close ties in the source communities. Burmese, Laotian, Cambodian, and Thai individuals were involved in labor trafficking along the border. Informal chains of acquaintance often were used to recruit victims. In some cases, the traffickers themselves were former victims, particularly where the sex industry was the destination. There were credible reports that low-ranking police and immigration officials transported women destined for brothels from the border to Bangkok and other areas of the country.

The trafficking of Thai prostitutes abroad, and that of Chinese nationals using the country as a transit point, was done by sophisticated and well-financed international criminal syndicates that sometimes cooperated with each other.

The majority of prostitutes were not kept under physical constraint, but a large number worked in debt bondage. Brothel procurers reportedly advanced parents a substantial sum against their child's future earnings. The child was then obligated to work in a brothel to repay the loan.

Female citizens were trafficked to Japan for sexual exploitation. Traffickers promised victims lucrative legitimate employment or made false promises regarding wages, working conditions, or the nature of the work. According to Human Rights Watch, upon the victims' arrival in Japan, the traffickers confiscated their passports, demanded repayment for their "purchase," charged the victims for living expenses and care, and fined them for misbehavior. Traffickers often restricted the

women's movements, threatened them and their families, isolated them, and used violence to punish them for disobedience.

Because foreign women frequently were unable to speak the language and were considered illegal immigrants, they were particularly vulnerable to physical abuse and exploitation. Some women were lured into the country with promises of jobs as waitresses or domestic helpers but ended up working as prostitutes. Reports of labor trafficking were also received from Burmese migrant workers who were ostensibly offered jobs in the food processing industry, but were later induced or forcibly transported to work on fishing vessels.

Illegal immigrants had no rights to legal counsel or health care if arrested. The amnesty provisions available under UNHCR auspices did not apply to such women. In May 2004 a series of MOUs between government agencies and between the government and domestic NGOs provided some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. The agreements stated that the training of police officers would include instructions to treat such persons as victims of human trafficking rather than as illegal immigrant workers. Instead of being deported, they become the responsibility of the public welfare department. However, implementation of the MOUs has been erratic, due to insufficient training of law enforcement officials and their unfamiliarity with the law.

Official corruption facilitating the most severe forms of trafficking in persons was generally at the low- and mid-levels. Police personnel were poorly paid and were accustomed to taking bribes to supplement their income. There was no evidence that high-level officials benefited from or protected the practice. Compromised local police protected brothels and other sex venues from surprise raids. Corrupt immigration officials assisted (both indirectly and directly) the movement of Burmese, Lao, and Chinese women and girls into the country. Officials found complicit in any part of the illegal economy rarely were prosecuted but instead were moved to positions thought to limit opportunities for future corruption.

Several NGOs, both local and international, and government agencies worked with trafficking victims. The government worked with the International Labor Organization's International Program on the Elimination of Child Labor (ILO-IPEC) to implement antitrafficking projects to reduce the incidence of trafficking of children for labor and sexual exploitation. However, funds for fighting trafficking or aiding its victims were limited.

In general victims awaiting repatriation were brought to government-run shelters or, in the case of noncitizens, to NGO-run shelters. The repatriation process took up to six months. Through September the main government shelter in Bangkok received 298 women and children from neighboring countries and 193 citizens, including women found in voluntary prostitution and domestic abuse cases. There were no reliable statistics on how many of these persons were victims of trafficking. The government provided food, medical care, and limited psychological counseling.

Trafficking victims received some legal assistance from NGOs and Department of Welfare officials, and they generally were informed of the option of pursuing legal action against the trafficking perpetrators. Relatively few opted to do so; language barriers, illiteracy, distrust of government officials, the lengthy legal processes, and fear of the traffickers played a role. Trafficking victims illegally in the country were not allowed to obtain employment while awaiting repatriation, even if they were involved in legal proceedings against the trafficker.

The government continued cooperative arrangements with local industries, especially the hotel industry, to encourage youths (particularly girls) to find employment outside of the sex industry and other exploitative work. Vocational training programs aimed at high school students also received funding. Although the vocational training was not intended explicitly for trafficking prevention, the practical effect was to increase the range of choices for recent school graduates.

Persons with Disabilities.—The constitution mandates access to public buildings for persons with disabilities, but laws implementing the provisions have not been fully enacted. The regulation that makes compliance mandatory was not enforced during the year. During the year a law was enacted providing that newly constructed building have facilities for persons with disabilities. Activists continued to work to amend laws that allow employment discrimination against persons with disabilities. Persons with disabilities were legally precluded from working as police officers and as persons providing medicinal massages, although the ministry of health has stated that it welcomes the registration of persons with disabilities as medical masseurs. On February 14, a court upheld the right of Sirimit Boonmul, a physically disabled lawyer, to take the test to apply for a job as a state attorney. The state attorney commission had rejected Sirimit's job application in 2001, arguing he was physically incapable of doing the job, and the courts upheld the commission's decision in 2002 and 2003.

There were an estimated 500 thousand persons with physical disabilities, approximately 800 thousand sight-impaired persons, and an estimated 500 thousand hearing-impaired persons in the country. Estimates for the number of persons with mental disabilities in Thailand ranged from 600 thousand to 1.4 million.

Persons with disabilities who register with the government are entitled to free medical examinations, wheelchairs, and crutches. As of August 31, 403,719 persons had registered as disabled. The government provided five-year interest-free small business loans for persons with disabilities. In 2004 4,820 persons with disabilities were granted loans totaling \$2.4 million (96 million baht).

During 2004 an estimated 163 thousand children with disabilities attended school. The government reported that 12,500 students were enrolled in the 43 special schools for students with disabilities; the remaining students were enrolled in regular public schools. Nationwide, there were 9 government-operated and 15 NGO-operated training centers for persons with disabilities. In April the minister of education received a petition requesting that the government guarantee educational opportunities for persons with disabilities. There were reports of schools turning away students with disabilities. A 2002 report by the National Statistics Office said that 23 percent of registered persons with disabilities had graduated from junior high school.

Many persons with disabilities who found employment were subjected to wage discrimination. The law requires private firms to hire one person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision has never been enforced. Government officials estimated that between 20 and 30 percent of firms disregarded the law. Some state enterprises had discriminatory hiring policies.

National/Racial/Ethnic Minorities.—Former belligerents in the Chinese civil war and their descendants, who have sheltered in Thailand since the end of the civil war, and children of Vietnamese immigrants, who resided in five northeastern provinces, lived under laws and regulations that could restrict their movement, residence, education, and occupation (see section 2.d.). During the year approximately 2,500 of the Vietnamese and their descendants and an unknown number of Chinese and some of their descendants were granted full citizenship.

Violence in the South exacerbated social prejudices against Muslims; however, there have been no outbreaks of communal violence between the two communities. Many Muslims complained of societal discrimination both by Buddhist citizens and by the central government. Many Muslims complained that Thai-language newspapers present a negative image of Muslims and of their communities, associating them with terrorists. There were also complaints that the media identified Muslim citizens as “Muslims” rather than as “Thai Muslims” and thereby insinuated that Thai Muslims were not really Thai.

Insurgent groups in the South spread propaganda against Buddhists in the form of threatening pamphlets and flyers. There were also reports that some religious schools in the South preached hatred for non-Muslims, as well as Muslims who cooperated with the government and security forces (see section 2.c.).

Indigenous People.—Members of hill tribes without proper documentation continued to face restrictions on their movement, could not own land, and were not protected by labor laws, including minimum wage requirements. Freedom of movement was often dependent on their residency status, which was identifiable by the color of their identity cards (see section 2. d.). Citizenship is not automatically granted to children born to persons living illegally or without status in the country. Lack of citizenship makes hill tribe persons vulnerable to abuses and exploitation, such as trafficking (see section 5, Trafficking). They sometimes were denied adequate education and health care. Those residing in national parks or wildlife sanctuaries were subject to eviction (see section 1.f.). As noncitizen residents, they also were barred from participating in the political process (see section 3).

In recent years regulations eased the requirements to establish citizenship by allowing a wider range of evidence, including testimony from references and empowering local officials to decide cases. Approximately one-half of potentially eligible candidates have received citizenship under the regulations. Although the government was supportive of efforts to register citizens and to educate eligible hill tribe persons about their rights, activists reported that widespread corruption and inefficiency at all levels, including among highland village headmen and government officials, contributed to a backlog of pending citizenship applications.

During the year there were major demonstrations in Bangkok against the proposed Community Forest Bill, which limits settlement on land designated “community forest,” and which could displace thousands of persons, including large numbers of hill tribes people.

In July 2004 41 persons were arrested for illegally trespassing on national forest land. Those arrested were members of the Palaung hill tribe minority group and did not have citizenship. They reportedly have been released on bail (see section 1.f).

On September 8, a court in Chiang Mai Province affirmed the citizenship claims of 1,243 persons after a 3-year court case. In 2002 the Mae Ai district office had revoked Thai citizenship, stating that irregularities in the issuance of their identification documents invalidated their claims. The group, mostly of Burmese or hill tribe origin, were unable to access state services during this time. Of the 1,243, 105 had had their citizenship reinstated in 2004, after genetic testing.

Hill tribe members continued to face societal discrimination arising from the belief that they were involved in drug trafficking and environmental degradation. Hill tribes occasionally were subjected to indiscriminate searches of villages for illegal drugs (see section 1.f.).

Other Societal Abuses and Discrimination.—HIV/AIDS was estimated to have infected approximately 1.5 percent of the population. During the year the government took measures to improve its support of persons with HIV/AIDS. For the first time the government began providing anti-retroviral drugs as part of the country's universal health care plan. The plan was projected to benefit 100 thousand HIV/AIDS sufferers. In September the government also approved a \$83 million (3.41 billion baht) program for increased public education concerning HIV/AIDS, including funds targeted at high-risk groups such as sex workers, young persons and gay males. The government provided funds to HIV/AIDS support groups and continued public debate at the highest levels of political leadership. Societal discrimination against persons with AIDS most often was found in the form of a psychological stigma associated with rejection by family, friends, and community. In previous years local AIDS hot lines received reports that some employers refused to hire persons who tested positive following employer-mandated blood screening.

Section 6. Worker Rights

a. The Right of Association.—The law allows all private sector workers to form and join trade unions of their choosing without prior authorization; however, the law provides inadequate protection to workers who participate in union activities. The law prohibits antiunion actions by employers; however, it also requires that union committee members be full-time employees of the company, which makes them vulnerable to employers seeking to discipline workers who serve as union officials or who attempt to form unions. Union leaders and academic observers reported that employers often discriminated against workers seeking to organize unions. The law does not protect workers from employer reprisal for union activities prior to the registration of the union, and employers could exploit this loophole to defeat efforts at union organization. During the year employers used loopholes in the Labor Relations Act to fire union leaders prior to government certification of unions. Trade union leaders can be dismissed for any reason, provided severance payment is made. In such circumstances the law does not provide for reinstatement. The labor court reinstated employees in some cases where dismissal was found to result from union activity and was illegal. However, because the reinstatement process was lengthy and cost prohibitive for the employee, most cases were settled out of court through severance payments to the employee. There were no punitive sanctions for employers.

Union officials must be full-time employees of the company or state enterprise. This prohibition against permanent union staff limited the ability of unions to organize and be politically active. The Labor Relations Act also allows only two outside government-licensed advisors to a union, and the Ministry of Labor often blocked the registration of labor advisors whom it deemed too activist. Union leaders and outside observers complained this interfered with the ability to train union members and develop expertise in collective bargaining, and led to rapid turnover in union leaders.

Less than 4 percent of the total work force but nearly 11 percent of industrial workers and more than 50 percent of state enterprise workers were unionized. Cultural traditions, unfamiliarity with the concept of industrial relations, efforts by the government and the private sector to diminish union cohesiveness, and the sizeable agricultural and informal sectors (where unions are not permitted) were cited as reasons for low rates of labor organization.

State enterprise employees can join organizations of workers in the private sector, but only at the level of confederations. This restriction effectively divided the trade union movement along state enterprise and private sector lines. However, unofficial contacts at the union level between public and private sector workers continued, and the government did not interfere with these relationships. Unions in state-owned enterprises generally operated independently of the government and other organiza-

tions. Internal conflicts, corruption, and a lack of leadership weakened the labor movement.

Civil servants including public schoolteachers are prohibited from forming or registering a union. They are allowed to form and register only as associations, which have no right to bargain collectively.

Noncitizen migrant workers, whether registered or illegally present, did not have the right to form unions or serve as union officials; however, registered migrants may be members of unions organized and led by citizens. In 2004 the Ministry of Labor implemented a registration program which gave temporary work status to approximately 1.28 million foreign workers, most of whom were from Burma and were residing illegally in the country. Few, if any, of the registered migrants joined unions. During the year a substantial number of migrant workers worked in factories near border crossing points, where labor laws were routinely violated and few inspections were attempted to verify compliance with the law.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of citizen private-sector workers to organize and bargain collectively; however, the government's efforts to protect this right were weak. The law defines the mechanisms for collective bargaining and for government-assisted conciliation and arbitration in cases under dispute. In practice genuine collective bargaining occurred only in a small fraction of workplaces, and in most instances, it continued to be characterized by a lack of sophistication on the part of worker groups and autocratic attitudes on the part of employers. Wage increases for most workers came as a result of increases in the minimum wage rather than as a result of collective bargaining. The process of setting minimum wages locally through provincial tripartite wage committees may further limit union influence; many of these provincial committees excluded labor representatives and placed factory managers on the wage committees to represent worker interests. The minimum wage increase in the year did not keep pace with inflation. The government sets wages for state enterprise employees under the State Enterprise Labor Relations Act (SELRA) (see section 6.e.). Wages for civil servants are determined by the Ministry of Finance.

The government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision and did not do so during the year. Labor law also forbids strikes in "essential services," which is defined much more broadly than in the International Labor Organization (ILO) criteria, and includes sectors such as telecommunications, electricity, water supply, and public transportation as essential services. The law also prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. Employers are legally permitted to hire workers to replace strikers. SELRA provides public sector employees in state enterprises the same rights to organize as exist in the private sector. SELRA prohibits lockouts by employers and strikes by state enterprise workers. Strike action in the private sector was constrained by the legal requirement to call a general meeting of trade union members and to have a strike approved by 50 percent of unionists. During the year there was one legal strike involving 93 workers, and there was one lockout involving 100 workers.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector; however, there is documented abuse in the system including evidence that awards to workers are ignored or not paid in full. Issues of collective labor relations are adjudicated through the Tripartite Labor Relations Committee, and are subject to review by the labor courts. Workers may also seek redress through the NHRC and the Parliamentary Committee on Labor and Social Welfare. The law authorizes the Ministry of Labor to refer any private sector labor dispute for voluntary arbitration by a government-appointed group other than the Labor Relations Committee. Although the legal authority seldom was used, the ILO viewed this provision as acceptable only in defined essential services. Redress of grievances for state enterprise workers is handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders unjustly dismissed were awarded only back wages with no punitive sanctions against the employer. This limited any disincentive for employers to fire union organizers and activists.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs), in which wages and working conditions often were better than national norms. However, union leaders alleged that employers' associations were organized to cooperate in discouraging union organization. Unions existed in the automobile and petroleum production facilities located in EPZs.

In recent years labor brokerage firms have used a “contract labor system” under which workers sign an annual contract which entitles them to no fringe benefits. According to an expert from the Ministry of Labor, there were 381 such firms deploying more than 110 thousand workers. These workers lack the ability to bargain collectively over wage and benefit issues. Although they may perform the same work as direct-hire workers they were paid less and received fewer, or no, benefits.

Attempts by registered migrant workers to carry out work stoppages to demand minimum and back wages, along with better working conditions, often led to deportations, resulting from apparent collusion between factory owners and local government immigration officials. There continued to be credible reports of NGO personnel being assaulted while trying to assist migrant workers.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, except in the case of national emergency, war, or martial law; however, the government was unable to enforce these provisions effectively in the large informal sector. During the year there continued to be reports of sweatshops in which employers prevented workers, primarily foreign migrants, from leaving the premises. There were no estimates of the number of such sweatshops, but the growing number of migrants from Burma, Cambodia, and Laos increased the opportunities for such abuse. NGOs and the ILO reported that thousands of underage boys and girls were brought into the country for labor on farms or in sweatshops, and very young children were used to work in street begging gangs.

Forced and compulsory labor by children occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—In general sufficient legal protections exist for children in the formal economic sector. The Labor Protection Act is the primary law regulating employment of children under the age of 18. Employment of children under 15 is prohibited. However, the law does not cover the agricultural and informal sectors, including domestic work, which employ the majority of persons in the workforce, including many child workers. The law allows for issuance of ministerial regulations to address sectors not covered in the law, and in late 2004 and during the year the minister of labor increased protections for child workers in domestic and agricultural sector work. The minimum working age is coordinated with the mandatory national educational requirement. The government drafted a national strategy on eliminating the worst forms of child labor during public hearings in 2003. Appointment of a national-level implementing subcommittee was still pending as of year’s end. The strategy commits the government to strengthening child labor laws and enforcement procedures. Child labor remained a problem, particularly in small-scale industry and agricultural sectors. Contradictory statistical surveys by various government agencies, which largely ignored foreign children and those in illegal industries, made an estimate of the scope of the phenomenon difficult.

The law permits the employment of children between the ages of 15 and 18 only in “light work,” where the lifting of heavy loads and exposure to toxic materials or dangerous equipment or situations is limited. The law prohibits employment of children at night (from 10 p.m. to 6 a.m.) or in places in which alcohol is served. It was estimated that approximately one million children worked on family farms. NGOs reported that 2 to 4 percent of children between the ages of 6 and 14 worked illegally in urban areas; such children were at risk of becoming victims of other abuses of labor laws. Most underage workers in urban areas worked in the service sector, primarily in gasoline stations, small-scale industry, and restaurants. Child labor was less evident in larger export-oriented factories. A police raid in February discovered 12 migrant workers between the ages of 13 and 17 working in a small Bangkok garment factory. NGOs also reported extensive child labor in garment factories along the Burmese border, in Mae Sot Province. However, there was no comprehensive survey of child labor throughout the country, since NGOs often did not have access to shop-house factories. A 2002 survey by the national statistics office reported 10,728 children were employed in domestic work. NGOs reported child domestic workers were predominantly foreign, migrating from Burma, Cambodia, and Laos. Most were in the country illegally, increasing their vulnerability to exploitation. Minimum wage and age provisions of the Labor Protection Act do not apply to domestic workers, some of whom were believed to be less than 15 years of age; however, recently issued regulations extended protections to children in the domestic and agricultural sectors.

The worst forms of child labor occurred in the country. Children (usually foreign) were exploited in street selling, begging, and prostitution in urban areas, sometimes in a system of debt bondage. Some were sold or otherwise trafficked by parents or other relatives. In November 2004 the government implemented guidelines to im-

prove the screening of trafficking victims among child beggars and street vendors from Cambodia or Burma (see section 5). A 2004 ILO study noted that drug merchants in Bangkok used male children as delivery boys. Narcotics sellers preferred children because they were undemanding and were not charged as adults if arrested. Instead they were sent to police-run correctional homes.

The Ministry of Labor is the primary agency charged with enforcing child labor laws and policies. During the year there were 2,354 labor inspection officers, including labor ministry officials and policemen who registered as labor inspection officers. Enforcement of child labor laws was not rigorous, and inspectors usually responded only to specific public complaints, reports of absences by teachers, or reports in newspapers. Their inclination when dealing with violators was to negotiate promises of better future behavior rather than seek prosecution and punishment. Inspection of private homes to monitor the welfare of child domestic workers was hampered by the legal requirement to obtain a warrant. In 2004 1,241 child labor inspections and investigations were performed; 21 of the workplaces inspected revealed serious violations, such as employing underage workers or exceeding legal work hour limits.

In July 2004 the government registered 79,200 migrant children 15 years of age and younger, the first time minors had been given temporary residence permits under migrant labor policy. Government officials stated the new measure would permit foreign children access to the public school system. NGOs reported that this new provision was implemented only if the employer of the migrant parent provided evidence regarding the parent's status to school authorities. In most cases the employer did not do so.

e. Acceptable Conditions of Work.—The minimum wage ranged from \$3.47 to \$4.52 (139 baht to 181 baht) per day, depending on the cost of living in various provinces. The minimum wage was set by provincial wage committees that sometimes included only employer representatives. This wage was not adequate to provide a decent standard of living for a worker and family. With extended family members' financial contributions the minimum wage provided the basis for a marginally adequate overall standard of living. The official poverty rate was 77 cents (31 baht) per day, which permitted survival only in areas where subsistence agriculture was possible. The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, nationwide, academics estimated one-third of formal sector workers received less than the minimum wage, especially those in rural provinces. Despite encouragement of employees to report violations to labor inspectors, the enforcement of minimum wage laws was mixed. Many labor laws, including the minimum wage law, do not apply to undocumented workers, primarily hill tribe members and illegal aliens. An estimated one to two million unskilled and semiskilled migrant workers worked for wages that were approximately one-half the minimum wage.

The government mandated a uniform workweek of 48 hours, with a limit on overtime of 35 hours per week. Employees engaged in "dangerous" work, such as in the chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 35 hours per week and are not permitted overtime. The petrochemical industry is excluded from these regulations. There were reported incidents of employees being forced to work overtime, with punishments and dismissals for workers who refuse.

Working conditions varied widely. The official rate of injury from industrial accidents remained relatively constant over the last 10 years at 4.5 percent of the total work force. The Ministry of Labor stated that the average annual rate of work-related deaths was 15 per 100 thousand workers. However, these rates applied only to industrial sector workers; the rate of incidents occurring in the larger informal and agricultural sectors, and among migrant workers, was thought to be higher. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. Stress-related disorders and complications resulting from botched abortions were reported by medical workers treating the 50 thousand young migrant women employed in textile factories along the Burma border. In medium-sized and large factories, government health and safety standards often were applied, but enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the Labor Protection Act include expanded protection for pregnant workers by prohibiting them from working on night shifts, overtime, holidays, or working with dangerous machinery or on boats. Employers of migrant women often fired workers who became pregnant.

The Ministry of Labor promulgates health and safety regulations regarding conditions of work; however, the inspection department enforced these standards ineffectively, due to a lack of human and financial resources. There is no law affording job protection to employees who remove themselves from dangerous work situations.

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.

Despite the new registration process, migrant workers, especially from Burma, remained especially vulnerable to poor working conditions due to a lack of labor rights. According to Amnesty International, they were routinely paid well below the minimum wage, worked long hours in unhealthy conditions, and were at risk of arbitrary arrest and deportation. According to Human Rights Watch, as many as 10 thousand Burmese migrants were “informally deported” every month.

Enforcement of workplace laws and regulations is the responsibility of the Ministry of Labor’s Department of Labor Protection and Welfare. The department has fewer than 700 fulltime inspectors to monitor more than 340 thousand workplaces. Although the department has undertaken initiatives to hire additional inspectors and to deputize local government officials, the shortage of human and other resources significantly impeded effective enforcement of labor laws.

TONGA

The Kingdom of Tonga is a constitutional monarchy stretching over 170 islands in the southern Pacific Ocean, and its population is approximately 110 thousand. Political life is dominated by the king, the nobility, and a few prominent commoners. The most recent election was held in March and was deemed generally free and fair. There is one registered political party. The civilian authorities generally maintained effective control of the security forces.

Although the government made some strides in protecting human rights during the year, its human rights record remained deficient. The following human rights problems were reported:

- inability of citizens to change their government
- lack of government response to petitions and requests for a popularly elected parliament
- restrictions on freedom of speech
- unfair benefits for businesses associated with royal family members
- domestic violence and discrimination against women
- inability of women to own or inherit land
- lack of regulations concerning the right of workers to form unions or to strike

Participation in government by popularly elected representatives increased. Two of the nine popularly elected people’s representatives were given cabinet posts. In July the country’s first official political party was allowed to register as an incorporated society. A New Zealand journalist who had been banned for nine years was allowed to enter the country. The government generally respected the rights of strikers during a six-week civil servant strike, the first of its kind in the country.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. There were reports that prisoners were collectively punished after the misbehavior or escape of any individual inmate. No nongovernmental organizations (NGOs) attempted to monitor prison conditions, and the permissibility of such visits did not arise. Church representatives and family members were permitted to visit prisoners.

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

Role of the Police and Security Apparatus.—The security apparatus consists of the Tonga Defense Services (TDS) and a police force. The minister of defense controls the TDS force. The minister of police and prisons directs the police force of approximately 400 persons. Incidents of bribe-taking and other forms of corruption in the

police force reportedly occurred. Reports of corruption and other public complaints were referred to a specific police office that conducts internal investigations and, if necessary, convenes a police tribunal. Entry-level police training included training on corruption and transparency.

Arrest and Detention.—The law provides for the right to judicial determination of the legality of arrest, and this was observed in practice. Police have the right to arrest detainees without a warrant, but detainees must be brought before a local magistrate within 24 hours. This law was observed in practice. There are no statutory limits on the length of time a suspect may be held prior to being charged. In most cases magistrates set bail. There were no reports of preventive detention or other lengthy pretrial detention. The law permits unlimited access by counsel and family members to detained persons.

There were no reports of political detainees.

Amnesty.—The king granted partial amnesty to a number of prisoners. At least six prisoners were released on probation during the year, and more than 30 had their terms reduced by approximately 25 percent.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected this provision in practice. The judiciary tended to provide citizens with a fair and efficient judicial process. The judiciary, whose highest-ranking judges historically have been foreign nationals, was generally independent. Judges hold office “during good behavior” and otherwise cannot be dismissed during their terms.

The court system consists of a Court of Appeal, a supreme court (which has original jurisdiction over all major cases), the police magistrates’ court, a general court, a TDS court-martial, a court tribunal for the police force, and a court of review for the Inland Revenue Department. The Court of Appeal is the highest court. The king’s Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law applied to all citizens without exception. A court may not summon anyone without providing a written indictment stating the charges. Trials are public, and defendants have an option to request a seven-member jury. Defendants are presumed innocent, may question witnesses against them, and have access to government-held evidence. Lawyers have free access to defendants. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner. Public defenders are not provided, but local lawyers occasionally take pro bono cases. Defendants have the right of appeal.

The defense services and the police force both have tribunals. These tribunals cannot be used to try civilians.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

Individuals generally were free to criticize the government without reprisal. However, in August the owners of a private television station alleged that the monopoly power company partially owned by the crown prince disrupted the electricity supply to the station prior to a planned broadcast on a nationwide civil servants strike and threatened to “bulldoze” the station if it did not stop broadcasting antigovernment views.

In March a former employee of the same power company made public allegations of high salaries and problems within the company. In late June he was arrested for having illegally retrieved information from the company’s computers, and at year’s end he was free on bail awaiting trial.

The independent media were active and expressed a wide variety of views, generally without restriction.

On May 13, the government lifted a nine-year ban on a New Zealand journalist entering the country.

Government-controlled media outlets were criticized for exercising self-censorship. While there was little editorializing in the government-owned media, opposition opinion in the form of letters to the editor, along with government statements and letters, appeared regularly. From time to time the national media carried comments, including some by prominent citizens, critical of government practices and policies.

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

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

From July 21 until September 3, supporters of a civil servant strike gathered in a public meeting place. The government made one effort to displace them, which was halted two days later when the supreme court issued a temporary injunction against moving the gathered civil servants. Security forces handled the protesters in a peaceful and respectful manner.

In July the government allowed the first official political party in the country's history to register (see section 3).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. However, the constitution states that Sunday, the Sabbath, is to be "kept holy" and that no business can be conducted "except according to law." Although an exception was made for bakeries, hotels, resorts, and restaurants that are part of the tourism industry, the Sabbath day prohibition was otherwise enforced strictly for all businesses, regardless of the business owner's religion.

Tonga Broadcasting Commission (TBC) guidelines require that religious programming on Radio Tonga be confined "within the limits of the mainstream Christian tradition." The TBC did not allow members of the Baha'i Faith to discuss the tenets of their religion or refer to the founder, Baha'ullah, by name. Similarly, the TBC did not allow the Church of Jesus Christ of Latter-day Saints (Mormons) to discuss its founder, Joseph Smith, or the Book of Mormon by name. However, members of the Baha'i Faith used a privately owned radio station for program activities and the announcement of functions, and Mormons and members of some other faiths were permitted to use Radio Tonga for the announcement of church activities. A government-owned newspaper occasionally carried news articles about Baha'i activities or events, as well as those of other faiths.

Societal Abuses and Discrimination.—The relationships among religions generally were amicable. There was no known resident Jewish community, and there were no reports of anti-Semitic acts.

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

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

The law does not prohibit forced exile, but the government did not employ it in practice.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. No person was known to have applied for refugee status. There were no reports of requests for temporary protection.

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

Citizens do not have the ability to change their leaders or the system of government. The king and 33 hereditary nobles dominated political life. They asserted authority largely through control of substantial landholdings and their dominant numbers in parliament. While the constitution allows the monarch broad powers, many of which do not require parliament's endorsement, at times the king permitted parliament to operate without his guidance. The king appoints the prime minister, and he appoints and presides over the Privy Council (called the cabinet when the king or regent is not presiding), which makes major policy decisions. The cabinet is composed of as many as 13 ministers and two governors; it included both nobles and commoners, all serving at the king's pleasure. In March two cabinet ministers were appointed from the nine elected "people's representatives," marking the first time that elected representatives served as cabinet ministers. Two members of parliament elected by nobles also joined the cabinet. The king's son, Prince 'Ulukalala Lavaka Ata, served as prime minister.

The unicameral parliament consists of the cabinet members, nine nobles elected by their peers, and nine representatives elected by the general population. The king appoints the speaker from among the representatives of the nobles. Cabinet members and nobles often voted as a bloc.

Elections and Political Participation.—Only citizens 21 years or older and resident in the country may vote. Parliamentary elections in March, deemed to be free and

fair, resulted in a strong showing for prodemocracy candidates. Subsequent by-elections also resulted in the election of prodemocracy candidates.

In July the country's first official political party, the People's Democratic Party (PDP), was allowed to register as an incorporated society. The PDP was founded in April by a group of prodemocracy activists. Previously, most prodemocracy activists operated from within NGOs, such as the Tonga Human Rights and Democracy Movement.

Prodemocracy groups staged a large demonstration in September and presented a petition to the king's representative that called for constitutional changes, including a popularly elected parliament. The king did not specifically respond to these calls for constitutional changes. However, on October 24, parliament commissioned a committee to ask citizens around the nation and abroad for recommendations to parliament about necessary political changes.

There was one woman in parliament. No woman has ever served as a government minister. A woman may become queen, but the constitution forbids a woman to inherit other noble titles or become a chief.

There was no minority participation in government.

Government Corruption and Transparency.—There were reports of government corruption during the year. Officials working in the main port reportedly took bribes in exchange for not charging the full amount of port and duty tax. In addition the Privy Council promulgated certain policies that appeared to benefit unfairly businesses associated with members of the royal family.

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

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues, but none undertook investigations of alleged violations. There were no restrictions on operations by international human rights groups and no known requests for investigations.

Government offices include a commission on public relations that investigates and seeks to resolve complaints about the government.

Section 5. 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.—Domestic violence against women seldom was publicized; however, according to local women's groups, it was very common. Domestic violence can be prosecuted under laws against physical assault, but in practice prosecutions were very rare. When abuse was reported to the police, victims were often encouraged to return to their homes. There were shelters for abused and troubled women, and the Free Wesleyan Church operated a hotline for women in trouble.

Rape is punishable by imprisonment for a term of up to 15 years. The law does not recognize spousal rape. Rape appeared to be rare, although there were no reliable statistics. There was one prosecution during the year, which was ongoing at year's end.

By law a woman is not permitted to undergo a tubal ligation without the consent of her husband or, in his absence, her male next of kin.

Prostitution is not illegal, but activities such as soliciting in a public place, procuring, operating a brothel, and trading in women are criminal offenses. There was an increase in prostitution for men from foreign fishing vessels, especially among women under the age of 18. Sexual harassment is not a crime, but physical sexual assault could be prosecuted as indecent assault.

Inheritance laws, especially those concerned with land, discriminate against women. Women can lease land but not own it. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock takes precedence over the claim of the deceased's widow or daughter. If there are no male relatives, a widow is entitled to remain on her husband's land as long as she does not remarry or engage in sexual intercourse.

The Office of Women, within the Prime Minister's Office, is not an active participant in pressing for women's rights.

Women held several significant government posts, including that of ambassador and permanent representative to the UN. For a woman to rise to a position of lead-

ership, she usually needed the support of the nobility. Some female commoners held senior leadership positions in business.

The nongovernmental Center for Women and Children focused on domestic abuse and improving the economic and social conditions of women and also offered counseling to women in crisis. Several religiously affiliated women's groups also advocated for women's legal rights.

Children.—The government is committed to children's human rights and welfare, and it provides some funding for children's welfare. Education is compulsory from ages 6 to 14. Education was available for all children through high school, and almost all children attended school.

The government provided free basic medical care to children.

There were some reports of child abuse.

Trafficking in Persons.—While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There are no mandated provisions for services for persons with disabilities. The Tonga Red Cross Society operated a school for children with disabilities and conducted occasional home visits. There were complaints of discrimination in employment, education, or provision of other government services. The education of children with special needs has been a longstanding priority of the queen. There were no programs to ensure access to buildings for persons with disabilities.

National/Racial/Ethnic Minorities.—According to the Ministry of Labor, ownership and operation of food retail stores in the country has been legally restricted to citizens since the early 1980s. However, the retail sector in many towns has become increasingly dominated by foreigners, particularly Chinese nationals. The Immigration Department of the Ministry of Foreign Affairs attempted to enforce the restrictions in an effort to curb growing illegal immigration. Although some foreigners left as a result of the policy, others moved to nonrestricted sectors of the economy. There were reports of crime and discrimination targeted at members of the Chinese minority by members of the public.

Other Societal Abuses and Discrimination.—Openly homosexual behavior faced societal discrimination.

Section 6. Worker Rights

a. The Right of Association.—Workers gained the right to form unions under the 1963 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no official unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act; however, they had no formal bargaining rights under the act. The Public Servants Association acted as a de facto union representing all government employees during the six-week, nationwide civil servant strike for a wage increase.

b. The Right to Organize and Bargain Collectively.—Collective bargaining is permitted by law, but there were no implementing regulations. During the year the government and public sector employees engaged in collective bargaining to resolve a strike by civil servants for higher wages. The government ultimately accepted the pay increase demands of the Public Servants Association and paid the increases beginning in September.

The 1963 act provides workers with the right to strike, but implementing regulations were never formulated. From July 22 to September 3, there was a nationwide strike of government employees. Marches and meetings were peaceful, and the government made no move to prevent citizens from organizing. On several occasions members of the government threatened that workers would lose their jobs if they did not return to work, but this did not occur.

Labor laws apply in all sectors of the economy, including the two small export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although there is no legislation prohibiting child labor, the practice did not exist in the wage economy.

e. Acceptable Conditions of Work.—There is no minimum wage law, although there are government guidelines for wage levels. According to the Asian Development Bank, 23 percent of 16 communities surveyed earned less than \$15 (T\$29) per person per week, which did not provide a decent standard of living for a worker and

family. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The ministry enforced laws and regulations in the wage sector of the economy, particularly on the main island of Tongatapu, but enforcement in the agricultural sector and on the outer islands was less consistent.

Few industries exposed workers to significant danger, and industrial accidents were rare. The government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

TUVALU

Tuvalu is a parliamentary democracy and British Commonwealth member with a population of approximately 11 thousand. The head of state, Queen Elizabeth II, is represented by the governor general, who must be a citizen of the country. There are no formal political parties. In 2002 citizens elected a 15-member unicameral parliament in free and fair elections. Parliament selects the prime minister. In October 2004 Parliament selected Maatia Toafa as prime minister to replace Saufatu Sopoanga, who lost a parliamentary vote of confidence. The civilian authorities generally maintained effective control of the police, the country's only security force.

The government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- allegations of government corruption
- social and religious discrimination stemming from traditional customs and social patterns
- discrimination against women

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Local hereditary elders exercise discretionary traditional punishment and disciplinary authority. This includes the right to inflict corporal punishment for infringing customary rules, which can be at odds with the national law. However, during the year there were no reports of such corporal punishment.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted regular visits by local church representatives. There were no visits by independent international human rights observers.

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

Role of the Police and Security Apparatus.—The Office of the Prime Minister oversees the country's only security force, the 73-member national police service. Most police were stationed on Funafuti Island, with one regular and one auxiliary officer serving on each of the other islands. The police generally were regarded as professional and effective, although women's rights advocates criticized them as failing to take the issue of domestic violence seriously enough.

Senior officers investigate allegations of police abuse on a case-by-case basis, and the police commissioner reviews any proposed punishment. Corruption and impunity were not significant problems.

Arrest and Detention.—The law permits arrests without warrants when an unlawful act is committed in the presence of a police officer; police estimated that approximately 80 percent of arrests were of this type. The 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 oc-

curred (see section 1.e.). Detainees had prompt access to family members and to the people's lawyer (public defender); the country had no attorneys in private practice.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

There is a two-tier judicial system. Higher courts include the High Court, the Court of Appeal, and the Sovereign in Council (Privy Council) in the United Kingdom. Lower courts consist of senior and resident magistrates, the island courts, and the Land Court. An expatriate chief justice appointed by the governor general presides over the High Court, which generally sits twice a year.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Judges conduct trials and render verdicts; there are no juries. The accused must be informed of the nature of the offenses with which they are charged and provided the time and facilities required to prepare a defense. The people's lawyer (public defender) expressed concern that bureaucratic delays sometimes resulted in several months passing before an accused was informed of the charges. The law provides for a presumption of innocence and the right to confront witnesses, present evidence, and appeal convictions. Procedural safeguards are based on British common law. The services of the independent people's lawyer are available to all citizens without charge.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, but the government occasionally limited these rights in practice.

There were no private, independent media. The Tuvalu Media Corporation (TMC), a public corporation, controlled the country's sole radio station and a monthly newsletter. The secretary to government serves as the chairman of the TMC board, and the prime minister's duties include nominal oversight of the TMC. In practice only 10 minutes of local news and information was broadcast daily; the remaining radio programming consisted of rebroadcasts of BBC programs. There was no television. Following previous criticism of government influence and self-censorship at the TMC, human rights activists reported that TMC coverage of political and human rights issues that was critical of the government, although still limited, increased during the year. Videotapes circulated freely and were widely available; however, pornography in all forms is illegal.

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

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

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, under an October High Court ruling, traditional village authorities may restrict this right in certain circumstances.

The constitution also states that the laws are to be based on Christian principles. Despite official tolerance, religious homogeneity (more than 90 percent of citizens are members of the Church of Tuvalu, a Congregationalist denomination) and traditional structures of communal life posed practical barriers to the introduction and spread of other religious beliefs. The law requires churches to register and they must have a minimum of 50 members to do so.

In 2003 the traditional island council of Nanumanga banned the introduction of additional religions to that island. The Tuvalu Brethren Church subsequently filed a complaint against the council after the council ordered church members to stop further proselytizing and some islanders attacked and injured church members and damaged church property. In October the High Court ruled against the church, stating that the constitution permits local traditional authorities to restrict the constitutional right to religious freedom in defense of traditional mores. The church's appeal of the High Court ruling was pending at year's end.

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

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

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

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

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. The government maintained its general cooperation with the Office of the UN High Commissioner for Refugees and other humanitarian organizations, but the issue of assisting refugees and asylum seekers did not arise during the year.

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.—Citizens freely and directly elect a 15-member unicameral parliament with a normal term of 4 years. Each of the country's eight main islands is administered by a six-person council, also elected by universal suffrage to four-year terms. The minimum voting age is 18 years.

The most recent general elections, held in 2002, were free and fair. The newly elected Parliament elected Saufatu Sopoanga, a former civil servant, as prime minister. In August 2004 Sopoanga lost a parliamentary vote of confidence. Then-deputy prime minister Maatia Toafa acted as prime minister in a "caretaker" capacity until October 2004, when Parliament formally elected him prime minister.

There were no formal political parties; however, Parliament informally was divided between a faction that supported the Toafa government and a faction that did not.

Participation by women in government and politics was limited, largely due to traditional perceptions of women's role in society. There were no female members of Parliament or cabinet ministers, but the number of female senior civil servants increased during the year.

Government Corruption and Transparency.—Laws against corruption are weak. There was a widespread public perception that the government lacked transparency and accountability, that public funds sometimes were mismanaged, and that government officials benefited unfairly from their positions.

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, lacked serious parliamentary support, and consequently continued to lack adequate staff and resources. During the year Parliament's Public Accounts Committee, chaired by the opposition, conducted its first interviews of all government department heads and permanent secretaries. Human rights advocates viewed that as a positive step toward transparency.

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

There were no local nongovernmental organizations concerned entirely with human rights, although there were no known barriers to their establishment. Some human rights advocates such as the National Council of Women operated under the aegis of the Tuvalu Association of Nongovernmental Organizations, which was composed primarily of religious organizations. The people's lawyer, who served as a public defender, also monitored sentencing, equality before the law, and human rights issues in general. This institution, which at times has been 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. Government officials were somewhat cooperative and responsive to their views.

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

The law prohibits discrimination on the basis of race, color, place of origin, religion, or political belief, and the government generally enforced these prohibitions. The National Council of Women urged the government to amend the law to specifi-

cally prohibit discrimination on the basis of gender, but no action was taken on this proposal during the year.

Women.—Reports of violence against women were rare. Women's rights observers reported that it was not possible accurately to estimate the incidence of domestic violence, due to a lack of data. They also criticized the police for seeking to address violence against women using traditional and customary methods of reconciliation rather than criminal prosecution. Assault is a crime, but the law does not address domestic violence specifically, and it was not a source of broad societal debate. Rape is a crime punishable by a minimum sentence of five years' imprisonment; however, spousal rape is not included in the legal definition of this offense.

Prostitution and sex tourism are illegal and were not problems. The law does not prohibit sexual harassment specifically, but prohibits indecent behavior, which includes lewd touching. Sexual harassment was not a significant problem.

Although the constitution provides that its bill of rights provisions apply to all regardless of "race, place of origin, political opinions, color, religious beliefs or lack of religious beliefs, or sex," its provision on freedom from discrimination omits a specific reference to discrimination based on gender. Women's rights advocates cited this contradiction as denying women full constitutional rights and freedoms. The issue has not been tested in the courts.

The law generally treats men and women equally, but there remained some areas in which the law contributed to an unequal status for women. For example, the land inheritance rights of the Lands Code are based in part on customary practices. If survivors cannot agree on the settlement of an estate, the law specifically provides for sons to inherit a greater share of property than daughters. However, the law allows appeal of such property distributions.

In practice women held a subordinate societal position, constrained both by law in some areas and by traditional customary practices. Nonetheless, women increasingly held positions in the health and education sectors and were more active politically. In the wage economy, men held most higher-paying positions, while women held the clear majority of lower-paying clerical and retail positions.

Children.—Government funding for children's welfare was reasonable within the context of its total available resources. Education was free, compulsory, and universal for children through age 13. Primary school enrollment rates were 87 percent for boys and 88 percent for girls, according to the Asian Development Bank. However, only about one-third of secondary-school-age children (ages 15–19) attended school. The attendance rate for girls at the secondary school level was approximately 10 percent higher than that for boys overall, and approximately 40 percent higher in the last 2 years of secondary school. Students competed for academic scholarships to attend universities overseas or participated in vocational training focusing on subsistence farming and maritime training for men and computer or other business training for women. The government provided free medical care for children through age 18.

There were no reports of child abuse.

Trafficking in Persons.—The law prohibits procurement of persons within and across borders for purposes of prostitution, but it does not mention or prohibit trafficking specifically. However, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—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 limited. There are no mandated accessibility provisions for persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public sector employees such as civil servants, teachers, and nurses were members of professional associations that did not have union status. The only registered trade union, the Tuvalu Seamen's Union, had approximately 1,090 members, who worked on foreign merchant vessels.

b. The Right to Organize and Bargain Collectively.—The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice the few individual private sector employers set their own wage scales. Both the private and public sectors generally used nonconfrontational deliberations to resolve labor disputes.

The law provides for the right to strike, but no strike has ever taken place. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children under age 14 from working in the formal labor market. The law also prohibits children under age 15 from industrial employment or work on any ship and stipulates that children under age 18 are not allowed to enter into formal contracts, including work contracts. Children rarely were employed outside the traditional economy of subsistence farming and fishing.

e. Acceptable Conditions of Work.—The minimum wage, set by the government, was barely sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public sector was \$98 (A\$130), regardless of sex and age. In most cases the private sector adopted the same minimum wage rate.

The Ministry of Labor may specify the days and hours of work for workers in various industries. The law sets the workday at eight hours. The majority of workers were outside the wage economy, which was primarily on the main island.

The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Labor is responsible for the enforcement of these regulations, but in practice it provided only minimum enforcement.

Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.

VANUATU

Vanuatu is a multiparty parliamentary democracy with a population of approximately 206 thousand. The constitution provides for parliamentary elections based on universal suffrage every four years. The 52-member Parliament elects the prime minister as the head of government. An electoral college composed of the members of Parliament (MPs) and the chairmen of the country's six provincial government councils elects the president as the head of state for a five-year term. The latter's powers are largely ceremonial. The Council of Chiefs provides recommendations on matters relating to custom and traditional practices. The most recent elections, held in July 2004, were considered generally free and fair. A coalition government was formed, but in December 2004 Parliament ousted Prime Minister Serge Vohor of the Union of Moderate Parties and elected Ham Lini of the National United Party to replace him. Lini's government, an eight-party coalition, enjoyed a rare period of political stability during the year. The civilian authorities generally maintained effective control of the security forces; however, police officials on occasion have acted peremptorily or at the direction of senior politicians.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- poor prison conditions
- arrests without warrants
- an extremely slow judicial process
- government corruption
- violence and discrimination against women

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions were poor at both the small, dilapidated central prison in Port Vila and the prison in Luganville, where

conditions generally were regarded as worse than in Port Vila. Security at both facilities also was poor, and there were frequent prisoner escapes. The secretary of the Public Service Commission reported a sizable increase in the prison population compared with the previous year, resulting in serious overcrowding. In December the government released 52 prisoners, citing poor prison sanitation and overcrowding as the reasons for the release. Pretrial detainees usually were held in the police lockup rather than the prison. Persons deemed mentally unfit to stand trial were housed with the general prison population. During the year foreign governments pledged financial assistance for prison improvements, but little progress was made by year's end.

The government permits prison visits by independent human rights observers.

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

Role of the Police and Security Apparatus.—The commissioner of police heads the police force of approximately 600 officers, including approximately 200 members of the Vanuatu Mobile Force (VMF), a paramilitary unit with responsibility for responding to both internal and external security threats or other situations requiring the use of force. The Police Services Commission administers the employment of all police officers and selects the commissioner. The police generally were considered effective but were hampered by a lack of resources and by internal rivalries. Corruption and impunity were not major problems; however, there were some instances of corruption, and there have been some instances in which police have acted without proper authorization at the behest of politicians.

In September 2004 the chairman of the Police Services Commission was removed and the police commissioner and VMF commander were suspended after the police reportedly attempted to arrest the prime minister in connection with a contempt of court charge. During the year a court overturned the VMF commander's suspension; he was reinstated but reassigned to a different position.

Arrest and 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. Judges, prosecutors, and police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years can pass before a case is brought to trial. Detainees were allowed prompt access to counsel and family members. There is a public defender's office that provides counsel to indigent defendants.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. Relations between the executive and the judiciary improved during the year.

Magistrates' courts deal with most routine legal matters. There also are island courts at the local level, with limited jurisdiction in civil and criminal matters. The Supreme Court, an intermediate-level court, has unlimited jurisdiction over criminal and civil matters and considers appeals from the magistrates' courts. The president appoints the chief justice of the Supreme Court after consultation with the prime minister and the leader of the opposition; the three other justices are appointed by the president on the advice of the Judicial Services Commission. The Appeals Court is the highest appellate court. It comprises at least three judges, including at least two judges from the Supreme Court, and often includes senior judges from other common-law countries in the region. Judges cannot be removed without cause.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judiciary was relatively weak and inefficient, and some defendants spent extended periods in pretrial detention as a result (see section 1.d.). 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 judicial determination of the validity of arrest or detention, a right to question witnesses, and a right of appeal to a higher court.

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Unlike the previous government in the prior year, the Lini government did not restrict appearances by opposition parliamentarians on government-owned radio and television stations.

The government controlled the country's one AM and one FM radio station and a limited-service television station that broadcast only to the capital of Port Vila and the second-largest city, Luganville. Access to international news and information also was available through private subscription satellite television service. There was one independent daily newspaper and two privately owned semiweekly newspapers. During the year most international correspondents, government-owned media, and the independent press reported criticisms of political leaders freely and apparently without hindrance. However, at times some individual politicians and their supporters have attempted to intimidate the media, although with no apparent effect.

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

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. However, in September the government denied a request by the National Workers Union for a permit to demonstrate against the firing of 26 Air Vanuatu employees (see section 6.b.). The government reportedly cited concern that the demonstration would disturb the peace in advance of local elections scheduled for October; the union criticized the government's decision.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The government provided some financial assistance for the construction of churches affiliated with member denominations of the Vanuatu Christian Council, provided grants to church-operated schools, and paid teachers' salaries at church-operated schools in existence since the country's independence in 1980. These benefits were not available to non-Christian religious organizations. Government schools also scheduled weekly religious education classes conducted by representatives of Council churches. Students whose parents did not wish them to attend the classes were excused. Non-Christian religions were not permitted to give religious instruction in public schools.

Societal Abuses and Discrimination.—The country's Jewish community was limited to a few expatriates, and there were no reports of anti-Semitic acts.

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

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

The law does not address forced exile, but the government did not employ it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. There were no refugee or asylum cases reported during the year. The government had no association with the Office of the UN High Commissioner for Refugees.

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

The law provides citizens 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.—National parliamentary elections were last held in July 2004 and were considered generally free and fair. During the year no further action was taken against alleged participants in the burning of several ballot boxes on the island of Tanna during the elections. Parliamentary majorities have been unstable, with frequent motions for votes of no confidence in the government. In October 2004 Parliament passed proposed amendments to the constitution that, among other things, would bar no-confidence motions in the first and last years of a parliament's four-year term. As of year's end the government had not held the required national referendum on ratification and had not indicated an intention to do so.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There were 2 women in the 52-member Parliament. There was one woman in the cabinet.

There were at least two members of minorities (non-Melanesians) in Parliament, one of whom was in the cabinet.

Government Corruption and Transparency.—Government corruption was a problem. Prime Minister Lini appointed as his minister of agriculture a former prime minister who was convicted of forgery in 2002 and sentenced to 3 years' imprisonment; he was released several months later, after the then president pardoned him on medical grounds, and was reelected to Parliament. The law provides for the appointment of public servants on the basis of merit; however, in practice political interference at times has hampered the effective operation of the civil service. At year's end several officials from the Vanuatu Maritime Authority were awaiting trial on charges of criminal conspiracy for alleged mishandling of the awarding of licenses and contracts.

No law provides for public access to government information. In practice governmental response to requests for information from the media has been mixed.

Section 4. 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 tolerated their views.

The president appoints a government ombudsman to a five-year term in consultation with other political leaders. The law requires that the Public Service Commission, not the ombudsman, appoint members of the ombudsman's staff and authorizes the presence of legal counsel during interviews with the ombudsman. Since its establishment, the ombudsman's office has issued a number of reports critical of government institutions and officials. During the year the president appointed a widely respected lawyer as the new ombudsman.

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

The law prohibits discrimination on the basis of race, place of origin, religious or traditional beliefs, political opinion, language, or sex; however, women remained victims of discrimination in the tradition-based society.

Women.—Violence against women, particularly domestic violence, was common, although no accurate statistics exist. There are no specific laws against domestic violence; courts occasionally prosecuted offenders using common law assault as a basis for prosecution. Under a 2002 revision of the civil procedure rules, magistrates have the authority to issue domestic violence protection orders. However, 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. 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. There were no government programs to address domestic violence, and media attention to the abuse was limited. Churches and other NGOs ran facilities for abused women. NGOs such as the National Council of Women and the Vanuatu Women's Center also played an important role in educating the public about domestic violence.

Prostitution is illegal and was not regarded as a serious problem. Although there is no law against sex tourism, none was reported. Sexual harassment is not illegal and was a problem. During the year a high-ranking chief made widely publicized statements against sexual harassment.

While women have equal rights under the law, they are 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. Women also were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women. Women interested in running for public office received encouragement and help from the NGO Vanuatu Women in Politics.

Children.—Access to education was limited, and school attendance was not compulsory. Less than 35 percent of all children advanced beyond elementary school due to a shortage of schools and teachers beyond grade six. Boys tended to receive more education than girls. Although attendance rates were similar in the early primary grades (approximately 79 percent for boys and 78 percent for girls), fewer girls advanced to the higher grades. A significant portion of the population, perhaps as high

as 50 percent, was functionally illiterate. Medical services were free, and there was an immunization program; however, the government had few resources for medical care, particularly in outlying provinces where there were no hospitals.

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.

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 practice, in rural areas and some outer islands, some children married at younger ages.

Trafficking in Persons.—The law does not prohibit specifically trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There was no governmental or national policy on persons with disabilities and no legislation mandating access to buildings for them. There were no special programs to assist persons with disabilities. Their protection and care was left to the traditional extended family and to voluntary NGOs. Due to high rates of unemployment, there were few jobs available for persons with disabilities. Persons with mental illness generally did not receive specialized care; they usually were attended by members of their extended families.

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 it sometimes was 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 can legally grow kava, a native herb, for export.

Section 6. Worker Rights

a. The Right of Association.—The law provides all workers with the right to organize and join unions, and workers exercised this right in practice. Approximately 25 thousand persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately one thousand. The five existing trade unions are independent of the government. They are grouped under an umbrella organization, the Vanuatu Council of Trade Unions. The high percentage of the population still engaged in subsistence agriculture and fishing precluded extensive union activity. Unions require government permission to affiliate with international labor federations. The government has not denied any union such permission.

b. The Right to Organize and Bargain Collectively.—Unions exercise the right to organize and bargain collectively. They negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member arbitration board appointed by the minister of home affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the Magistrate's Court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without arbitration.

In August employees of Air Vanuatu held a one-day strike to protest proposed layoffs. Police refused to issue a demonstration permit to the National Workers Union, which sought to march in support of the Air Vanuatu workers. In September the airline dismissed 26 employees. In November the National Workers Union alleged that on November 28, police and VMF members threatened union members who were picketing outside the Port Vila airport to protest lack of progress in resolving the dispute between Air Vanuatu employees and the carrier. According to the union, the picketers were warned that they would lose their jobs if they did not stop their protest and return to work. Air Vanuatu denied the union's allegations and asserted that the authorities were brought in only to ensure normal operations at the airport. At year's end the unresolved labor dispute was under review by an arbitration panel.

Complaints of antiunion discrimination are referred to the Department of Labor; however, none were reported during the year.

While the law does not require union recognition, it prohibits antiunion discrimination once a union is recognized. The law prohibits retaliation for legal strikes. In the case of private-sector employees, complaints of violations would be referred to the Department of Labor for conciliation and arbitration. In the public sector, the

Public Service Commission would handle 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.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children under age 12 from working outside of family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age was restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. The Department of Labor effectively enforced these laws.

e. Acceptable Conditions of Work.—The Department of Labor effectively enforced a legislated minimum wage. In September Parliament set the minimum wage at \$179 (20 thousand vatu) per month, a substantial increase from the \$143 (16 thousand vatu) rate in place since 1995. The minimum wage did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing incomes through subsistence farming. Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, such as a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act, enforced by the Department of Labor, includes provisions for safety standards. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Department of Labor could not enforce the law fully. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

VIETNAM

The Socialist Republic of Vietnam is an authoritarian state, ruled and controlled by the Communist Party of Vietnam (CPV). Its population is approximately 83.5 million. The CPV's constitutionally mandated primacy and the continued occupancy of all senior government positions by party members allowed it to set the broad parameters of national policy. However, the CPV continued to reduce its formal involvement in government operations and allowed the government to exercise significant discretion in implementing policy. The most recent elections to choose members of the National Assembly, held in 2002, were neither free nor fair, since all candidates were chosen and vetted by the CPV's Vietnam Fatherland Front (VFF), an umbrella group that monitors the country's popular organizations. The National Assembly remained subject to CPV direction; however, the government continued to strengthen the assembly's capacity. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained unsatisfactory. Government officials, particularly at the local level, continued to commit serious abuses, despite improvement during the year. Economic developments remained a major influence on the human rights situation as the country carried on with its rapid transition from a centrally planned economy to a "socialist-oriented market economy." Economic reforms and the rising standard of living continued to reduce CPV and government control over, and intrusion into, daily life. However, many persons in isolated rural areas—including members of ethnic minority groups in the Northwest Highlands, Central Highlands, and the central coastal regions—continued to live in extreme poverty. The government continued to seek greater (primarily economic) links with the outside world, with some parallel change in attitude toward human rights. Thus the more urban areas of the country continued to show improvement in this respect, while the Central and Northwest Highlands remained areas of international concern. The following human rights problems were reported:

- inability of citizens to change their government
- police abuse of suspects during arrest, detention, and interrogation
- harsh prison conditions
- arbitrary detention or restriction of the movement of persons for peaceful expression of political and religious views

- denial of the right to fair and expeditious trials
- imprisonment of persons for political and religious activities
- limited privacy rights
- restrictions on freedoms of speech, press, assembly, and association
- restrictions on religious freedom
- restrictions on freedom of movement
- prohibition of the establishment and operation of human rights organizations
- violence and discrimination against women
- child prostitution
- trafficking in women and children
- societal discrimination against some ethnic minorities
- limitations on worker rights
- child labor

During the year the government took steps to improve respect for human rights, including worker rights. Unlike in previous years, there were no credible reports of killings or disappearances by security forces. The government amnestied more than 26 thousand prisoners, including several high-profile prisoners-of-conscience. The government implemented an agreement with Cambodia and the Office of the UN High Commissioner for Refugees (UNHCR) to facilitate the return of nearly 200 ethnic minority citizens to the Central Highlands from Cambodia, and it provided access and facilitated travel to the Central Highlands for UNHCR and foreign mission staffs to monitor the progress and treatment of returnees. The government created a new and relatively more open legal framework for religious freedom, which, for example, resulted in improved conditions for Protestant house churches in the southern and central areas of the country, eased restrictions on the training of Catholic and Buddhist clergy, and accepted applications for some previously unrecognized ethnic minority Protestant congregations in the Northwest Highlands to register for worship, although by year's end none had received permission to do so.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; in addition, unlike in previous years, there were no credible reports of extrajudicial killings by security forces.

In April 2004 ethnic minorities protested in numerous locations in the central highlands provinces of Dak Nong, Dak Lak, and Gia Lai. In a number of cases, police reportedly responded by beating and firing upon demonstrators. The government reported the deaths of three protesters, allegedly all at the hands of other demonstrators. Credible estimates put the number of protesters killed by police at 10 to 12; some international organizations alleged that the figures were much higher (see section 2.b.). Following the protests, the government increased efforts to provide development assistance to ethnic minority areas in the Central Highlands. In some jurisdictions it also eased restrictions on Protestant groups.

No action was taken against officials involved in the 2003 killings of Protestant devotee Vang Seo Giao or Tran Minh Duc. There also were no developments in the 2002 killings of Nguyen Ngoc Chau, Khong Van Thoi, and Pham Van Dung.

b. Disappearance.—Unlike in previous years, there were no credible reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits physical abuse; however, police sometimes physically mistreated suspects while arresting them or holding them in custody. In mid-September local officials in the central highland province of Gia Lai reportedly beat two ethnic Dao Protestants, who were subsequently hospitalized for five days. Provincial government authorities reportedly were investigating the incident, but at year's end no official had been reprimanded. As in previous years, a small number of allegations were made that police, particularly in the Northwest Highlands, beat suspects, mainly ethnic minority Protestants, to the point of unconsciousness while also forcing them to perform acts against their religious beliefs such as consuming alcohol. However, other sources were not able to verify or confirm these allegations.

In October 2004 Dong Nai provincial police and prosecutors ordered the involuntary commitment of Protestant Than Van Truong to a mental institution. Officials stated that Truong demonstrated delusional behavior in his religious beliefs, although officials acknowledged that Truong did not pose a violent threat. The offense

that called the attention of law enforcement authorities was Truong's letters to senior CPV and government officials urging them to abandon Marxism-Leninism and follow the Christian faith. Truong was released in September, apparently on the condition that he sign a document certifying his mental illness, making him subject to readmission to a mental institution should he "relapse."

There were no developments in the 2003 incident in which militia soldiers and local officials in the village of Nam Nga, Lai Chau Province, reportedly raped two girls, destroyed several houses, killed livestock, and destroyed fences, allowing animals to enter fields and trample crops, in an attempt to punish individuals in the village for practicing Protestantism.

Prison and Detention Center Conditions.—Prison conditions reportedly often were harsh but generally did not threaten the lives of prisoners. Overcrowding, insufficient diet, and poor sanitation remained serious problems in many prisons. Most prisoners had access to basic health care. Prisoners generally were required to work but received no wages (see section 6.c.). In 2004 diplomatic observers reported Spartan but generally acceptable conditions in two prisons. Prisoners, including those held for political reasons, reportedly were sometimes moved to solitary confinement, where they were deprived of reading and writing materials, for periods of up to several months.

Although political and religious prisoners often were confined under harsh conditions, there was no evidence to suggest their conditions were significantly different than those for the regular prison population. In some instances they received better treatment, including better rations and access to care packages from home, than those in the general prison population.

During the year the government did not permit the International Committee of the Red Cross, nongovernmental organizations (NGOs), or diplomatic observers to visit prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government continued to arrest and detain citizens for the peaceful expression of their views.

Role of the Police and Security Apparatus.—Internal security primarily is the responsibility of the Ministry of Public Security (MPS); however, in some remote areas the military is the primary government agency and provides public safety functions, including maintaining public order in the event of civil unrest. The MPS controls the police, a special national security investigative agency, and other internal security units. It also maintained a system of household registration and block wardens to monitor the population, concentrating on those suspected of engaging, or being likely to engage in, unauthorized political activities; however, this system has become less pervasive in its intrusion into most citizens' daily lives.

Police organizations exist at the provincial, district, and local levels and are subject to the authority of the people's committees at each level. The police were generally effective at maintaining political stability and public order, but police capacities, especially investigative, were very low. Police training and resources were inadequate. Corruption was a significant problem among the police force at all levels. Internal police oversight structures existed but were subject to political influence.

Arrest and Detention.—The Supreme People's Procuracy (the public prosecutor) issues arrest warrants, generally at the request of police; however, police may make an arrest without a warrant on the basis of a complaint filed by any person. In such cases the public prosecutor must issue retroactive arrest warrants.

After police detain a suspect, a judge must issue a decision to initiate a formal criminal investigation within nine days, or police must release the suspect. Under the criminal code, this investigative period may last from 3 months for "less serious" offenses (those that may result in less than 3 years' imprisonment) to 16 months for "exceptionally serious" offenses (those that may result in more than 15 years' imprisonment, life imprisonment, or capital punishment), and an additional 4 months for national security cases. The code further permits the public prosecutor an additional two months at the end of the investigation to consider whether to prosecute the detained person or return the case to the police for additional investigation. There is no legal limit on the time within which a judge's panel (a body consisting of at least one judge and two lay assessors) must rule on a case (see section 1.e.). Time spent in pretrial detention counts toward time served upon conviction and sentencing. Although the criminal code allows for the operation of a bail system, in practice no such system existed.

The criminal procedure code allows pretrial detainees access to their lawyers from the point of detention; however, bureaucratic delays frequently limited initial contact between detainees and their lawyers, and some detainees, particularly political activists, were not permitted regular access by lawyers until shortly before their

trials. The code also provides that during the investigative period, defense lawyers be informed of interrogations and also be able to attend them, be given access to case files, and be permitted to make copies of documents in the files. Legal experts reported that defense attorneys were able to exercise these rights. However, a defendant first must request the presence of a lawyer, and it was not clear whether authorities always advised defendants of their new rights. In national security cases, defense lawyers were granted access to clients only after an investigation had ended.

Although the constitution provides for legal counsel for all persons accused of criminal offenses, a scarcity of trained lawyers made this provision difficult to implement. Counsel generally was provided only to those charged with crimes that could lead to life imprisonment or the death penalty. Prior to being formally charged, a detainee has a statutory right to notify family members, and police generally informed the family of the detainee's whereabouts. However, family members may visit a detainee only with the permission of the investigator.

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 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 months to two years in either juvenile reformatories or adult detention centers and generally were applied to repeat offenders with a record of minor offenses such as committing petty theft or "humiliating other persons." Chairpersons may also impose terms of "administrative probation," which generally has been some form of restriction on movement and travel.

Following his February release from prison under the amnesty program, Catholic priest Nguyen Van Ly reported that he remained under administrative probation. However, he was able to travel within the country with the prior approval of Thua Thien Hue provincial officials. Senior leaders of the Unified Buddhist Church of Vietnam (UBCV) reported that they remained under effective "pagoda arrest," although government officials denied that such orders existed. In 2004 UBCV leaders and at least one Hoa Hao follower remained under formal administrative detention. A number of Buddhist, Catholic, and Protestant clerics, as well as some writers and political activists, were subject to varying degrees of informal detention in their residences (see sections 2.c. and 2.d.). In 2003 the people's committee chairman of Ho Chi Minh City reportedly sentenced four UBCV monks to two years' house arrest.

Authorities in the Central Highlands continued to prosecute ethnic minority members whom the government alleged were involved in separatist activities or in helping other individuals illegally cross into Cambodia. Government press reports indicated that at least 15 ethnic minority persons were convicted and sentenced to prison terms of 2 to 13 years. There were credible reports that in at least two instances during the year, one in Dak Lak and one in Gia Lai, some of these persons were held for lengthy periods without trial. One of the individuals reportedly was held and tried in secret.

Citizens seeking to exercise freedom of religion, assembly, and expression were at times detained by security forces for several days. In particular there were numerous reports that government officials in the Central and Northwest Highlands temporarily detained ethnic minority Protestant believers. During July and August 2004 in Sapa District, Lao Cai Province, authorities detained without charge numerous ethnic minority Hmong Protestants in at least eight different communes (see section 2.c.).

On occasion foreign citizens were detained and interrogated. In May two foreign citizens were detained by local authorities in Gia Lai Province, questioned for two days before being fined for having been in a restricted area, and released. In July 2004 foreign citizen Larry Linh Nguyen was held for seven days and interrogated about his alleged affiliation with Vietnamese-American political groups opposed to the CPV. Foreign citizen Hoang The Lan was detained by public security officers in August 2004 in Soc Trang and interrogated for four days about his involvement with groups that advocate democracy in Vietnam before being released.

The government held at least eight political detainees at year's end, according to international NGOs and diplomatic observers. In general the government refused to allow access to political detainees for international humanitarian organizations.

Amnesty.—During the year the government amnestied 26,688 prisoners, in 3 groups, a significant increase from previous years' holiday amnesties. Several high-profile prisoners benefited from these amnesties, including political and religious activists such as Dr. Nguyen Dan Que, Father Ly, and the UBCV's Thich Thien Minh (see section 1.e.).

e. Denial of Fair Public Trial.—The law provides for the independence of judges and lay assessors; however, in practice the CPV controls the courts at all levels by selecting judges at least in part for their political reliability. The CPV also influenced high-profile cases and others in which a person was charged with challenging or harming the CPV or the state. During the year CPV and government officials likely exerted control over court decisions by influencing lay assessors and judges.

The system of appointing judges and lay assessors contributed to executive control over the judiciary. The president presents a nomination for the presiding judge of the Supreme People's Court (SPC) to the National Assembly for approval. The president directly appoints the other members of the SPC upon the recommendation of a committee including the presiding judge of the SPC, members of the Ministries of the Interior and Defense, the VFF, and the Vietnam Lawyers Association. At the provincial and district levels the recommending panel is headed by the chairman of the provincial people's council (the provincial legislature) and includes members of the provincial people's court, provincial department of personnel, the VFF, and the provincial lawyers' association. Judges are appointed for five-year terms. Provincial and district governments disburse judges' salaries at their respective levels.

The judiciary consists of the SPC; the district and provincial people's courts; military tribunals; administrative, economic, and labor courts; and other tribunals established by law. Each district has a district people's court, which serves as the court of first instance for most domestic, civil, and criminal cases. Each province has a provincial people's court, which serves as the appellate forum for district court cases as well as court of first instance for other cases. The SPC is the highest court of appeal and review. It reports to the National Assembly. Administrative courts deal with complaints by citizens about official abuse and corruption.

There was a shortage of trained lawyers and judges, and there was no independent bar association. Low judicial salaries hindered efforts to develop a trained judiciary. The few judges who had formal legal training often had studied abroad in countries with communist legal traditions. In 2004 a newspaper affiliated with the Ministry of Justice reported that in some courts as many as 30 to 40 percent of verdicts were incorrect and as many as 50 persons had been wrongly imprisoned in the first quarter of the year. The newspaper also noted that, according to 2001 statistics, 31.2 percent of judgments in criminal cases made by local courts had to be reexamined and 46 percent of the verdicts in civil cases were wrong.

Government training programs to address the problem of inadequately trained judges and other court officials were underway. Foreign governments and the United Nations Development Program (UNDP) provided assistance; however, the lack of openness in the criminal judicial process and the continuing lack of independence of the judiciary hampered progress.

Courts of first instance at district and provincial levels include judges and lay assessors, but provincial appeals courts and the SPC are composed of judges only. People's councils appoint lay assessors from a pool of candidates suggested by the VFF. Lay assessors are required to have "high moral standards," but legal training is not necessary. Some international observers suggested that the short terms of appointment for judges and lay assessors and the strong representation of provincial officials on their nominating boards frequently made judges and lay assessors subject to political pressures.

The CPV and the government have established special committees to help resolve local disputes.

Corruption remained endemic within the judicial system. Phan Trung Ly, vice chairman of the National Assembly's law committee, noted in the MPS-affiliated *An Ninh The Gioi* (World Security) newspaper on August 28 that "giving of bribes to judicial workers, including judges, court clerks, procurators, and settlers of court decisions has increased and has become more complex as rings coordinating such acts have formed." On August 13, Phan Dang Dung, a court clerk of the Ho Chi Minh City People's Court, was caught taking a bribe of approximately \$7 thousand (VND 110 million). On June 16, Le Bao Quoc, a lawyer from the Ha Tinh Province Bar Association, was caught receiving \$126 thousand (VND 2 billion) and \$30 thousand (VND 465 million) from Tran Thi Ngoc, the winner of a civil law suit. Quoc reportedly asked for this money to "coordinate" the settlement of a court decision that declared Ngoc to be the legitimate owner of a \$392 thousand (VND 6.2 billion) orchard in Phu Giao District of Binh Duong Province (see section 3).

Trial Procedures.—Trials generally were open to the public; however, judicial authorities closed trials or strictly limited attendance in sensitive cases. Defendants have the right to be present at their trials and to have a lawyer, although not necessarily the lawyer of their choice, and this right was generally upheld in practice. Defendants unable to afford a lawyer were generally provided one only in cases involving life imprisonment or capital punishment. The defendant or the defense law-

yer has the right to cross-examine witnesses; however, there were credible reports that defendants were not allowed to access government evidence in advance of the trial, to cross-examine witnesses, or to challenge statements. Lawyers reported that they often had little time before trials to examine evidence to be presented against their clients. There also were credible reports that defense lawyers were pressured not to take as clients religious or democracy activists facing trial. Convicted persons have the right to appeal. Courts did not publish their proceedings.

The public prosecutor brings charges against an accused and serves as prosecutor during trials. Under the July 2004 revisions to the criminal procedures code, courtroom procedures were to change from an "investigative" system, in which the judge leads the questioning, to an "adversarial" system, in which prosecutors and defense lawyers advocate for their respective sides. This was intended to provide more protections for defendants and prevent judges from coercing defendants into confessing guilt; however, the extent to which this change was implemented in practice remained unclear. Although the constitution provides that citizens are innocent until proven guilty, some lawyers complained that judges generally presumed guilt.

Military tribunals, although funded by the Ministry of National Defense (MND), operate under the same rules as other courts. The MND is represented on the judicial selection panels, and the head of the military tribunal system is the deputy head of the SPC. Military tribunal judges and assessors are military personnel, chosen jointly by the SPC and the MND but supervised by the SPC. The law gives military courts jurisdiction over all criminal cases involving military entities, including military-owned enterprises. The military has the option of using the administrative, economic, or labor courts for civil cases.

Political Prisoners.—The government continued to pressure, harass, and imprison persons for the peaceful expression of dissenting religious and political views. In February democracy activist Dr. Nguyen Dan Que was amnestied after being convicted in July 2004 of "abusing democratic freedoms to infringe upon the interests of the state" and sentenced to 30 months' imprisonment. Journalists Nguyen Vu Binh and Dr. Pham Hong Son remained in prison for their 2003 conviction of "espionage" (see section 2.a.).

In June Hoa Hao activists conducted an anniversary ceremony marking the death of Hoa Haoism's founder that featured protests against government control over the Hoa Hao faith. In August police arrested 10 Hoa Hao activists at several locations on various obstruction of justice and inciting violence charges stemming from the June incident. Two Hoa Hao committed self-immolation, and one of them died (see section 2.c.).

The government claimed that it did not hold any political or religious prisoners; such persons were usually convicted of violating national security laws or general criminal laws. As with the general prison population, the government did not allow access by humanitarian organizations to political prisoners.

There were no reliable estimates of the number of political prisoners, because the government usually did not publicize such arrests and sometimes conducted closed trials and sentencing sessions. There were at least eight prisoners known to be held for political reasons and one prisoner reportedly held for religious reasons; however, some sources had much higher estimates. Among those imprisoned were political activists Pham Hong Son, Nguyen Vu Binh, Nguyen Khac Toan, scientist and writer Tran Van Luong, and religious persons Tran Van Hoang and Ma Van Bay.

As part of the government's amnesty program, the following prisoners were released during the year: Dr. Nguyen Dan Que; Nguyen Dinh Huy; human rights activist Tran Van Luong; Father Nguyen Van Ly; Brother Nguyen Thien Phung; Hmong Protestants Vang Chin Sang, Vang Mi Ly, Ly Xin Quang, and Ly Chin Seng; and Buddhist monk Thich Thien Minh. Nguyen Thi Minh Hoan was released after completing her eight-month sentence. Mennonite pastor Nguyen Hong Quang was amnestied in September, although co-defendant Pham Ngoc Thach remained imprisoned.

Property Restitution.—By law citizens are to be compensated when they are resettled to make way for infrastructure projects, but there were widespread complaints, including from the National Assembly, that compensation was not fair or was delayed. There were several reports that officials forced ethnic minority Protestants to leave their homes without providing them with adequate compensation, particularly in the Sapa District of the northwest highlands area. Some ethnic minority individuals in the Central Highlands continued to complain that they had not received proper compensation for past seizures of their land, which was given to government-owned coffee and rubber plantations (see section 1.f.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the right to privacy of home and correspondence; however, the govern-

ment restricted this right significantly. Household registration and block warden systems existed for the surveillance of all citizens but usually did not intrude on most citizens. Authorities focused on persons whom they regarded as having dissenting views or whom they suspected of involvement in unauthorized political or religious activities.

Forced entry into homes is not permitted without orders from the public prosecutor; however, in practice security forces seldom followed these procedures but instead asked permission to enter homes, with an implied threat for failure to cooperate. Some individuals refused to cooperate with such "requests." In urban areas police generally left when faced with noncompliance.

Government authorities opened and censored targeted persons' mail, confiscated packages and letters, and monitored telephone conversations, e-mail, and facsimile transmissions. The government cut the telephone lines and interrupted the cellular telephone service of a number of religious and political activists and their family members.

The government sought to tighten control of the Internet with a regulation that requires Internet agents, such as cybercafes, to register the personal information of their customers and store records of Internet sites visited by customers. The government also monitored e-mail, searched for sensitive key words, and regulated Internet content (see section 2.a.).

The government did not have a policy of forced resettlement. However, the government resettled some citizens to make way for infrastructure projects, and there were widespread reports that compensation was either not fair or was not paid in a timely manner (see section 1.e.).

Membership in the CPV remained a prerequisite to career advancement for all government and government-linked organizations and businesses. However, economic diversification made membership in CPV-controlled mass organizations and the CPV less essential to financial and social advancement.

The government continued to implement a family planning policy that urged families to have no more than two children; the policy emphasized exhortation rather than coercion. The government can deny promotions and salary increases to government employees with more than two children, but it was unclear if this policy was enforced. Government officials expressed growing concern that family planning efforts were failing. In June Deputy Prime Minister Pham Gia Khiem instructed population authorities to take "more drastic measures" to control the growing population and prevent families from having more than two children. However, this directive apparently was not enforced.

Local officials harassed some family members of political or religious activists. Authorities in Ho Chi Minh City reportedly cut the telephone lines at the home of Dr. Nguyen Dan Que and other political activists on a number of occasions throughout the year. The home of a lay Protestant preacher in a remote area of Quang Nam Province reportedly was burned down after he refused to renounce his religion in August. On March 30, police in the village of Plei Tao Ro in Chu Se District, Gia Lai Province, reportedly destroyed the home of a woman married to an ethnic minority man who had been resettled to a third country. In the same incident police also allegedly beat the family of a man who had been hiding from authorities since April 2004.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government significantly restricted these freedoms in practice, particularly with respect to political and religious speech. Both the constitution and the criminal code include broad national security and antidefamation provisions that the government used to restrict such freedoms. The criminal code defines the crimes of "sabotaging the infrastructure of Socialism," "sowing divisions between religious and nonreligious people," and "conducting propaganda against the Socialist Republic of Vietnam" as serious offenses against national security. The code also expressly forbids "taking advantage of democratic freedoms and rights to violate the interests of the state and social organizations."

In 2003 the NGO Reporters Without Borders claimed that the government severely restricted freedom of the press. In late 2004 reporter Lan Anh of *Tuoi Tre* newspaper reported on internal ministry of health deliberations of price fixing of pharmaceuticals. In January she was charged for revealing "state secrets" and placed under house arrest. The threat of Anh's prosecution triggered unprecedented criticism from *Tuoi Tre* and other leading daily newspapers, including *Thanh Nien* and *Nguoi Lao Dong*. The Hanoi public prosecutor eventually announced Lan Anh would not be prosecuted, and in April charges against her were dropped.

A press law requires journalists to pay monetary damages to individuals or organizations harmed as a result of their reporting, even if the reports are true. Independent observers noted that this law limits investigative reporting. Several media outlets continued to test the limits of government press restrictions by publishing articles that criticized actions by CPV and government officials. During the year there were press reports about topics that generally were considered sensitive, such as the prosecution on corruption charges of high-ranking CPV and government officials. Nonetheless, the freedom to criticize the CPV and its senior leadership remained restricted. Occasional criticism of officials and official associations appeared in the local press. On August 20, *Civilization Magazine* expressed disapproval of a meeting of the Vietnam Journalists Congress and called the group a rubber stamp organization. At the meeting more than 300 media delegates were urged to implement state and party policies and not to publish articles that could adversely affect the party.

The government exercised oversight through the Ministry of Culture and Information, supplemented by pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship by the domestic media. In August, when a religious activist tried to self-immolate in front of a diplomatic mission because of religious freedom concerns, several foreign media outlets reported on the occurrence, but no domestic press carried the story.

The law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. In general citizens freely exercised this right, but the government considered any overt political criticism stemming from such commentary a crime. Senior government and party leaders traveled to many provinces reportedly to try to resolve citizen complaints. In October 2004 the editor of the online news service *VNExpress* reportedly was dismissed because he published complaints from readers about the government's purchase of automobiles for an international conference in Hanoi. Corruption related to land use was a particular concern widely publicized in the press. In 2003 the Hanoi People's Court sentenced 4 persons to jail terms ranging from 24 to 44 months after they disseminated letters denouncing local land clearance policies. Also in 2003 a court in Dong Nai Province sentenced 4 persons to prison terms of 30 to 42 months for inciting fellow farmers to voice complaints over provincial land use policies.

The government continued to prohibit speech that questioned the role of the CPV, criticized individual government leaders, promoted pluralism or multiparty democracy, or questioned policies on sensitive matters such as human rights or the border agreement with China. The line between what constituted private speech and public speech in those areas continued to be arbitrary. In early January the head of the Haiphong Publishing House reportedly was dismissed from his position because of his role in writing the introduction of a book that criticized former Party General Secretary Do Muoi. In December 2004 scientists Tran Van Luong and Nguyen Thi Minh Hoan were sentenced to 21 and 8 months in prison respectively for having written essays critical of government economic policies. On October 19, police reportedly arrested Truong Quoc Huy, Truong Quoc Tuan, Truong Quoc Nghia, and a foreigner for participating in a Web-chat forum called "the voice of people in Vietnam and abroad." In July 2004 democracy activist Dr. Nguyen Dan Que was sentenced to 30 months' imprisonment for posting an essay on the Internet that called for less government censorship. Dr. Que was released in February but remained subject to government surveillance and low-level harassment. Also in July 2004 activists Tran Khue and Pham Que Duong were each sentenced to 19 months' imprisonment including time served (see section 2.b.).

In 2003 democracy activist and former revolutionary Tran Dung Tien was sentenced to 10 months' imprisonment including time served after signing a letter that criticized the arrest of Duong and Khue. Tran Khue, Pham Que Duong, and Tran Dung Tien completed their prison sentences and were released. Also in 2003 journalist Nguyen Vu Binh was convicted of "espionage" after he had criticized the border agreement with China and sent testimony on human rights issues in the country to a foreign government. Binh was sentenced to seven years' imprisonment and three years' house arrest. The sentence was upheld on appeal. Dr. Pham Hong Son also was convicted of "espionage" in 2003 and sentenced to 13 years' imprisonment and 3 years' house arrest, later reduced on appeal to 5 years' imprisonment, after translating an Internet article titled "What Is Democracy."

In June 2004 the government reduced by five years the prison sentence imposed on Catholic priest Thaddeus Nguyen Van Ly but kept in force a five-year administrative detention order to be served after his release in February. Father Ly originally was sentenced in 2001 to 15 years' imprisonment for "damaging national unity," but the sentence stood at 5 years after the June 2004 reduction and a similar reduction in 2003. In 2001 Father Ly had submitted written testimony critical

of the government to a foreign agency and frequently spoke out for political pluralism and complete religious freedom. In 2003 the Ho Chi Minh City People's Court sentenced Father Ly's niece, Nguyen Thi Hoa, and two nephews, Nguyen Truc Cuong and Nguyen Vu Viet, to sentences ranging from three to five years' imprisonment for communicating information on his activities to foreign journalists. In 2003 the Ho Chi Minh Court of Appeals reduced the sentences of the three to time served.

Some persons who expressed alternative opinions on religious or political issues were not allowed to travel abroad (see section 2.d.).

The CPV, the government, and the party-controlled mass organizations controlled all print, broadcast, and electronic media.

Published reports on high-level government corruption and mismanagement have become more frequent and prominent in recent years. For example, in 2004 domestic papers reported extensively on the corruption trial of former Ministry of Agriculture official La Thi Kim Oanh and the subsequent dismissal of Minister of Agriculture Le Huy Ngo. Also in 2004 Vice Minister of Trade Mai Van Dau and his son, Mai Thanh Hai, were arrested for allegedly taking tens of thousands of dollars in bribes in exchange for arranging quotas for companies exporting textile products. Prosecutors announced their indictment on charges of accepting bribes. All major newspapers carried detailed reports about their crimes and luxurious lifestyles.

Foreign journalists must be approved by the Foreign Ministry's press center and must be based in Hanoi. The number of foreign staff allowed was limited, and local staff who worked for foreign media were required to be registered with the Foreign Ministry. It also was difficult for foreign media outlets to hire local photographers and receive approval for their accreditation. The government can withhold or withdraw registration. The press center monitored journalists' activities and decided on a case-by-case basis whether to approve interview, photograph, film, or travel requests, all of which must be submitted five days in advance. In September the press center rejected foreign journalists' requests to travel to Cuc Phong National Park to report on avian influenza and also a request by the World Health Organization to visit the park to collect blood samples. In 2004 the press center refused requests by foreign journalists to travel to the Central Highlands in the immediate aftermath of the April 10 protests in the region. By law foreign journalists are required to address all questions to government agencies through the Foreign Ministry, although it appeared that this procedure often was ignored in practice. Foreign journalists generally received visas valid for six months. In 2004 at least two foreign journalists were threatened with nonrenewal of their visas as a result of their reporting.

The government generally required religious publishing to be done through one government-owned religious publishing house; however, some religious groups were able to print their own materials or import them, subject to government approval (see section 2.c.). In other cases unauthorized religious materials were confiscated and the owners either fined or arrested.

Foreign-language editions of some banned books, such as Duong Thu Huong's *Memories of a Pure Spring*, were sold openly by street peddlers, and Bao Ninh's previously banned book, *Sorrow of War*, was available in bookstores in Vietnamese-language editions.

Foreign-language periodicals were widely available in cities; however, the government occasionally censored articles about the country. The government sometimes delayed availability of a foreign periodical because of sensitive articles. The government generally did not limit access to international radio, except to Radio Free Asia (RFA) and the Far East Broadcasting Corporation, which it continued to jam periodically.

The law limits access to satellite television to top officials, foreigners, luxury hotels, and the press; however, it was not enforced uniformly, and an increasing number of persons in urban and some rural areas had access to uncensored television programs via home satellite equipment or cable. Cable television, including foreign-origin channels, was available to subscribers living in urban areas, although the government periodically blocked many subscribers from receiving certain news channels, including CNN and the BBC. Satellite dishes picking up pirated satellite signals from Thailand and the Philippines were increasingly common. During the prime minister's June trip to the United States, CNN subscribers were unable to watch some CNN reports on the visit that featured antigovernment protests. In addition authorities blacked out with ink portions of articles reporting on the visit that were published in the *International Herald Tribune* edition delivered to foreigners.

The government controlled art exhibits, music, and other cultural activities; however, it generally allowed artists broader latitude than in past years to choose the themes for their works. Many artists received permission to exhibit their works abroad and received passports to attend the exhibits and export permits to send

their works out of the country. Additionally, a number of foreign embassies and consulates were able to conduct a wider variety of cultural activities than in the past.

The government allowed access to the Internet through a limited number of Internet Service Providers (ISPs), all of which were state-owned joint stock companies. In January 2004 the MPS issued a decision forbidding direct access to the Internet through foreign ISPs, requiring domestic ISPs to store information transmitted on the Internet for at least 15 days, and further requiring ISPs to provide technical assistance and workspace to public security agents to allow them to monitor Internet activities. The decision also requires Internet agents, such as cybercafes, to register the personal information of their customers, store records of Internet sites visited by customers for 30 days, and cooperate with public security officials. It was not clear how fully these provisions were being followed in practice, although many cybercafes did not register the personal details of their clients.

The government used firewalls to block Web sites that it deemed politically or culturally inappropriate, including sites operated by exile groups abroad. The government restricted access to the RFA and Voice of America Web sites during the year, but local press occasionally wrote stories based on RFA broadcasts.

The government required all owners of domestic Web sites, including those operated by foreign entities, to register their sites with the government and submit their Web site content to the government for approval. In July a senior foreign diplomat held a live and uncensored Web chat with local citizens on bilateral and domestic issues, including international concerns on human rights and religious freedom.

The government restricted academic freedom, and foreign field researchers often were questioned and monitored. However, the government permitted a more open flow of information, including in the university system, than in previous years. Local librarians increasingly were being trained in professional skills and international standards that supported wider international library and information exchanges and research. Foreign academic professionals temporarily working at universities in the country were allowed to discuss nonpolitical issues widely and freely in classes; however, government observers regularly attended classes taught by both foreigners and citizens. Security officials occasionally questioned persons who attended programs on diplomatic premises or used diplomatic research facilities. Nevertheless, requests for materials from foreign research facilities increased. Academic publications usually reflected the views of the CPV and the government.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The right of assembly is restricted in law, and the government restricted and monitored all forms of public protest or gathering. Persons wishing to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily. In general the government did not permit demonstrations that could be seen as having a political purpose. Persons routinely gathered in informal groups without government interference; however, the government restricted the right of some unregistered religious groups to gather in worship.

As in previous years, there were reports from the Northwest Highlands and Central Highlands that officials prevented meetings of some Protestant believers or dispersed those meetings when they occurred (see section 2.c.). In mid-September a Protestant group's petition to gather for worship in the Chu Prong District of Gia Lai Province was refused. In June a Protestant congregation in Quang Ninh Province also was denied permission to register their group so that they could legally gather for worship.

Unlike in 2004, no ethnic minority protests were reported in the Central Highlands. In April 2004 ethnic minorities conducted unannounced demonstrations in numerous locations in the central highlands provinces of Dak Nong, Dak Lak, and Gia Lai to protest against lack of economic opportunity, loss of traditional lands, and restrictions on religion. Some protesters also reportedly called for the establishment of an independent, ethnic minority "Dega" state in the Central Highlands. In a number of cases, police reportedly responded to the demonstrations by beating and firing upon protesters (see sections 1.a. and 1.c.). The government claimed two persons died during the riots, although credible sources say at least one dozen were killed and many more were injured. In August 2004 a court in Buon Ma Thuot, Dak Lak Province, sentenced 9 persons to between 5 and 12 years' imprisonment for having taken part in the protests. In November 2004 a court in Dak Nong Province sentenced 17 ethnic Ede to between 3 and 10 years in prison for having taken part in the protests. Human rights groups counted at least 76 ethnic minority individuals sentenced to prison for participating in protests in 2001 and 2004, and some observers estimated the figure might have been considerably higher.

During the year peaceful small protests of farmers demanding redress for land rights issues frequently took place in front of government buildings in Hanoi. Police

monitored these protests but did not disrupt them. Protesters in Ho Chi Minh City sought to block the demolition of a number of homes over which the state had exercised eminent domain. Additionally, Ho Chi Minh City authorities ordered the demolition of a portion of the home of Mennonite pastor Nguyen Hong Quang that was being used as a house church (see section 2.c.).

Freedom of Association.—The government restricted freedom of association. Opposition political parties were not permitted. The government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF. However, some entities, particularly unregistered religious groups, were able to operate outside of this framework with little or no government interference (see section 2.c.).

In May 2004 a court in Ho Chi Minh City sentenced Nguyen The Hanh to two years in prison for having been involved with Vietnamese-American political activist groups during the two years he spent outside the country.

Also in May 2004 a group of lawyers and journalists held a public ceremony in Hanoi to mark the establishment of “Lawyers for Justice,” an advocacy group to aid victims of the police or legal injustice. The head of the Hanoi Bar Association declared their organization illegal and ordered them to disband or be disbarred. Subsequently, the group formally disbanded, although members maintained contact with each other and met as a group with foreign diplomats and others.

c. Freedom of Religion.—The constitution and government decrees provide for freedom of worship; however, the government continued to restrict to a significant degree the organized activities of religious groups that it declared to be at variance with state laws and policies.

The government generally allowed persons to practice individual worship in the religion of their choice, but the legal framework governing religion requires that the government officially sanction the organization and activities of all religious denominations. In March an implementation decree for the 2004 ordinance on belief and religion established guidelines for religious denominations to register their activities and seek official recognition. This new legal framework, which supersedes the more restrictive 1999 decree on religion, relaxed controls on the promotion and transfer of clerics, the scheduling of religious activities, and the abilities of religious groups to carry out charitable functions. It also provided a clear mechanism for unregistered house churches to normalize their activities, which reinforced an earlier, special “Instruction on Protestantism” issued in February by the prime minister that directed officials to assist unrecognized religious denominations in registering their activities so that they could practice openly.

Despite restrictions on organized activity, participation in religious activities continued to grow significantly. Two house church organizations successfully registered in Ho Chi Minh City under the new framework. They and at least one other house church organization had applications pending in other provinces. Some congregations belonging to previously recognized faiths were able to legally register their activities and places of worship.

Nonetheless, the new framework maintained overall government control of religious organizations and kept in place significant limitations on education, medical, and charitable work by religious groups. The government continued to use the registration and recognition process to control and monitor church organizations. The government officially recognized Buddhist, Roman Catholic, Protestant, Hoa Hao, Cao Dai, and Muslim religious organizations. To obtain official recognition, a group must obtain government approval of its charter, its leadership, and the overall scope of its activities. Official approval is required for the opening of new places of worship, ordination of clerics, establishment of religious teaching institutions, and entry of students into those institutions.

The government’s approval process was slow and nontransparent, although the law mandates that the government act in a time-bound and transparent fashion. Annual activities by congregations must be registered with authorities, and activities not on this annual calendar require explicit government approval. Officially recognized religious organizations were able to operate with varying degrees of freedom throughout the country, and followers of these religious bodies were usually able to worship without government harassment.

In addition to officially recognized religious denominations, numerous unrecognized denominations operated in the country, including independent Buddhists, Baptists, Mennonites, Jehovah’s Witnesses, Mormons, the Baha’i Faith, independent Cao Dai and Hoa Hao groups, and ethnic Cham Hindus. Some unrecognized Protestant, Buddhist, and Hoa Hao religious bodies have unsuccessfully requested official recognition of their organizations in past years. Two Protestant denominations, one

Baptist and the other Seventh-day Adventist, registered their activities in Ho Chi Minh City under the new legal framework. Their applications were pending in other provinces. Other groups such as the Mennonites and Jehovah's Witnesses attempted to register and normalize their activities under the new legal framework governing religion, but at year's end they had not received government approval.

Official oversight of recognized religions and problems of harassment or repression of followers of unrecognized religions varied from locality to locality, often as a result of ignorance of national policy or varying local interpretations of it. Activities of unregistered religious groups were technically considered illegal by the authorities, and these groups sometimes experienced harassment, although the level of harassment declined, particularly of Protestant house churches, in the central and southern regions. Many unregistered churches and temples, especially those in urban areas or belonging to traditional Hindu and Muslim groups, were allowed to operate without interference. The government actively discouraged contacts between the illegal UBCV and its foreign supporters, and between unofficial Protestant organizations and their foreign supporters, although such contacts continued. Police routinely questioned some persons who held alternative religious or political views, such as UBCV monks and Catholic priests. For example, throughout the year UBCV monks from Hue and Ho Chi Minh City were prevented from visiting their patriarch in Binh Dinh Province. According to credible reports, police also detained persons in the Central Highlands based upon a suspicion that the form of Protestant religion they were practicing encouraged ethnic minority separatism.

Police and local officials in some areas strove to prevent Protestants who belonged to unregistered or unrecognized groups from assembling to worship. This situation was particularly acute in some areas of the Central Highlands. The international NGO Human Rights Watch reported that security forces in Kon Tum Province demolished the chapel of Mennonite pastor Nguyen Cong Chinh twice during 2004. Authorities reportedly based their actions on the fact that Chinh had purchased under a false name the land on which the chapel was built. At least one other unregistered Protestant church operated a short distance away from Chinh's but suffered no harassment.

In Ho Chi Minh City, the house church of Mennonite pastor Nguyen Hong Quang was a target of particularly severe harassment. In June 2004, following a scuffle with police officers, Quang was detained and sentenced to three years' imprisonment, while five of his followers were sentenced to between nine months and two years in prison. Some observers connected Quang's arrest to his broader social activism. During Quang's detention his wife continued to operate their unauthorized church but repeatedly was harassed by police. Allegations that police tortured a number of Quang's followers in prison could not be corroborated. Quang was released in September in an amnesty. Since his release, harassment against his church has ebbed.

In October 2004 police in Ho Chi Minh City disrupted an unregistered private Bible study seminar and detained 2 unofficial Protestant pastors and 17 ethnic Hmong house church leaders from the Northwest Highlands. The 17 Hmong were held overnight and then returned to the Northwest Highlands. There were credible reports that Protestants in the Northwest Highlands were beaten for reasons connected to their faith (see section 1.a.). In March Thao A Long from the village of Ca Ngay in Sapa District, Lao Cai Province, reportedly was arrested and seriously beaten by police because of his membership in the Evangelical Church of Vietnam. In April in the same area, Vang A Lo from Lu Khau village, reportedly a CPV member since 1997, was forced to flee arrest to neighboring Lai Chau Province because he refused to renounce Protestantism. Local authorities subsequently seized his land illegally. Despite these sporadically reported problems, the overall number of reports of harassment of Protestant groups declined during the year (see section 2.b.). In 2003 officials reportedly raped two girls in Nam Nga village, Lai Chau Province, to punish their families for following Protestantism (see section 1.c.).

Government officials denied allegations that Protestant house churches were destroyed or closed because they were unregistered and therefore illegal. Ho Chi Minh City authorities instead claimed they ordered the demolition of a portion of the home of Mennonite pastor Nguyen Hong Quang apparently because it was built without the required permits. Although local authorities maintained that other constructions in the area had been destroyed because they were illegal, none of the houses in the immediate vicinity of Quang's home appeared to be affected by government action.

With the exception of Dak Lak Province, many of the Protestant house churches in the Central Highlands affiliated with the government-recognized Southern Evangelical Church of Vietnam (SECV) that had been ordered to shut down in 2001 were able to resume operations, and a small but growing number were officially reg-

istered. A number of unregistered Protestant congregations among ethnic minority groups in the Northwest Highlands, the Hmong in particular, began to approach local authorities to begin registration proceedings. In several northwest highlands provinces, officials denied the existence of any Protestant religious believers, despite recognition by the central government that thousands of unregistered Protestants resided there. By year's end several hundred congregations in the northwest had applied for registration, but only one received any kind of response from local authorities despite a national mandate for prompt replies to such applications. Many congregations also reported that official harassment increased significantly after making their efforts to register legally.

In March the SECV held its second national convention. According to credible sources, the Church was able to elect a new leadership slate free from government interference. In December 2004 the officially recognized Evangelical Church of Vietnam: North (ECVN) held a national convention for the first time in 20 years. The convention initially had been delayed by government refusal to grant permission and also by the reluctance of ECVN leaders to hold the meeting until they could ensure it would be free from government interference. The convention allowed the ECVN to vote on a new leadership board, appoint new pastors, and begin a renovation and expansion program.

There were significantly fewer allegations of forced renunciations during the year. In August there were credible reports that local officials attempted to force an SECV lay preacher to renounce his faith and stop his ministry in the ethnic minority Hre village in Quang Ngai Province. His house reportedly was burned down in retaliation.

Pastors of a house church Ninh Thuan province reported that following the baptism of 7 new ethnic minority villagers in June, local police summoned all 33 members of the group to the village police station. Only five or six members of the group went to the village police station, where they were questioned for half a day and then sent home; the other members did not go but suffered no negative consequences for declining the police summons. Simultaneously police questioned the house church's two evangelists for three days; they were allowed to return home in the evenings. In October the chairman of the commune people's committee summoned the members of the Protestant community to the village chief's house. Five Protestants attended. In a public gathering, local officials threatened the five with the loss of government benefits and government-provided housing if they did not renounce Protestantism. Four renounced and one did not, but none suffered any negative consequences afterwards, nor did any other members of the house church community.

In July and August 2004 authorities reportedly detained without charge more than 100 Hmong Protestants, choosing a member from each Protestant family in at least 5 different communes in Sapa District, Lao Cai Province. The authorities attempted to force the detainees to renounce Protestantism, releasing them only when they promised to do so. In March 2004 police in Kon Tum Province reportedly harassed Protestant believers at a house church, seized Bibles, and fined the church organizer. Also in March 2004 in Kon Tum, police reportedly detained an unregistered ethnic Gia Rai Protestant pastor three different times, beat him, and attempted to force him to renounce his faith on each occasion.

In past years, under threat of physical abuse or confiscation of property, some ethnic minority Protestants allegedly were made to sign a formal, written renunciation or to undergo a symbolic ritual. However, only one credible report of such a case was reported during the year. In late November an ethnic minority pastor in Ha Giang Province was forced to sign a written renunciation of his faith after his congregation attempted to register with the local authorities per the national policy on religion.

Unlike in previous years, there were no reports that officials fabricated evidence. In some past cases, particularly involving Hmong Protestants, when authorities prosecuted persons who had organized unauthorized religious services, they used provisions of the penal code that allow for jail terms of up to three years for "abusing freedom of speech, press or religion," and terms of up to two years for "causing public disorder." The penal code establishes penalties ranging from 2 to 15 years' imprisonment for "attempting to undermine national unity" by promoting "division between religious believers and nonbelievers."

Buddhists practicing their religion under the Vietnam Buddhist Sangha Executive Council, the officially sanctioned Buddhist governing council, were generally free to practice their religion. While these constituted the majority of Buddhists, the government continued to harass members of the banned UBCV and prevented them from conducting independent religious activities outside their pagodas. In 2003 UBCV leaders met in Binh Dinh in what church members characterized as a de

facto reestablishment of the UBCV structure and leadership. Security authorities intercepted several UBCV leaders leaving the meeting and returned them to their respective pagodas. From that point until year's end, senior UBCV leaders, including Patriarch Thich Huyen Quang and Thich Quang Do, remained confined to their pagodas and had restrictions on their ability to travel and meet with followers. In November 2004 Thich Quang Do attempted to travel to Quy Nhon Province to visit Thich Huyen Quang, who was hospitalized at that time. Thich Quang Do was blocked from doing so and was returned to his pagoda in Ho Chi Minh City under police escort. Other UBCV monks also were prevented from visiting Thich Huyen Quang during the year. However, foreign ambassadors were able to meet with Patriarch Thich Huyen Quang in April and November 2004, and visiting foreign officials met with Thich Quang Do and other UBCV leaders on several occasions in 2004 and during the year. The government also declared illegal the UBCV's formation of provincial representative boards in at least nine provinces in central and southern regions of the country in mid-year.

The government eased restrictions over the Roman Catholic Church, although it maintained veto power over Vatican appointments of Catholic bishops. The Vatican and the government reached agreement on mutually acceptable candidates, and all bishoprics were filled. The government agreed to create a new bishopric by splitting the Xuan Loc diocese into two. The government restricted the number of Catholic seminaries and the size and frequency of entering classes, although in 2004 it allowed an 80 percent increase in the number of new students in at least 1 seminary. The Catholic Church reported the number of priests was insufficient to meet the needs of believers and was seeking to increase further the size and frequency of classes. In November, during the visit of a Vatican cardinal, 57 priests were ordained in Hanoi. According to church officials, the government was considering granting permission to open a new seminary in Dong Nai Province. Under the new framework on religion, the Church is free to appoint candidates to enter seminary and may then ordain them as priests. A number of Catholic clergy reported a continued easing of government control over activities in certain dioceses during the year. In many places local government officials allowed Catholic Church officials to conduct religious education classes (outside regular school hours) and some charitable activities; however, in other areas, particularly in some parts of the Central Highlands, local officials were more restrictive. The government continued discussions to normalize diplomatic relations with the Vatican and in November hosted the visit of the cardinal in charge of the Vatican's missionary works.

The government amnestied 3 Hoa Hao leaders in 2004; however, at least 10 Hoa Hao church followers remained in prison. Hoa Hao monks and believers following the government-approved Hoa Hao Administrative Council (HHAC) were allowed freedom to practice their faith. Between 100 and 200 visitors worshipped at the central Hoa Hao Pagoda in An Giang Province on a daily basis. Monks and followers who belonged to dissident groups or declined to recognize the authority of the HHAC suffered restrictions. In June Hoa Hao activists organized a ceremony to commemorate the 2004 death of founder Nguyen Hai Ha. Some activists reportedly clashed with police when they displayed banners protesting government control over the Hoa Hao faith. In August police arrested eight persons involved in the June event. Two other Hoa Hao activists committed self-immolation during the arrests, one of whom died. At year's end the other person remained in police custody.

In January Hong Thien Hanh, leader of the small To Dinh Tan Chieu Minh group in Tien Giang Province, was sentenced to eight years' imprisonment for engaging in illegal religious activities and defrauding his followers.

Muslim Association members were able to practice their faith, including daily prayer and fasting during the month of Ramadan.

Many persons, although not adherents of a particular faith, practiced a native form of ancestor worship.

Open adherence to a religious faith generally did not disadvantage persons in civil, economic, or secular life, although it would prevent advancement to the highest government and military ranks. However, there were some reports that ethnic minority boarding schools discriminated against children from religious, especially Protestant, families. Religious practice does not preclude membership in the CPV. Some government and CPV officials admitted that they followed traditional and Buddhist religious practices.

The government restricted and monitored all forms of public assembly, including assembly for religious activities. Large regularly scheduled religious gatherings were allowed, such as the Catholic celebrations at La Vang Pilgrimage Center in Quang Tri Province and the Cao Dai celebrations in Tay Ninh Province. The Hoa Hao were allowed to hold large public gatherings to commemorate some traditional anniversaries.

Foreign missionaries may not operate openly as religious workers in the country, although many undertook humanitarian or development activities with government approval.

A government publishing house oversees the publishing of all religious materials. Many Buddhist sacred scriptures, Christian Bibles, and other religious texts and publications, including some in ethnic minority languages, were printed by government-approved organizations.

The government allowed religious travel for some religious persons. Muslims were not prohibited from taking the Hajj, and more Buddhist, Catholic, and Protestant officials were able to travel and study abroad. The government allowed many bishops and priests to travel freely within their dioceses and allowed greater, but still restricted, freedom for travel outside these areas, particularly in ethnic areas. Many Protestant house church leaders traveled overseas and within the country during the year. In the past government officials discouraged officially recognized clergy from entering Son La Province, Lai Chau Province, and some other "sensitive" ethnic-minority highlands border provinces; however, some Protestant leaders reported that this policy eased significantly during the year.

Persons who were religious practitioners in an unrecognized group sometimes were not approved for foreign travel.

Societal Abuses and Discrimination.—In general relations among the various religious communities continued to be amicable, and there were no known instances of societal discrimination or violence based on religion. There was budding cooperation between the Catholic Church and the government-recognized Vietnam Buddhist Sangha on charitable activities such as the fight against HIV/AIDS. There were no reports of anti-Semitic acts.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides that citizens "shall enjoy freedom of movement and of residence within the country . . . (and) freely travel abroad and return home . . . in accordance with the provisions of the law"; however, the government imposed some limits on freedom of movement. Some local authorities required some members of ethnic minority groups to obtain permission to travel outside certain highland areas, including in some cases travel outside their own villages.

In September 2004 the Prime Minister's Office released a decision requiring 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 officials reportedly informally discouraged some clergy from traveling domestically, even within their own provinces, especially when travel to ethnic minority areas was involved (see section 2.c.).

By law citizens had to obtain permission to change their residence. However, in practice many persons continued to move without approval, especially migrant or itinerant laborers moving from rural areas to cities in search of work. Moving without permission hampered persons in obtaining legal residence permits. Foreign passport holders must register to stay in private homes, and local authorities at times refused to allow foreign visitors to stay with friends and family. Citizens are also required to register with local police when they stay overnight in any location outside of their own homes; the government appeared to have enforced these requirements more strictly in some districts of the Central and Northwest Highlands. In May two foreign citizens were detained by local authorities in Gia Lai Province for two days before being fined for being in a restricted area and released. Police in Hanoi and Ho Chi Minh City used the requirement described above on two occasions in 2004 to detain groups of ethnic Hmong house church leaders participating in private Bible-study seminars and return them to their home provinces (see section 2.c.).

Unlike in past years, the government allowed fact-finding visits by UNHCR and foreign mission staff to the Central Highlands. In general these trips were closely monitored but not hindered by local government authorities. The government granted UNHCR and foreign mission staff access to local citizens of interest.

Although the government no longer required citizens traveling abroad to obtain exit or reentry visas, the government sometimes refused to issue passports. In the past the government did not allow some persons who publicly or privately expressed critical opinions on religious or political issues to travel abroad; however, during the year dissident Hoang Minh Chinh traveled overseas for medical care, and dissident author Duong Thu Huong also traveled abroad. After Chinh returned to Hanoi in

December, he was harassed and his property damaged by groups angry about his antigovernment comments while abroad. Authorities reportedly prevented political activist Tran Khue from traveling to Europe and the United States.

Citizens' access to passports sometimes was constrained by factors such as bribery and corruption. Refugee and immigrant visa applicants sometimes encountered local officials who arbitrarily delayed or denied passport issuance based on personal animosities, on the officials' perception that an applicant did not meet program criteria, or to extort a bribe. Some family members of ethnic minorities granted refugee status abroad were reissued household registration papers with the missing member removed, a step that allows the remaining family members to obtain passports. In other cases family members of refugees were unable to obtain passports to reunite abroad. Provinces in the Central Highlands other than Dak Lak generally made progress in resolving outstanding family reunification cases involving ethnic minorities.

The law does not provide for forced internal or external exile; however, cases amounting to de facto exile continued to occur. In 2003 several UBCV leaders were forcibly returned to their home pagodas and placed under official or unofficial administrative detention there (see section 2.c.). Protestant pastor Nguyen Lap Ma has been forced to reside in an isolated village in Can Tho Province since 1982, but authorities have allowed him to travel to Ho Chi Minh City for monthly medical examinations since he suffered a stroke in 1998. Another Protestant pastor, Nguyen Nhat Thong, has been forced to reside in a remote village in Binh Thuan Province since 1979. He has been allowed to travel outside the village since 1986, but he must ask for the permission of local authorities each time. In January 2004 Protestant pastor Tran Dinh Ai, a citizen and frequent critic of the government now living abroad, was refused entry into the country. When he attempted to return in December, he was denied entry and returned to Singapore, his point of embarkation.

The United States continued to process immigrants and refugee applicants for admission and resettlement, including Amerasians, former reeducation camp detainees, former US government employees, family reunification cases, and returnees from camps of first asylum elsewhere in the region (under the Resettlement Opportunity for Vietnamese Returnees program). Most of these programs were closed to new applicants nearly a decade ago, and the number of cases in some categories is now in the low double digits. (An exception was the Amerasian program, which remained open to new applicants; however, this program remained on hold pending new adjudication guidelines.)

The government generally permitted citizens who had emigrated abroad to return to visit. By law the government considers anyone born in the country to be a citizen, even if the person has acquired another country's citizenship, unless a formal renunciation of citizenship has been approved by the president. However, in practice the government usually treated overseas Vietnamese as citizens of their adopted country. Emigrants were not permitted to use Vietnamese passports after they acquired other citizenship. The government generally encouraged visitation by such persons but sometimes monitored them carefully.

Following April 2004 protests in the Central Highlands, a number of ethnic minorities hid in forests and rubber plantations, and some attempted to flee across the border into Cambodia. Vietnamese police attempted to block these potential refugees and reportedly crossed the border into Cambodia. The UNHCR received approximately 775 ethnic minority refugees in its camps in Cambodia. Thirteen potential refugees who received UNHCR protection in Phnom Penh independently returned to Vietnam in October 2004. According to authorities, the 13 persons returned safely to their homes; however, newspaper accounts made it clear that they were interviewed extensively by authorities upon their return.

On January 25, the government signed a tripartite Memorandum of Understanding on the Settlement of Issues Relating to the Vietnamese Central Highlands Ethnic Minority People in Cambodia with the government of Cambodia and the UNHCR to facilitate the return of all ethnic minority individuals in Cambodia who did not qualify for third-country resettlement. Subsequent to this agreement, more than 140 ethnic minorities returned to Vietnam. On July 20, 94 individuals who did not have refugee status were deported to Vietnam, which resulted in increased calls from the international community to allow monitoring access in the Central Highlands. The UNHCR and various foreign diplomats were permitted to visit returnees after their arrival in the Central Highlands. In September the UNHCR was permitted to accompany several individuals on their return trip from the border to the Central Highlands and conduct additional follow-up monitoring. Central government and provincial officials were emphatic that they were attempting to reintegrate the returnees peacefully. However, some provinces did not allow some international observers private access to the returnees to examine scattered reports of abuse or dis-

crimination of returnees. An additional 400 ethnic minorities in Cambodia received third-country resettlement status.

Protection of Refugees.—The country is not a signatory to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In July 2004 the government allowed more than 450 North Koreans illegally present in the country to travel to South Korea. Unconfirmed reports from international NGOs in August 2004 stated that as many as 100 North Korean refugees had been returned to China. In incidents in December 2004 and July, a handful of North Korean asylum seekers entered foreign diplomatic missions in Hanoi. The government permitted the respective missions to facilitate the North Koreans' travel to a third country. Subsequent to the July incident, however, the government issued a circular to diplomatic missions and international organizations calling on them to hand over to local authorities any third-country intruders, whom the government considers to be immigration law violators. There were no reports at year's end that the government had invoked this new policy.

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

The constitution does not provide for the right of citizens to change their government peacefully, and citizens could not freely choose and change the laws and officials that govern them. All authority and political power is vested in the CPV, and the constitution delineates the leadership of the CPV. Political opposition movements and other political parties are illegal. The CPV Politburo, led by a triumvirate consisting of CPV Chairman Nong Duc Manh, President Tran Duc Luong, and Prime Minister Phan Van Khai, is the supreme decision-making body in the country, although it technically reports to the CPV Central Committee.

The government continued to restrict public debate and criticism to certain aspects of individual, state, or party performance determined by the CPV itself. No public challenge to the legitimacy of the one-party state was permitted; however, there were instances of unsanctioned letters critical of the government from private citizens, including some former senior party members, which circulated publicly.

Elections and Political Participation.—The most recent elections to select members of the National Assembly were held in 2002. These elections were neither free nor fair, since all candidates were chosen and vetted by the CPV's VFF, an umbrella group that monitors all of the country's popular organizations. Consequently, 90 percent of the delegates were CPV members. Those that were not CPV members were only nominally independent.

Revisions to the Law on Election of Deputies to People's Councils, issued by the National Assembly in 2003, provided for higher numbers of female and minority candidates, more candidates per position, and fewer party members standing for seats in people's council elections at all levels. Nonetheless, for the 2004 people's councils elections, the party-controlled VFF approved all candidates, as it did for national and provincial assembly elections. Although voting is not compulsory, election officials applied many means to persuade citizens to vote, including using public address systems to ask late-voting citizens by name to come to the polls. The government claimed a 99.7 percent voter turnout at the district level for the April 2004 people's councils election. Proxy voting in that election, while illegal, appeared widespread. In addition, most voting was finished by 10 a.m., although polls were required to stay open until 7 p.m.

The National Assembly, although subject to the control of the CPV (all of its senior leaders and 90 percent of its members were party members), increasingly served as a forum for the expression of local and provincial concerns, as a critic of corruption and inefficiency, and as an arena for debating progress in improved transparency for the legal and regulatory systems. In the past it did not initiate legislation and did not pass legislation that the CPV opposed; however, for the first time, the National Assembly reportedly drafted independent legislation during the year. CPV officials occupied most senior government and national assembly positions and continued to have the final decision on key issues. Legislators continued to question and criticize ministers, including for the first time the prime minister, in biannual national assembly sessions that were broadcast live on television.

The law provides the opportunity for equal participation in politics by women and minority groups. Women held a number of important government positions, including the vice presidency. There were 136 women in the 498-seat National Assembly. There were three women at the ministerial level but no female members of the Politburo. There were only a few women in provincial-level leadership positions.

There were 87 ethnic minority members in the National Assembly and 2 ethnic minority members serving in cabinet-level positions. The CPV general secretary is a member of the Tay ethnic minority group; however, the number of minorities in

the executive branch of government or within the party at a national-level did not accurately reflect their proportion (15 percent) of the population.

Government Corruption and Transparency.—Corruption continued to be a major problem. The government showcased its efforts to fight corruption, including publicizing budgets at different levels of government and streamlining government inspection measures. Cases of government officials accused of corruption were publicized widely. For example, in July the media carried extensive accounts of the public prosecutor's decision to conduct a formal investigation against Deputy Trade Minister Mai Van Dau, arrested in November 2004 for allegedly receiving bribes to grant quotas to some garment companies. In October the MPS instructed the public prosecutor to publicly charge Nguyen Quang Thuong and five other former senior staff members of Petro Vietnam and Vietsopro with corruption, "deliberately acting against the state's regulations on economic management, causing serious consequences," and "lacking a spirit of responsibility, causing serious consequences" (see section 1.e.). Thuong, deputy director general of Vietnam Oil and Gas Corporation, was arrested in June 2004 for allegedly receiving a bribe of 400 thousand dollars to endorse a false 17-million-dollar equipment contract for an offshore oil well belonging to Vietsopetro, the country's leading Vietnamese-Russian joint venture on oil and gas.

In accordance with the amended Law on Promulgation of Legal Normative Documents, the *Official Gazette* published most legal documents in its daily publication. Party documents such as politburo decrees were not published in the *Gazette*.

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

The government does not permit private, local human rights organizations to form or operate. The government generally did not tolerate attempts by organizations or individuals to comment publicly on government human rights practices, and it used a wide variety of methods to suppress domestic criticism of its human rights policies, including surveillance, limits on freedom of assembly, interference with personal communications, and detention.

The government generally prohibited private citizens from contacting international human rights organizations, although some activists did so. The government generally did not permit visits by international NGO human rights monitors; however, it allowed representatives from the press, UNHCR, foreign governments, and international development and relief NGOs to visit the Central Highlands in August, September, and November. The government criticized almost all public statements on human rights issues by international NGOs and foreign governments. However, on August 18, for the first time the government responded publicly to international criticism of its human rights record by publishing a white paper that outlined efforts to improve the overall human rights situation.

The government generally was willing to discuss human rights problems bilaterally with some foreign governments, and during the year several foreign governments continued official talks with the government concerning human rights.

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

The law prohibits discrimination based on gender, ethnicity, religion, or social class; however, enforcement of these prohibitions was uneven. While many persons formerly interned in reeducation camps on the basis of association with the pre-1975 government were well integrated into society, some continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. Some military veterans of the pre-1975 government still faced economic hardship as a result of past employment restrictions and discrimination, but none were known still to be incarcerated for their activities before 1975. These veterans and their families generally were unable to obtain employment with the government. This prohibition was less restrictive than in previous years because of the growth of job opportunities in the private sector.

Women.—The penal code prescribes punishment ranging from warnings to up to two years' imprisonment for "those who cruelly treat persons dependent on them"; however, the police and legal system were generally not equipped to deal with cases of domestic violence. Officials increasingly acknowledged domestic violence, which also was discussed more openly in the media. Domestic violence against women reportedly was common, although there are no firm statistics measuring the extent of the problem. Hot lines for victims of domestic violence run by domestic NGOs existed in some major cities. There were no reports of police or judicial reluctance to act on domestic abuse cases. The government did not take any special actions to combat rape during the year. Approximately two-thirds of divorces reportedly were due in part to domestic violence. The divorce rate has risen in the past few years,

but many women remained in abusive marriages rather than confront the social and family stigma as well as the economic uncertainty of divorce.

It is a crime to use violence, threaten violence, take advantage of a person who is unable to act in self-defense, or resort to trickery to have sexual intercourse with a person against that person's will. This appears to criminalize rape, spousal rape, and, in some instances, sexual harassment; however, there were no known instances of prosecution for spousal rape or sexual harassment.

Prostitution is officially illegal but enforcement was uneven. Estimates varied widely, but some NGOs estimated that there were 300 thousand prostitutes in the country, including those who engaged in prostitution part-time or seasonally. As in past years, some women reportedly were coerced to work as prostitutes, often victimized by false promises of lucrative work (see section 5, Trafficking). Many more women felt compelled to work as prostitutes because of poverty and a lack of other employment opportunities. There were reports in 2003 that some persons in Ho Chi Minh City addicted young women to heroin and forced them to work as prostitutes to earn money for drugs (see section 5, Children). There were continued reports that some parents coerced daughters into prostitution or made extreme financial demands that compelled them to engage in prostitution, since parents often expected an eldest daughter to assume responsibility for a significant part of a family's finances. The Vietnam Women's Union as well as international NGOs engaged actively in education and rehabilitation programs to combat these abuses.

While there is no legal discrimination, women faced societal discrimination. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage as well as in the workplace and labor code provisions that call for preferential treatment of women, women did not always receive equal treatment. Nevertheless, women played an important role in the economy and were engaged widely in business and in social and educational institutions. Opportunities for young professional women have increased markedly in the past few years, with greater numbers of women entering and staying in the civil service, universities, and the private sector.

The VFF-controlled Women's Union has a broad agenda to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. The Women's Union operated micro-credit consumer finance programs and other programs to promote the advancement of women. International NGOs and other international organizations regarded the Women's Union as effective, but they and union representatives believed that more time is required to overcome societal attitudes that relegated women to lower status than men. The government also has a committee for the advancement of women, which coordinated interministerial programs that affected women.

Children.—International organizations and government agencies reported that despite the government's promotion of child protection and welfare, children continued to be at risk of economic exploitation. While education is compulsory through the age of 14, the authorities did not enforce the requirement, especially in rural areas where government and family budgets for education were strained and where children were needed for agricultural labor. Most schools operated two sessions, and children attended either morning or afternoon classes. Some street children in Ho Chi Minh City and Hanoi participated in night education courses. The culture's strong emphasis on education led parents who could send children to school to do so rather than allow them to work. The public school system includes 12 grades. More than 90 percent of children attended primary grades; however, the percentage that attended lower and upper secondary school was much lower. While secondary school enrollments have increased sharply, they were still at less than 75 percent of eligible students for lower secondary and less than 50 percent for upper secondary. Enrollments were lower at all educational levels in remote mountainous areas, although the government ran a system of subsidized boarding schools through the high school level for high-aptitude ethnic minority students. The government also had a program of preferential placement for ethnic minority individuals seeking university entry. Religious groups operated some orphanages, despite the government's prohibition on such activities, and sent the children to public schools during the day.

The government continued a nationwide immunization campaign, and the government-controlled press regularly stressed the importance of health and education for all children. While reports from domestic sources indicated that responsible officials generally took these goals seriously, concrete actions were constrained by limited budgets. According to the United Nations Children's Fund (UNICEF), despite growth in incomes over the past decade, severe malnutrition remained a problem; approximately 39 percent of children under 5 years of age were underweight during the 1995–2000 period.

There was no information on occurrences of child abuse.

Widespread poverty contributed to continued child prostitution, particularly of girls but also of some boys, in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some child prostitutes, such as those from abusive homes, were forced into prostitution for economic reasons.

Some children were trafficked domestically, and others were trafficked to foreign destinations for the purpose of sexual exploitation (see section 5, Trafficking).

According to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), there were 21,869 street children in the country as of February 2003. Street children were vulnerable to abuse and sometimes were abused or harassed by police. International NGOs documented numerous cases of Cambodian children trafficked to Ho Chi Minh City for short-term work in begging rings.

Trafficking in Persons.—The penal code prohibits trafficking in women and children; however, trafficking in women and children for the purpose of sexual exploitation remained a serious problem. There were no known cases of trafficking in adult persons for labor during the year. While reliable statistics on the number of citizens who were victims of sex-related trafficking were not available, there was evidence that the number has grown in recent years. The Social Evils Department of MOLISA and the Criminal Police Department of the MPS were the main government agencies involved in combating trafficking, in cooperation with the Ministry of Justice, the Women's Union, and the border guards. Police took an increasingly active role in investigating trafficking during the year, including training a dedicated antitrafficking force and building a conviction record.

Throughout the year the government increased efforts to prosecute traffickers. The law provides for prison sentences of 2 to 20 years for each offense for persons found guilty of trafficking women, and for between 3 years and life in prison for each offense for persons found guilty of trafficking children. Hundreds of traffickers have been convicted and imprisoned. The government worked with international NGOs to supplement law enforcement measures and cooperated with other national governments to prevent trafficking. It also cooperated closely with other countries within the framework of INTERPOL and its Asian counterpart.

The country was a source for trafficking in persons. Women were trafficked primarily to Cambodia and China for sexual exploitation and arranged marriages. According to one report, between 1990 and 2000 approximately 20 thousand young women and girls were sent to China to become brides, domestic workers, or prostitutes; however, it was not clear how many were victims of trafficking. Chinese police stated they had rescued more than 1,800 trafficking victims on the China-Vietnam border since 2001. Between 1995 and 2000, approximately five thousand women and children were trafficked to and escaped from Cambodia. Some women also were trafficked to Singapore, Hong Kong, Macau, Thailand, Taiwan, the United Kingdom, and the United States. There also were reports that some women going to Taiwan, Hong Kong, Macau, and China for arranged marriages were victims of trafficking. The government estimated that approximately 10 percent of women in arranged marriages with Chinese men may have become trafficking victims. Some women and children also were trafficked within the country, usually from rural to urban areas. There were no reported incidents of trafficking of adult males during the year.

Some children were trafficked domestically, and others were trafficked to foreign destinations for the purpose of prostitution. An NGO advocate has estimated that the average age of trafficked girls was between 15 and 17 years of age. Some reports indicated that the ages of girls trafficked to Cambodia typically were even lower.

Individuals also were convicted in cases in which parents received payments in exchange for giving up their infant children for adoption. In addition, there was anecdotal evidence that small children and infants were sometimes kidnapped and sold to traffickers in China. Children also were trafficked to other countries; in September the press reported that Vietnamese children arriving illegally in the United Kingdom had become the victims of crime and abuse, including being forced to work in brothels, as beggars, in crime rings, or as drug traffickers (see section 5, Children). Mass organizations and NGOs continued to operate limited programs to reintegrate trafficked children into society. During the year programs designed to provide protection and reintegration assistance for trafficking victims through psychosocial support and vocational training, as well as to supplement regional and national prevention efforts by targeting at-risk populations for similar services, continued operation in the north of the country.

There were reports that some women from Ho Chi Minh City and the Mekong Delta who married men from Taiwan were forced into prostitution after their arrival in Taiwan. There was reported trafficking in women to the Macau Special Administrative Region of China with the assistance of organizations in China that were os-

tensibly marriage service bureaus, international labor organizations, and travel agencies. After arrival, women were forced into conditions similar to indentured servitude; some were forced into prostitution. In 2002 the government suspended the licenses of marriage mediation services and transferred their function to the Women's Union. The services had helped to arrange marriages between women and foreigners, primarily Taiwanese men. Government officials noted that it continued to be difficult to obtain information from Taiwanese officials on cases of alleged trafficking in Taiwan.

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. MPS and UNICEF research indicated that trafficking victims can come from any part of the country but were concentrated in certain northern and southern border provinces as well as the central province of Thanh Hoa. Some were sold by their families as domestic workers or for sexual exploitation. In some cases traffickers paid families several hundred dollars in exchange for allowing their daughter to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income. Others were offered lucrative jobs by acquaintances. False advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, spouses, and employers.

Individual opportunists and informal networks, as well as some organized groups, lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes (see section 5, Women). The government stated that organized criminal groups were involved in recruitment, transit, and other trafficking-related activities.

There were no cases indicating that governmental authorities or security forces facilitated or condoned trafficking in persons. However, the government continued to have a persistent problem with corruption, which is particularly severe among street-level police and border agents.

Official institutions, including MOLISA, the Women's Union, the Youth Union, and the Committee for Population, Family, and Children, had active programs aimed at prevention and victims' protection. These programs included warning women and girls of these dangers, repatriation programs, and vocational training for teenage girls in communities considered vulnerable to trafficking. Government agencies worked closely with the International Organization for Migration and other international NGOs to provide temporary shelter, medical services, education, credit, counseling, and rehabilitation to returned trafficking victims. Throughout the year security agencies with border control responsibility received training in investigative techniques to prevent trafficking.

Persons with Disabilities.—The law requires the state to protect the rights and encourage the employment of persons with disabilities; however, the provision of services to such persons was limited. Government agencies 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.

Educational opportunities for children with disabilities were poor but improving. Slightly more than 10 percent of children with disabilities were enrolled in school. During the year the government worked with donor countries and international NGOs to train additional teachers for students with disabilities.

The law provides for preferential treatment for firms that recruit persons with disabilities and for fines on firms that do not meet minimum quotas that reserve 2 to 3 percent of their workforce for workers with disabilities; however, the government enforced these provisions unevenly. Firms with 51 percent employees with disabilities can qualify for special government-subsidized loans. During the year the government provided \$750 thousand (12 billion VND) for vocational training for persons with disabilities. In 2002 the Ministry of Construction enacted the "Barrier-Free Design and Construction Code" and "Standards for Access for People with Disabilities," which requires that the construction or major renovation of new government and large public buildings include access for persons with disabilities. The Ministry of Construction trained architects and engineers in the new requirements. During the year the government established two provincial enforcement units to work on an enforcement and compliant process to support the new codes.

International groups also assisted the government in implementing programs to increase access by persons with disabilities to education and employment.

National/Racial/Ethnic Minorities.—Although the government officially was opposed to discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities remained a widespread problem. The government continued to implement policies to narrow the gap in the standard of living by granting

preferential treatment to domestic and foreign companies that invested in highland areas. The government also had infrastructure development programs that targeted poor, largely ethnic minority areas and established agricultural extension programs for remote rural areas. The government ran special schools for ethnic minorities in many provinces, including subsidized boarding schools at the high-school and middle-school levels, and it offered special admission and preparatory programs as well as scholarships and preferential admissions at the university level.

The government resettled some ethnic minorities from inaccessible areas to locations where basic services were easier to provide; however, the resettlement sometimes diluted political and social solidarity of these groups. The government acknowledged that one of the goals of resettlement was to persuade the minorities to change from traditional slash-and-burn agricultural methods to sedentary agriculture. This also had the effect of making more land available to ethnic majority Kinh migrants and state-owned plantations the mountainous areas. In August 2004 the government announced a suspension of state-sponsored migration programs to bring settlers to the Central Highlands and vowed to discourage spontaneous migration into the area. Large-scale migration of ethnic Kinh to the Central Highlands in past years led to numerous land disputes between ethnic minority households and ethnic Kinh migrants. The loss (often through sales) of traditional ethnic minority lands to Kinh migrants was an important factor behind the ethnic unrest in the Central Highlands in 2001 and again in 2004.

Some members of ethnic minority groups continued to flee to Cambodia, reportedly to seek greater economic opportunity as well as to escape ethnic and religious pressures in the Central Highlands. Government officials continued to monitor some highland minorities closely, particularly several ethnic groups in the Central Highlands, because of concern that the form of Protestant religion they were practicing encouraged ethnic minority separatism. Hmong Protestants in the northwest provinces were also subject to special attention and occasional harassment for practicing their religion without official approval (see section 2.c.).

The government continued to impose extra security measures in the Central Highlands, especially after the April 2004 demonstrations. There were numerous reports that ethnic minorities seeking to cross into Cambodia were returned to the country by Vietnamese police operating on both sides of the border, sometimes followed by beatings and detentions; however, the government also continued to implement measures to address the causes of ethnic minority discontent and initiate new measures as well. These included special programs to improve education and health facilities and expand road access and electrification of rural communities and villages. The government allocated land to ethnic minorities in the Central Highlands through a special program; however, there were complaints that implementation of these special programs was uneven.

The government continued a program to begin conducting classes in some local ethnic minority languages up to the fifth grade. The government worked with local officials to develop a local language curriculum. The government appeared to implement this program more comprehensively in the Central Highlands than in the mountainous northern and northwestern provinces. The government broadcast radio and television programming in ethnic minority languages in some areas. The government also instructed ethnic Kinh officials to learn the language of the locality in which they worked; however, implementation was not widespread. 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.

Other Societal Abuses and Discrimination.—There was no evidence of official discrimination against persons with HIV/AIDS, but there was substantial widespread societal discrimination against persons with HIV/AIDS. There were multiple credible reports that persons with HIV/AIDS lost jobs or suffered from discrimination in the workplace or in finding housing. In a few cases children of persons with HIV/AIDS were barred from schools.

Section 6. Worker Rights

a. The Right of Association.—Workers are not free to join or form unions of their choosing. Trade unions are controlled by the CPV. All unions must be approved by and affiliated with the party-controlled Vietnam General Confederation of Labor (VGCL). In June VGCL claimed a total of approximately 5.2 million members, with 71.9 percent working in the public sector, 34.9 percent working for state-owned enterprises, and 28.1 percent working in the private sector. The VGCL claimed that its membership represented 95 percent of public sector workers and 90 percent of workers in state-owned enterprises. Approximately 1.5 million union members worked in the private sector, including enterprises with foreign investment (more

than 600 thousand persons). The vast majority of the workforce lived in rural areas, engaged in small-scale farming, and was not unionized. The overall level of unionization of the workforce was 12 percent.

Union leaders influenced key decisions, such as amending labor legislation, developing social safety nets, and setting health, safety, and minimum wage standards. However, the VGCL asserted that authorities did not prosecute some violations of the labor law. For example, on March 14, United Motor Vietnam Company Ltd. (UMV) in Hanoi fired 80 workers who took part in a strike. MOLISA and the Hanoi people's committee instructed the Hanoi Department of Labor, Invalids, and Social Affairs (DOLISA) to pay an inspection visit to the UMV. The inspector concluded that the company had violated many provisions of the labor law, such as labor contract signing, social insurance, working regulations, labor safety, illegal salary reductions, and firing the 80 workers. In addition UMV had hired 103 foreign workers, approximately 8 percent of total employees, which is 5 percent higher than the legal limit. None of the foreign workers had work permits. Because of these labor violations, the Hanoi DOLISA recommended imposing an administrative fine on UMV and withdrawing its investment license. However, the Hanoi people's committee vice chairman imposed only an administrative penalty of \$1,930 (30 million VND), ignoring the illegal recruitment of the foreign workers and the illegal layoffs.

While the labor law states that all enterprise-level and professional trade unions are affiliated with the VGCL, in practice hundreds of unaffiliated "labor associations" were organized at many individual enterprises and in occupations such as cooks, market porters, and taxi, motorcycle, and cyclo drivers. The International Labor Organization (ILO) and the UNDP continued to cooperate on a large multiyear technical assistance program to strengthen labor law implementation. This involved projects that encouraged job promotion for young women and improvements in occupational safety and health, among other objectives. The ILO also continued to implement two projects to eliminate child labor and improving industrial relations, including collective bargaining and dispute settlement. In September MOLISA, VGCL, and the Vietnam Chamber of Commerce and Industry (VCCI) held their first tripartite industrial relations dialogue. At year's end the VCCI issued its first report on industrial relations in the country. The report was widely shared with its members and the government. Parts of the report were to be used as materials for educating employers in industrial relations and making proposals to policy-making agencies. VCCI announced plans to make the report on an annual basis in the future.

Individual unions legally are not free to affiliate with, join, or participate in international labor bodies; however, the VGCL had relations with 140 labor organizations in 91 countries and 20 international and regional occupational trade unions.

The labor law prohibits antiunion discrimination on the part of employers against employees who seek to organize. Enterprises are required to facilitate employee efforts to join a trade union.

b. The Right to Organize and Bargain Collectively.—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 labor law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers.

The labor law provides for the right to strike if workers follow the stipulated process of conciliation and arbitration. The law requires that management and labor first attempt to resolve labor disputes through the enterprise's own labor conciliation council. However, many enterprises did not have labor conciliation councils. In the absence of such a council or if a council fails to resolve a labor dispute, the dispute is referred to labor arbitration successively at the district and provincial levels. 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. Unions have the right to appeal decisions of provincial labor arbitration councils to provincial people's courts or to strike. Because this process was lengthy and the necessary dispute resolution bodies in many provinces and localities have never been established, nearly every strike was de jure illegal. According to MOLISA, between early 1995 and December, nearly one thousand strikes took place in the country. Most of the strikes were considered illegal by the government under the industrial action law.

According to the Ministry of Labor, 147 strikes occurred, an increase of 22 compared with 2004. Of these, 100 were against foreign-invested enterprises, 39 involved domestic private enterprises, and 8 affected state-owned firms. In May nearly 10 thousand workers staged a 2-day strike at Keyhing Toys Company to protest 12-hour days without overtime. They also complained that they had no water to drink, they were given only 45 minutes for lunch, and their pay was reduced if they visited

the restroom more than twice a day or spent more than 2 hours in a health clinic. In November 2004 hundreds of workers of King Ken Garment Factory in Ho Chi Minh City went on strike because the foreign employer changed its method of salary payment. According to VGCL's 2004 year-end report, as many as 95 percent of that year's strikes were due to employers' labor regulation violations.

Strikes typically did not follow the authorized conciliation and arbitration process and thus were of questionable legality; however, the government tolerated them and took no action against the strikers. Although the VGCL or its affiliate unions did not sanction these strikes officially, the local and provincial levels of the VGCL unofficially supported many of them. The labor law prohibits retribution against strikers, and there were no reports of retribution. In some cases the government disciplined employers for the illegal practices that led to strikes. For example, on May 3 local authorities in Binh Duong Province imposed an administrative punishment on a foreign-owned business of \$4,400 (70 million VND) because it owed \$63 thousand (1 billion VND) in social insurance contributions for the firms' workers and also was late in paying them.

The labor law prohibits strikes in 54 occupational sectors and businesses that serve the public or are considered by the government to be important to the national economy and defense. A subsequent decree defined these enterprises to be those involved in electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the prime minister the right to suspend a strike considered detrimental to the national economy or public safety.

The same labor laws in effect for the rest of the country govern the growing number of export processing zones and industrial zones. There was anecdotal evidence that the government enforced labor laws more actively in the zones than outside them.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children; however, there were reports that thousands of children worked in exploitative situations (see section 6.d.). Some women were coerced into prostitution (see section 5).

Prisoners routinely were required to work for little or no pay. They produced food and other goods used directly in prisons or sold on local markets reportedly to purchase items for their personal use.

A government ordinance requires all male citizens between 18 and 45 years of age and women between 18 and 35 years of age to perform 10 days of annual public labor; however, this ordinance was rarely enforced. The ordinance also allows citizens to find a substitute or pay a marginal fee instead of working.

In December a government taskforce finished a year-long survey of forced labor and was reviewing all legal regulations related to forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor was a problem. The labor law prohibits most child labor but allows exceptions for certain types of work. The law sets the minimum age for employment at 18, but enterprises may hire children between the ages of 15 and 18 if the firm obtains permission from parents and MOLISA. The government reported in March that approximately 23 thousand children between the ages of 8 and 14 worked part-time or full-time in violation of the labor law. That estimate may be low, since many more children worked in the informal sector, usually on family farms or in family businesses not within the scope of the labor law. According to a 2002–03 living standard survey, approximately 18 percent of children participated in economic activities, and of these, 63 percent did not go to school. This same study found that 20.4 percent of rural children worked versus 7.3 percent of those living in urban areas.

By law an employer must ensure that workers under 18 years of age do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the labor law. The law permits children to register at trade training centers, a form of vocational training, from 13 years of age. Children may work a maximum of 7 hours per day and 42 hours per week and must receive special health care.

In rural areas children worked primarily on family farms and in other agricultural activities. In some cases they began work as young as 6 years of age and were expected to do the work of adults by the time they were 15. In urban areas children also work in family-owned small businesses. According to the 2002–03 living standard survey, the percentage of children working in household businesses and family-owned small businesses was 88.5, while the rate of children in wage-earning work was 11.5 percent. Migration from rural to urban settings exacerbated the child labor problem, because unauthorized migrants were unable to register their households

in urban areas. This meant that their children could not attend public schools and families had less access to credit. Officials stated that juveniles in education and nourishment centers, which functioned much as reform schools or juvenile detention centers do elsewhere, were commonly assigned work for "educational purposes."

A 2004 study of child labor in Ho Chi Minh City found cases in which parents in poor families entered into "verbal agreements" with employers, who then put their children to work. An ILO- and Ministry of Labor-sponsored study of four groups of child workers conducted by Hanoi National University of Vietnam's Center for Woman Studies found that the salaries of children in domestic labor were sent directly to the parents. Most children in the study rarely used the wages for themselves, although some of them were able to pay their school fees with part of their salary. The study also noted that the working hours and income of children engaged in coal sorting and fishing were to some degree managed by their families.

Government officials have the power to fine and, in cases of criminal code violations, prosecute employers who violate child labor laws. While the government committed insufficient resources to enforce effectively laws providing for children's safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitative situations, and fined the employers. International donor assistance targeted the problem of child labor. The government also continued programs to eliminate persistent child labor, with a particular focus on needy families and orphans.

e. Acceptable Conditions of Work.—The labor law requires the government to set a minimum wage, which is adjusted for inflation and other economic changes. Since 1999 the official monthly minimum wage for foreign-investment joint ventures has been \$40 (626 thousand VND) in urban districts of Hanoi and Ho Chi Minh City; \$35.90 (556 thousand VND) in rural districts of Hanoi, Ho Chi Minh City, and districts of Hai Phong, Bien Hoa City, and Vung Tau City; and \$31.40 (487 thousand VND) elsewhere. The government may temporarily exempt certain joint ventures from paying the minimum wage during the first months of an enterprise's operations or if the enterprise is located in a very remote area, but the minimum wage in these cases can be no lower than \$29.90 (417 thousand VND). On October 1, the official monthly minimum wage of the state sector was increased to \$22.15 (350 thousand VND). This amount remained inadequate to provide a worker and family a decent standard of living. The new salary policy benefited more than 6 million persons, including more than 300 thousand public servants working in administrative organizations, CPV bodies, and unions. However, state-owned enterprises consistently paid more than the state sector minimum wage. The number of workers who received government-subsidized housing decreased. Many workers received bonuses and supplemented their incomes by engaging in entrepreneurial activities. Households frequently included more than one wage earner.

The government set the workweek for government employees and employees of companies in the state sector at 40 hours, and it encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours but did not make compliance mandatory.

The labor law sets normal working hours at 8 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 on weekdays off, and three times the regular wage on holidays and paid leave days. The law limits compulsory overtime to 4 hours per week and 200 hours per year. Amendments to the labor law in 2002 provide for an exception in special cases where this maximum can be up to 300 overtime hours worked annually, subject to stipulation by the government after consulting with the VGCL and employer representatives. The law also prescribes annual leave with full pay for various types of work. It was unclear how well the government enforced these provisions.

According to the law, a female employee who is engaged, pregnant, on maternity leave, or is raising a child under one year of age cannot be dismissed unless the enterprise closes. Female employees who are at least seven months' pregnant or are raising a child under one year of age cannot work overtime, at night, or in distant locations.

The labor law requires the government to promulgate rules and regulations that ensure worker safety. MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the regulations. In practice enforcement was inadequate because of low funding and a shortage of trained enforcement personnel. The VGCL reported that there were 300 labor inspectors in the country but that at least 600 were needed. On-the-job injuries due to poor health and safety conditions in the workplace were a problem. The greatest number of occupational injuries was caused by machinery, such as rolling mills and presses. In addition 10 percent

of occupational injuries were caused by mining accidents. According to MOLISA statistics, in the first half of the year there were 2,670 injuries and 252 fatalities resulting from 2,596 work-related accidents. In 2004 there were 6,186 injuries and 575 fatalities resulting from 6,026 work-related accidents (some involving multiple workers), approximately 55 percent more than in 2003; however, there was evidence that workers, through labor unions, were effective in improving working conditions. Some foreign companies with operations in the country have established independent monitoring of problems at their factories. Companies reported that MOLISA or provincial labor agencies performed labor and occupational safety and health inspections at enterprises when they learned of serious accidents or when there were reports of hazardous conditions.

The labor law provides that workers may remove themselves from hazardous conditions without risking loss of employment; however, it was unclear how well this stipulation was enforced in practice. MOLISA stated that there have been no worker complaints of employers failing to abide by it.